EUROOPAN YHTEISÖJEN KOMISSIO

KOM(95) 54 lopull

Bryssel,03/03/95

KOMISSION KERTOMUS

Ensimmäinen komission kertomus Euroopan parlamentille ja neuvostolle rahanpesusta annetun direktiivin (91/308/ETY) täytäntöönpanosta

(TIIVISTELMÄ)

1. Tämä on ensimmäinen komission kertomus rahanpesusta annetun direktiivin (91/-308/ETY) täytäntöönpanosta, joka kyseisen direktiivin 17 artiklan mukaan on annettava Euroopan parlamentille ja neuvostolle.

Ensimmäinen kertomus koskee kahtatoista jäsenvaltiota, koska Euroopan unionin uusia jäsenvaltioita koskevat tiedot sisältyvät rinnakkaiseen kertomukseen, jonka EFTAn pysyvä komitea on laatinut Euroopan talousalueeseen (ETA:han) kuuluvien EFTA-maiden osalta. Kertomus perustuu laaja-alaiseen lähestymistapaan, ja siinä selostetaan, millä tavoin direktiivin keskeiset säännökset on pantu täytäntöön jäsenvaltioissa. Siinä selostetaan niitä pääasiallisia vaikeuksia, joita jäsenvaltiot ovat kohdanneet pannessaan täytäntöön tätä yhteisön säädöstä. Lisäksi kertomuksessa on tarkoitus kiinnittää huomiota sekä Euroopan rahanpesun vastaisen järjestelmän ratkaisemattomiin kysymyksiin että sen heikkouksiin.

Kertomuksen liitteinä olevissa seitsemässä taulukossa esitetään direktiivin kunkin säännöksen erityiset täytäntöönpanosäännökset kansallisissa lainsäädännöissä, Wienin ja Strasbourgin yleissopimusten täytäntöönpanon tilanne, rahanpesun vastaisen rikosoikeudellisen ja rahoitusta koskevan lainsäädännön soveltamisala, direktiivin soveltamisalaan kuuluvat muut kuin rahoitusalan ammatit sekä jäsenvaltioiden soveltamat rangaistusseuraamukset.

2. Tämän kertomuksen loppuun saattamisen ajankohtana **kaikki jäsenvaltiot Kreikkaa lukuun ottamatta ovat ilmoittaneet komissiolle panneensa direktiivin täytäntöön**. Irlanti on pannut direktiivin täytäntöön vasta osittain, vaikka direktiivin keskeiset säännökset onkin jo saatettu osaksi uutta Irlannin lakia. Espanja on pannut direktiivin säännökset täysimittaisesti täytäntöön rahanpesua koskevalla lailla, joka on voimassa ja jota sovelletaan, mutta ei ole vielä antanut sen kehittämiseksi tarkoitettua asetusta. Kreikassa valmistellaan parhaillaan lakiesitystä, joka annetaan sen parlamentille todennäköisesti vuoden 1995 ensimmäiseen neljännekseen mennessä.

3. Direktiivin täytäntöönpanolla on ollut ilmeisen selvä vaikutus rahanpesun vastaisten järjestelmien perustamiseen jäsenvaltioissa. Komission antaessa direktiiviehdotuksensa neuvostolle (maaliskuussa 1990) rahanpesu oli erityinen rikos ainoastaan yhdessä jäsenvaltiossa, eikä yhteisön rahoitusjärjestelmille ollut vahvistettu pakollisia sääntöjä tämän ilmiön torjumiseksi ja yhteistyön varmistamiseksi niiden viranomaisten kanssa, joita asia koskee.

Tätä kertomusta laadittaessa rahanpesu on rikos kaikissa kahdessatoista jäsenvaltiossa. Kaikki direktiivin täytäntöön panneet yksitoista jäsenvaltiota ovat vahvistaneet säännöt, joiden tarkoituksena on suojata niiden rahoitusjärjestelmiä rahanpesulta, ja niiden luotto- ja rahoituslaitokset ovat velvollisia toimimaan tältä osin aktiivisesti yhteistyössä asianmukaisten viranomaisten kanssa.

4. Mitä tulee rahanpesun rikosoikeudelliseen asemaan, huumausainekaupasta koituvan hyödyn pesu on säädetty rikokseksi kaikissa kahdessatoista jäsenvaltiossa, ja kahdeksassa niistä on mistä tahansa rikollisesta toiminnasta tai törkeästä rikoksesta koituvan hyödyn pesu säädetty rikokseksi. Kolme niistä neljästä jäsenvaltiosta, joiden rahanpesun määritelmät edelleen rajoittuvat huumausainekaupasta koituvaan hyötyyn, suunnittelee rahanpesurikoksen käsitteen laajentamista lähiaikoina.

5. Direktiivin täytäntöönpanemiseksi annetussa erityislainsäädännössä kymmenen jäsenvaltiota on ylittänyt direktiivin johdantokappaleissa suositellun pakollisen soveltamisalan ja ulottanut direktiivin soveltamisen muusta rikollisesta toiminnasta kuin huumausainekaupasta koituvan hyödyn pesuun. Kuuden valtion lainsäädäntö koskee mistä tahansa rikollisesta toiminnasta saatavan hyödyn pesua ja kolme valtiota, säätämättä yleistä soveltamisalaa, on sisällyttänyt rahanpesulainsäädäntöönsä hyvin laajalti erilaista rikollisesta toiminnasta saatavaa hyötyä.

6. Jäsenvaltioiden lainsäädännöt koskevat direktiivissä toisen pankkidirektiivin liitteeseen viittaamalla tarkoitettua rahoitusjärjestelmää kokonaisuudessaan (esimerkiksi luottolaitoksia, henkivakuutusyhtiöitä, sijoitusyrityksiä, valuutanvaihtotoimistoja, luotto- ja pankkikorttien antajia sekä leasing- ja factoringyrityksiä). Joidenkin jäsenvaltioiden on kuitenkin edelleen kehitettävä lainsäädäntöään sen varmistamiseksi, että nämä laitokset noudattavat velvoitteitaan rahanpesun alalla. Tämä edellyttää erityistä työtä niiden laitosten osalta, joiden toiminnan vakautta ei valvota: näitä ovat esimerkiksi valuutanvaihtotoimistot useimmissa maissa.

7. Rahoitusjärjestelmän ulkopuolisten ammattien osalta kuusi jäsenvaltiota soveltaa 12 artiklan mahdollistamasta suuresta harkinnanvapaudesta huolimatta lainsäädäntöään kokonaan tai osittain joihinkin muiden kuin rahoitusalan ammattien ryhmiin. Pääasialliset soveltamisalueet ovat peliteollisuus (kasinot), arvo-omaisuuden välittäjät (kiinteistöt, arvometallit, korut ja taide/antiikki) sekä rahoitustoimintoja harjoittavat lakiammatit (lakimiehet, notaarit ja muut lakiammatit). Soveltamisalaan sisällytetyt yksittäiset ammatit ja niitä koskevat velvoitteet vaihtelevat huomattavasti valtiosta toiseen.

8. Kaikkien jäsenvaltioiden lainsäädännöissä säädetään luotto- ja rahoituslaitosten velvollisuudesta toimia aktiivisesti yhteistyössä rahanpesun torjunnasta vastaavien viranomaisten kanssa ja siten myös ammattisalaisuuden täydellisestä poistamisesta tältä alalta. Koska direktiivin tarkoituksena ei kuitenkaan ole yhdenmukaistaa lain täytäntöönpanomenettelyjä, kukin jäsenvaltio sääntelee harkintansa mukaan sellaisia seikkoja kuin kertomuksia epäilyttävistä liiketoimista vastaanottavien viranomaisten luonne ja organisaatio, olosuhteet, joissa viranomaiset voivat keskeyttää epäilyttävän toiminnan sekä rahanpesua torjuvien viranomaisten välinen tietojenvaihto.

9. Vaikka jäsenvaltiot ovat tehneet merkittävää työtä rahanpesun vastaisen järjestelmän toteuttamiseksi direktiivin periaatteiden mukaisesti, tarvitaan edelleen **kansallisen tason** toimia erityisesti seuraavilla alueilla:

- jäsenvaltioiden valvontajärjestelmien parantaminen niiden rahanpesua koskevan lainsäädännön tehokkaan soveltamisen varmistamiseksi kaikissa direktiivin soveltamisalaan kuuluvissa laitoksissa;

- luotto- ja rahoituslaitosten ohjaus, tukeminen ja tutkiminen näiden ottaessa käyttöön asianmukaisia sisäisen valvonnan ja tiedotuksen menettelyjä sekä vahvistaessa koulutusohjelmia. Tähän sisältyy rahoitustoiminnan eri lajeihin mukautettujen suuntaviivojen vahvistaminen yhteistyössä asianomaisten toimivaltaisten viranomaisten ja ammatillisten yhteenliittymien kanssa;

- ohjaus rahanpesun toimintamallien ja epäilyttävien toimintojen määrittelyssä;

- rahanpesua koskevista asioista vastaavien eri viranomaisten ja elinten välisen yhteistyön vahvistaminen.

10. **Yhteisön tasolla** toiminta olisi keskitettävä seuraaviin suuntiin:

- Komissio jatkaa tarvittavien toimenpiteiden toteuttamista sen varmistamiseksi, että kaikki jäsenvaltiot panevat direktiivin täytäntöön täysimittaisesti ja asianmukaisesti. Erityistä huomiota kiinnitetään direktiivin eri säännöksiä koskevien seuraamusten avoimuuteen ja tehokkuuteen.

- Komission ja jäsenvaltioiden olisi jatkettava työtään rahanpesua käsittelevässä yhteyskomiteassa, jotta varmistettaisiin direktiivin ja erityisesti sen rahoitusjärjestelmän ulkopuolisia ammatteja koskevan 12 artiklan soveltamisen parempi yhteensovittaminen.

- Yhteyskomiteassa komission ja jäsenvaltioiden olisi myös jatkettava työtään tunnistusvaatimusten soveltamista kaukana tapahtuvassa toiminnassa koskevan ongelman ratkaisemiseksi, jotta löydettäisiin vaihtoehtoisia menettelyjä joustavuuden ja turvallisuuden asianmukaisen tasapainon saavuttamiseksi.

11. **Direktiivin soveltamisalan ulkopuolella** Euroopan rahanpesun vastaisen järjestelmän kehittäminen edellyttää jäsenvaltioiden välisen yhteensovittamisen ja yhteistyön lisäämistä hallinnon ja rikosoikeuden aloilla. Jos sellaisia asioita kuin rahanpesurikoksen käsitteen määrittelyä, tietojenvaihtoa muiden jäsenvaltioiden viranomaisten kanssa, oikeudellista apua sekä rikollisesta toiminnasta saadun hyödyn takavarikointiin ja valtiolle menetetyksi julistamiseen liittyviä toimenpiteitä säänneltäisiin yksinomaan kansallisella tasolla ottamatta huomioon tarvittavaa Euroopan unionin jäsenvaltioiden välistä yhteensovittamista ja yhteistyötä, tämä vaikuttaisi kielteisesti rahanpesun torjuntaan ilmiön ylikansallisen ulottuvuuden vuoksi.

Tämän vuoksi jäsenvaltioiden olisi kaikin tavoin pyrittävä ratifioimaan ja panemaan täytäntöön Wienin ja Strasbourgin yleissopimukset, joissa yhdenmukaistetaan muun muassa huomattavia rikosoikeudellisia ja oikeudellisen avun menettelyjä koskevia näkökohtia rahanpesun alalla. Lisäksi Euroopan unionin olisi käytettävä täysimittaisesti kaikkia Maastrichtin sopimuksen VI osastoon perustuvia oikeudellisen yhteistyön ja poliisiyhteistyön mahdollisuuksia, mukaan lukien tarvittaessa Europolin käyttö 10 - 11 päivänä joulukuuta 1993 vahvistetun Eurooppa-neuvoston oikeus- ja sisäasiain toimintasuunnitelman mukaan. Tässä yhteydessä jäsenvaltioiden olisi otettava asianmukaisesti huomioon Kööpenhaminassa 1 - 2 päivänä kesäkuuta 1993 annetut oikeus- ja sisäasiain neuvoston rahanpesua koskevat suositukset.

****

SUMMARY

This is the first Commission's report on the implementation of the Money Laundering Directive (91/308/EEC), which, as provided for in Article 17 of this Community text, will be submitted to the European Parliament and to the Council.

The first report covers twelve Member States, since the new Members of the European Union are included in a parallel report that the EFTA Standing Committee has prepared for the EFTA countries which are part of the European Economic Area (EEA). The report, based on a horizontal approach, describes the way in which the cardinal provisions of the Directive have been implemented by the Member States. It describes the main difficulties which Member States have found in the implementation of this Community text. It also intends to point out both the outstanding aspects and the weak points of the European anti-money laundering system.

Seven tables annexed to the report present the specific provisions implementing each stipulation of the Directive in the national legislations, the state of play of the implementation of the Vienna and Strasbourg Conventions, the scope of the penal and financial legislation against money laundering, the coverage of non financial professions, as well as the penalties established by the Member States.

The conclusions of the document propose lines of action to be taken both at national and European Union level in order to achieve full application of the Directive and to reinforce the European anti-money laundering system.

I. INTRODUCTION.

1. Article 17 of the Council Directive 91/308/EEC of 10 June 1991 on the prevention of the use of the financial system for the purpose of money laundering provided that one year after 1 January 1993 the Commission shall draw up a report on the implementation of the Directive and submit it to the European Parliament and to the Council.

   However, by the date by which the above-mentioned report was due, 1 January 1994, only five Member States had notified the Commission of the full implementation of the Directive. A report in those circumstances would have been of very little meaning. The Commission has therefore considered it more appropriate to delay the preparation of the report as long as possible until the Directive has been implemented by at least the large majority of the Member States. Simultaneously, in order to speed up this process, the Commission initiated proceedings against those Member States which had not implemented the Directive.

2. Setting up an anti-money laundering system is a complex process which not only involves adopting legislation to implement the Directive, but also introducing the necessary criminal provisions, laying down administrative regulations and guidelines, making appropriate adjustments in the law enforcement structure, creation (in many cases) of specific units to receive information on suspicious transactions, training of relevant officials and employees, and establishment of internal control and communication procedures by credit and financial institutions. Since in several Member States, the necessary legislative measures have only been recently adopted and their anti-money laundering systems are only just starting to work it is extremely difficult, say impossible, to assess the effectiveness of the measures taken so far.

   On the other hand, the available data on the number of suspicious transactions reports and prosecuted money laundering cases are still scarce and uncomplete. It is therefore premature in this first report to make valid comparisons and to derive conclusions on the functioning of the anti money laundering system.

3. The purpose of this report is not in anyway to examine the particular cases in which the money laundering national legislation might not be fully consistent with the Directive and to indicate potential infractions. Instead it attempts to make a general description and assessment of the way in which the cardinal provisions of this Community text have been implemented as well as to present the work which remains to be done in order to complete and enhance the European anti-money laundering system. It is clear that, independently from this report, the Commission

when necessary, will take all the measures provided for in the EU Treaties in order to ensure full implementation of the Directive by the Member States.

4. The following tables are attached to this report:

- **Annex 1**: Implementation of the Directive: consolidated table of correspondence
- **Annex 2**: Signature, ratification and implementation of the Vienna and Strasbourg Conventions
- **Annex 3**: Types of proceeds from criminal activities covered by the offence of money laundering in Member States' penal legislation
- **Annex 4**: Types of proceeds from criminal activities covered by the definition of money laundering in the specific Member States' legislation implementing the Directive
- **Annex 5**: Comparison between the types of proceeds from criminal activities covered by the Member States' criminal offence of money laundering and those included in the scope of the specific national legislation implementing the Directive
- **Annex 6**: Professions and undertakings beyond the financial system covered by the Member States' legislation implementing the Directive
- **Annex 7**: Penalties for infractions of the Member States legislation implementing the Directive

II. IMPLEMENTATION OF THE DIRECTIVE

1. GENERAL IMPACT OF THE DIRECTIVE.

1. As a preliminary remark it is important to underline the considerable impact of this Community text not only because the Directive involves for the first time coordination at the European Union level in the field of money laundering but also due to the fact that it covers an area in which a regulatory gap existed in most of Member States' legislation.

2. At the same time the ratification of the Agreement for an European Economic Area (EEA) by the EFTA countries, except Switzerland, has extended the scope of application of the Directive to these countries. A report on the implementation of the Directive by these countries has been prepared by the EFTA Standing Committee.

3. The important work carried out by the Financial Action Task Force on money laundering (FATF)[1] has proved the role that the Directive has played in the implementation of its core recommendations since more than two thirds of its member countries are subject to the Community text.

4. The Directive is also impacting indirectly outside the Community since all the association, partnership or cooperation agreements which are signed between the European Union and third countries systematically include a specific money laundering clause providing for a framework for cooperation in this area aimed at adopting comparable standards to those established in the Directive. A project of technical assistance for six[2] Central and Eastern European countries has been set up and is going to be implanted for five[3] other countries of this very sensitive region as a part of a PHARE Multi Country Programme for the Fight against Drugs.

2. STATE OF PLAY ON THE IMPLEMENTATION OF THE DIRECTIVE

1. At the moment of closing this report, **all Member States, bar Greece, have notified to the Commission of the implementation of the Directive**. Ireland has carried out only partial implementation, although the main provisions of the Directive are now covered by the new Irish law. Spain, which has fully implemented the provisions of the Community text by a money laundering law which is in force and applicable, has not yet adopted the Decree which is designed to develop it. Greece is now preparing a draft law which is expected to be submitted to its Parliament by the first quarter of 1995.

---

[1]The Financial Action Task Force on Money Laundering (FATF) was created by the G-7 Paris Summit in July 1989. At present the FATF is composed of the following members: Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Gulf Cooperation Council, Hong Kong, Iceland, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Singapour, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States and the European Commission. All the main international organisations which are active in the field of money laundering also participate in the FATF work as observers. In 1990 the FATF adopted a programme of 40 recommendations to combat money laundering.

[2]Bulgaria, Czech Republic, Hungary, Poland, Romania and Slovak Republic

[3]Albania, Estonia, Latvia, Lettonia and Slovenia

3. PROHIBITION OF MONEY LAUNDERING.

1. Article 2 of the Directive provides that money laundering shall be "prohibited" in all Member States.

During discussion of the Directive, as a result of a long debate on the Community's competence, the Council was not able to accept the formula contained in the Commission proposal, which required "criminalization" of money laundering. However, the final effect has been substantially equivalent since all the Member States have laid down this prohibition by means of Criminal Law. Most Member States have implemented the prohibition by creating a specific money laundering offence, but some of them, eg. Denmark and the Netherlands, have opted for including money laundering in the offence of "handling stolen goods" as defined in very broad terms.

As the Commission held during the second reading of the proposal in Parliament, the "erga omnes" prohibition contained in Article 2 plus the obligation to provide appropriate sanctions set out in Article 14 together with the intergovernmental statement joined to the Directive and published in the Official Journal were sufficient to ensure the objective of criminalizing money laundering.

In spite of using the term "prohibition" in the text, the Directive has therefore had an unquestionable impact on the criminalization of money laundering. Such a criminalization constituted a pre-condition for the application of the other provisions contained in the text.

2. With respect to the kind of criminal proceeds covered by the definition of money laundering, differences in the scope persist in the Member States' legislation even if a clear convergence can be noted.

The Directive covers as a minimum the laundering of proceeds from drug related offences, which are the main potential source of money laundering, but does not remain indifferent with regard to the laundering of other criminal proceeds. Recital number nine encourages the Member States to "extend the effects of the Directive to include the proceeds of such activities (i.e.: organized crime and terrorism) to the extent that they are likely to result in laundering operations justifying sanctions on that basis", and Article 1, fifth indent defining the "criminal activities" which may be source of money laundering includes, besides drug offences, "any other criminal activity designated as such for the purposes of this Directive by each Member State". The Directive therefore underlines that the fight against money laundering should not be limited to drugs, but does not specify the other criminal activities to be covered since this would have required some harmonization of the definitions of

criminal offences in the Member States national legislation as carried out by the Vienna Convention[4] in the field of drugs.

3. In order to describe the situation existing in the Member States with regard to the prohibition of money laundering a distinction must be established between the criminal definition of money laundering and the scope of the legislation designed to implement the Directive.

Concerning the **criminal definition of money laundering**, as reflected in **Annex 3,** the twelve Member States have criminalized laundering of drug proceeds. While four countries (France, Luxembourg, Portugal and Spain) have confined their criminal definition to laundering of drug related offences, the large majority of the countries have also covered laundering of proceeds from other crimes: Belgium, Germany, Ireland, Italy, the Netherlands and the United Kingdom (laundering of proceeds from any criminal activity or any serious crime); Denmark, (laundering of proceeds from drugs, extortion, smuggling and crimes against property); and Greece (proceeds from drug-related offences, extortion, kidnapping, illicit arms trafficking and illegal removal of human organs and tissues). In all countries criminalization of money laundering includes the case in which the predicate offence took place in a foreign jurisdiction. Three Member States (France, Spain and Portugal) plan to expand the scope of their money laundering offence in the very near future.

As described in **Annex 2** some Member States have not yet ratified the Vienna and the Strasbourg[5] Conventions. It seems to be evident that ratification and due implementation of such Conventions will increase convergence between the Member States' definitions of money laundering and will permit enhanced cooperation in this field.

5. With regard to the **specific legislation implementing the Directive,** the situation is reflected in the table enclosed as **Annex 4**. All Member States have covered the minimum scope provided for in the Directive. Two Member States (Luxembourg and Portugal) have confined their legislation to laundering of drug proceeds while the other States has gone beyond. As a matter of fact, six countries cover laundering of proceeds from any criminal activity or from any serious crime

---

[4]United Nations Convention against illicit traffic in narcotic drugs and psychotropic substances. Vienna, 1988.

[5]Council of Europe Convention on laundering, search, seizure, and confiscation of the proceeds from crime. Strasbourg, 1990.

(Denmark, Germany, Ireland, Italy, the Netherlands and the United Kingdom[6]) and three countries, even if they do not have a general coverage of all criminal proceeds, cover in their legislation laundering of proceeds from a very wide range of criminal offences: Belgium (drugs, contraband, organized crime, illicit arms trafficking, terrorism, black labor, slave trafficking and illicit use of or trade on hormones), Spain (drugs, organized crime and terrorism) and France (drugs and organized crime). Greece has not yet implemented the Directive.

As reflected in **Annex 5,** in the majority of the Member States (Germany, Ireland, Italy, Luxembourg, the Netherlands, Portugal and the United Kingdom[6]) the scope of the criminal offence of money laundering coincides with the extent of the specific legislation designed to implement the Directive. However in the other countries both scopes are different. So, in Belgium the criminal definition is wider than that of the legislation implementing the Directive while in Denmark, Spain, and France the situation is the opposite.

A tendency towards a coverage of the laundering of proceeds from any serious crime or from any criminal activity, in both the money laundering legislation and criminal law, can clearly be observed in most Member States. Such a coverage would contribute to eliminating any hiatus between the Member States' preventive and punitive systems as well as to facilitating interstate cooperation in this field.

4. INSTITUTIONS COVERED BY THE MONEY LAUNDERING LEGISLATION: CREDIT AND FINANCIAL INSTITUTIONS. COVERAGE OF OTHER PROFESSIONS AND UNDERTAKINGS BEYOND THE FINANCIAL SYSTEM.

1. The Directive covers any credit institution in the sense that this term is provided in Community banking legislation[7] as well as any financial institution as defined by the Directive in a very broad sense. The definition of financial institution encompasses any undertaking whose principal activity is to carry out one or more of the relevant activities included in the list of the Second Banking Directive[8] as well as life insurance. So virtually any professional financial intermediary such as credit institutions, investment firms, life insurance companies, credit card issuers, leasing

---

[6]In the UK, the specific legislation implementing the Directive as well as the criminal definition of money laundering cover proceeds from any serious crime. However the offence of "failure to disclose knowledge or suspicion of money laundering" is confined to proceeds from drug offences and terrorism.

[7]According to Article 1, first indent, of Directive 77/780/EEC (OJ L 322 of 17.12.77) a credit institution means an undertaking whose business is to receive deposits or other repayable funds from the public and to grant credits for its own account.

[8] Directive 89/646/EEC (JO L386 of 30.12.89)

and factoring companies, "bureaux de changes", etc. fall under the scope of the money laundering legislation. The branches of third country credit and financial institutions located in the Community are also included.

From the point of view of comparative law, the Money Laundering Directive is outstanding in this regard. In many third countries the definition of credit and financial institutions are much narrower and a wide range of financial intermediaries remains outside the scope of the money laundering provisions. However, the use of the list of activities annexed to the Second Banking Directive, designed for other purposes, as the base for the definition of financial institution in the Money Laundering Directive has produced difficulties, to the extent of determining which specific institutions should be included.

2 In general terms all the Member States have provided in their legislation the institutional scope determined by the Directive. The financial system is therefore in principle covered. Nevertheless since such a scope includes some kinds of financial institutions which are not subject to supervision on prudential basis (i.e.: bureaux de change) most Member States have still to make arrangements in order to ensure effective application of the Directive to these institutions. It is clear that the simple inclusion of such institutions into the scope of the legislation does not by itself suffice to secure the application of the money laundering provisions. The Commission will survey the developments in this area with special attention so that the Directive is effectively applied to any kind of financial institution.

3. During the discussion of the Directive it was generally acknowledged that money laundering cannot only be carried out through the financial system but using other kind of non financial professions and undertakings such as casinos, dealers in objects of high value or legal professions performing quasi-financial activities, etc. It was clear that the more protected the financial system would be against this phenomenon, the more money launderers would try to use alternative means to carry out their criminal activities. However, the difficulty of establishing an exhaustive list of such professions and to control how they observe the money laundering provisions were also underlined. The problem of control was especially noted since most of these professions are not regulated nor subject to supervision.

As a compromise between these elements of discussion, Article 12 of the Directive provides that Member States should extend, "in whole or in part", the provisions of the Directive to professions and categories of undertakings beyond the financial system "which are particularly likely to be used for money laundering purposes". Although this provision constitutes an obligation instead of a simple recommendation, the broad wording of the Article allows the Member States a large measure of discretion in its application.

4. In order to coordinate as much as possible the application of this provision, Article 13 (d) confers on the Contact Committee, created by the Directive, the

responsibility to examine "whether a profession or a category of undertaking should be included in the scope of Article 12 where it has been established that such profession or category of undertaking has been used in a Member State for money laundering".

At present the Contact Committee is examining the possibility of agreeing on a common list of professions and categories of undertaking to be covered, but the task is not easy. It is clear that money laundering can be carried out through virtually any kind of business. However this does not mean that the provisions of the Directive should be applied to any kind of professions and undertakings regardless of the real risk involved (i.e.: the fact that pizzerias were involved in a very known money laundering case does not justify a requirement for the identification of all the pizzerias' customers).

Any decision in this regard should keep the balance between the burdens to be imposed and the real risk of money laundering. It should also consider the specific obligations to be applied to each profession and the appropriate system to enforce them.

5. The present situation with regard to non financial professions covered by the Member States' money laundering legislation is presented in **Annex 6**. Six Member States apply in whole or in part their legislation implementing the Directive to some categories of non-financial professions: Denmark (gaming casinos), Germany (gaming casinos, dealers in precious metals, antique auctioneers and any trader and profession under certain circumstances), Spain (gaming casinos and real-estate dealers), France (gaming casinos and any professional who advises upon, executes or controls operations involving capital movements), the Netherlands (gaming casinos) and the United Kingdom (the duty to report suspicious transactions extends to all persons). In some countries as Spain the Government is empowered by law to subject other categories of professions to the money laundering provisions. The Portuguese authorities envisage to broaden the scope of the money laundering legislation in the next future in order to cover some non financial professions, in particular, gaming casinos.

6. The implementation of Article 12 of the Directive is therefore heterogeneous as a result of the high degree of discretion that Member States are granted in this provision. Three main areas of professions seem to have drawn the attention of the Member States' legislators: the gaming industry (casinos), dealers in object of high value (real-estate, precious metals, jewelry and art/antiques) and legal professions carrying out financial activities (lawyers, notaries, and other legal professionals). Other countries have chosen a wider approach by imposing some of the obligations of the Directive such as the identification requirements (Germany) or the reporting duty (United Kingdom) to a very wide range of subjects (Germany: all traders and professions) or (United Kingdom: all persons).

7. It is clear that further work needs to be done in the framework of the Contact Committee created by the Directive in order to increase convergence between the Member States in this field. The attention should be focused on the three main above-mentioned areas: the gaming industry, dealers in objects of high value and legal professions carrying out financial activities, and the questions concerning the specific provisions to be applied to each profession should be carefully examined. This exercise should take into account the developments in wider international fora such as the Financial Action Task Force (FATF).

5. IDENTIFICATION OF CUSTOMERS AND BENEFICIAL OWNERS. KEEPING RECORDS OF IDENTIFICATION AND TRANSACTION DOCUMENTS.

1. The principle of "know your customer", which underlies the identification requirements provided for in Article 3 of the Directive, is of paramount importance in order to prevent money laundering and permit investigations in cases of this nature. A necessary complement of this provision is the obligation to keep records of identity documents for a period of at least five years after the relationship with the customer has ended, as provided for in Article 4 of the Directive. This Article also specifies the need to keep supporting evidence and records of the transactions for a period of at least five years following execution of such transactions.

   As presented in **Annex 1** the Member States have incorporated the obligations set out in Article 3 relating to the identification of credit and financial institutions' customers when entering into business relations (i.e.: opening accounts or offering safe custody facilities, etc.), carrying out one-off transactions over a certain threshold, and when there is any suspicion of money laundering regardless of the transaction amount. In the same way, they have transposed the provision contained in this Article on identification of beneficial owners.

   The slight differences in the Member States national thresholds for identification of customers in one-off transactions is a result consistent with the Directive since Article 15 allows stricter provisions to be adopted than those harmonized in this Community text. All the thresholds adopted by the Member States in this regard respect the limit of 15000 ECU provided for in the Directive. Seven countries have introduced stricter thresholds than the Directive: Belgium (10000 ECU), France (50000 FF, approx. 7500 ECU), Germany (20000 DM, approx. 10500 ECU), Italy (20 million LIT, approx. 10700 ECU), Ireland (10000 IR£, approx. 7900 ECU), Luxembourg (500000 FL, approx. 12500 ECU) and Portugal (2500000 ESC, approx. 12500 ECU). Denmark and the UK both have 15000 ECU. These slights variations should not constitute in principle an obstacle for the efficiency of the European anti-money laundering system. As a matter of fact identification should in any case be required regardless of the amount whenever there is a suspicion of money laundering according to Article 3(6) of the Directive.

2. The exoneration from the identification requirements in small insurance operations and occupational pension schemes under certain conditions, as provided for in Article 3(3) and (4) of the Directive, were introduced by the Council following an amendment proposed by the European Parliament which was aimed at facilitating insurance operations involving very low risk of money laundering.

Since the national legislations having included these exemptions have subject them to the strict conditions provided for in the Directive, there is no apparent reason to suppose that such exemptions can constitute loopholes in the anti-money laundering system. In any case three Member States (Spain, France and Italy) have not used at all such an option and one Member State (Belgium) has only used it partially. Four countries have therefore been stricter than the Directive on this point.

3 Article 3 (7) of the Directive exonerates credit and financial institutions from the identification requirements in the case where the counterpart of the operation "is also a credit or financial institution covered by this Directive". The rationale of this provision is that credit and financial institutions do not need to apply the identification procedures when the counterpart is another financial intermediary subject itself to equivalent obligations. Such equivalence is only recognized by the provision in the case where the counterpart in question is a credit or a financial institution subject to the Directive.

This restrictive criteria of equivalence, which was considered as the only providing the necessary legal certainty at the moment of adopting the Directive, may present some difficulties for application when the counterpart of the operation is a credit or a financial institution located in a third country having appropriate anti-money laundering standards. According to Article 3 (7) such institutions would not benefit from the exoneration and should therefore be subject to the identification requirements since they cannot be considered as institutions "covered" by the Directive.

Three Member States have however opened the possibility of exonerating under certain conditions third country credit and financial institutions: Luxembourg and the United Kingdom require these institutions to be subject to equivalent obligations to the Directive; the Netherlands have empowered their Government to exonerate other categories of institutions.

It seems very unlikely that an agreement can be reached on a Community harmonized list of countries whose money laundering legislation could be considered equivalent to the Directive. Such a list would require an on-going evaluation exercise which would include many countries from the different regions of the world and should consider not only their adopted legislation but the way in which this is applied. For instance, FATF membership would not suffice by itself to ensure equivalence since not all the members of this Group are at the same stage in

the implementation of the FATF recommendations. The Contact Committee on money laundering has already discussed this issue without yet having found a solution. The reason for this lack of results is probably that the criteria of equivalence adopted by the Directive (institutions covered by its text) is likely to be the only which, because of its objectivity, is susceptible of being accepted at Community level. Any other potential alternative solution would probably only be applicable at Member State's level on a case by case basis.

4. Another provision of the Directive which has produced some problems of application is Article 3(8). This Article allows the Member States to presume that the identification requirements regarding insurance operations have been fulfilled "when it is established that the payment for the transaction is to be debited from an account opened in the customer's name with a credit institution subject to this Directive". The rationale of this provision is that insurance companies should not be obliged to follow the identification procedures when the customer has already been identified by a credit institution holding the account through which the payment must be carried out.

The Council did not accept on this point the Commission's reexamined proposal according to which the above mentioned provision should not only apply to insurance operations but to any financial transaction (except opening of bank accounts). Rather, the Council's concern was to exclude a potential loophole in the anti-money laundering system. The Commission however considered that such a extension would have, without putting in jeopardy the safety of the system, afforded more flexibility in the application of the identification requirements in general. This applies especially to "remote" (non face-to-face) financial transactions which are becoming more frequent in the framework of cross-border operations or in transactions carried out through electronic means.

In implementing the Directive, seven Member States have used the above-mentioned option contained in Article 3(8): Denmark, Germany, Ireland, Luxembourg, the Netherlands, Portugal and the United Kingdom. Among these countries, two of them (the Netherlands and the United Kingdom) have given the exoneration a wider scope than that in the Directive: the Netherlands have included insurance operations and financial services related securities trading and the United Kingdom has covered in the exemption one-off transactions and business relationships other than the opening of bank and building society accounts when it is reasonable that the operation is carried out on a remote basis. In Denmark, the exoneration only applies when the premium is paid by electronic means.

The problem of the scope given to this exemption must be considered in the framework of the broader issue of the identification procedures to be applied in the case of remote financial operations. This question has been discussed by the Contact Committee on Money Laundering and by the FATF. The FATF, for the time being, has abandoned the discussion without coming to an agreement on the possibility of

accepting alternative ways of identification. The Contact Committee is still discussing this difficult problem on the basis of the replies to a questionnaire prepared by the Commission. Once the work in this body comes to end it will be possible to assess to what extent an alternative solution in this regard could be envisaged.

6. ENHANCED DILIGENCE BY CREDIT AND FINANCIAL INSTITUTIONS

1. Article 5 of the Directive provides that credit and financial institutions should "examine with special attention any transaction which they regard as particularly likely, by its nature, to be related to money laundering". Such an obligation of enhanced diligence must be distinguished from the duty to report suspicious transactions. As a matter of fact, examining with special attention dubious transactions is a previous and necessary condition to forestall suspicious money laundering operations. The obligation of enhanced diligence comes into play therefore when there is not yet specific suspicion of money laundering. It is clear that this obligation should be put in practice through appropriate internal control procedures as the Directive provides for in Article 11.

2. The way in which the enhanced diligence provision has been implemented varies considerably from one Member State to another (see **Annex 1**).

In France, which adopted its legislation before the formal adoption of the Directive, any operation over a certain amount which is presented in unusually complex conditions and does not seem to have any economic justification nor any licit purpose must be specially examined by credit or financial institutions which should ask their customer about the origin and destination of these sums as well as about the purpose of the transaction and the identity of the recipient. The characteristics of the operation are recorded in writing and kept by the financial institution available to the competent authorities. Belgium and Portugal have established a very similar system to France.

Spain and Luxembourg have incorporated into their legislation a provision along the lines of the Directive without obliging credit and financial institutions to record in writing the result of the examination. Denmark, Germany, Italy, the Netherlands and the United Kingdom have not explicitly transposed this Article apparently because the principle of enhanced diligence is implicitly encompassed in the implementation of other provisions of the Directive, in particular Article 11 (1) which requires "adequate procedures of internal control and communication in order to forestall and prevent operations related to money laundering". In some of these countries the violation of the enhanced diligence duty may be considered as a money laundering offence in special cases.

3. These differences in implementing the principle of enhanced diligence by Member States should not constitute in principle a major difficulty for the functioning of the anti-money laundering system, provided that the relevant authorities duly supervise the adequacy of internal control procedures which credit and financial institutions should establish according to the Directive.

7. CREDIT AND FINANCIAL INSTITUTIONS' DUTY TO COOPERATE WITH THE AUTHORITIES RESPONSIBLE FOR COMBATING MONEY LAUNDERING.

1. The credit and financial institutions' duty to cooperate with the authorities responsible for combating money laundering, as provided for in Articles 6 and 7 is probably the cornerstone of the Directive. These provisions lift the credit and financial institutions' professional secrecy in the field of money laundering. Moreover, the cooperation duty is established in a doubly passive and active way. Credit and financial institutions are not only obliged to provide information when requested by the relevant authorities but also to inform them "on their own initiative of any fact which might be an indication of money laundering".

   Article 10 extends to the prudential authorities the duty to cooperate with the authorities responsible for combating money laundering.

2. As presented in **Annex 1**, all the Member States having implemented the Directive, including those with the strongest traditions of bank secrecy, have fully endorsed this important principle. While the two "common law" countries (United Kingdom and Ireland), as well as Denmark, have implemented this obligation by Criminal Law (failure to report constitutes a criminal offence), the other countries have opted for using Administrative Law (failure to report constitutes an administrative infraction).

   Two Member States have gone even beyond the Directive by expanding the objective or the subjective scope of the reporting obligation. So the Netherlands have established, together with the reporting of suspicious transactions, a system of routine communication of some specific operations (cash and giro transactions and the physical surrender or the issue of securities over specific thresholds), and the United Kingdom has extended the obligation to report suspicious transactions to any individual or legal person.

3. The Directive, aware of the Community competence and of the principle of subsidiarity, does not intent to harmonize related law enforcement aspects. These include the nature and organization of the authorities which should receive the reports, the conditions in which a suspicious operation may be suspended, the procedures to be followed by the relevant authorities once the information has been transmitted and the sharing of information with other national and foreign authorities.

However, it is clear that appropriate coordination on these and other matters related to law enforcement would contribute to reinforcing the efficiency of the reporting scheme in particular and of the anti-money laundering system as a whole. For instance, the establishment of Central Reporting Units by all the Member States, the setting up of procedures to permit the exchange of information among these Units, the adoption of appropriate rules on seizure and confiscation of criminal proceeds and the enhancement of cooperation among Member States' judicial, police, customs and other competent authorities would be of special importance in this regard.

To this end, the Member States should make every effort to ratify and implement the Vienna and the Strasbourg Conventions, which harmonize, inter alia, substantial aspects of criminal law and legal assistance procedures in the field of money laundering. Moreover, the European Union should make full use of all the possibilities offered in Title VI of the Maastricht Treaty regarding judicial and police cooperation, including the use of Europol where appropriate, in accordance with the "Justice and Home Affairs" Action Plan adopted by the European Council on 10-11 December 1993. In this context the Member State should take due account of the recommendations on money laundering adopted by the Justice and Home Affairs Council in Copenhagen on 1-2 June 1993 .

8. CREDIT AND FINANCIAL INSTITUTIONS' DUTY OF CONFIDENTIALITY. EXONERATION FROM LIABILITY

1. Articles 8 and 9 of the Directive are aimed at establishing the minimum conditions so that the reporting system can work. So Article 8 prohibits the disclosure to the customer concerned or to any other third party that information has been transmitted to the authorities or that a money laundering investigation is being carried out, so that the results of the inquiry cannot be jeopardized. Article 9 exonerates credit and financial institutions and their directors and employees from any liability arising from the breach of any restriction on disclosure of information provided that such a disclosure is carried out in good faith. This exoneration is a legal consequence of the duty of cooperation established by the Directive.

2. As reflected in **Annex 1**, all the Member States having implemented the Directive have introduced into their legislation the relevant clauses in this respect. Two Member States have interpreted Article 9 of the Directive in the sense that the exoneration clause should not apply not only to disclosures carried out in bad faith (as it is explicitly mentioned in the text of the Article) but also to reports made by negligence. In Germany the exoneration clause will apply "unless the report has been made in a deliberately or gross negligently false manner" and in the Netherlands "unless, considering all facts and circumstances, it is plausible that no disclosure should have been made".

9. INTERNAL CONTROL PROCEDURES AND TRAINING PROGRAMMES FOR EMPLOYEES.

1. As provided for in Article 11§1 of the Directive Member States shall ensure that credit and financial institutions establish adequate procedures of internal control and communication in order to prevent and forestall money laundering operations. Article 11§2 obliges these institutions to ensure the participation of their relevant employees in anti-money laundering programmes. These provisions are of the utmost importance to ensure the fulfilment of the other obligations contained in the Directive.

2. Although as shown in **Annex 1** the Member States have implemented these provisions into their national legislations the full completion of the Directive on this point requires, in addition to adopting the necessary legislation, continued action by the relevant authorities in order to guide, support and supervise credit and financial institutions with regard to the establishment of appropriate internal control procedures and training programmes.

   This wide range of responsibilities to be played by the authorities, which should not disregard the particularities of the different kind of financial activities (banking, insurance, securities, etc.) necessitates appropriate coordination between the national bodies having competence in this field as well as close cooperation with the relevant professional associations.

10. SANCTIONS

1. As provided for in Article 14 the Member States shall take appropriate measures to ensure full application of all the provisions of the Directive and in particular to determine the penalties to be applied for infringements of the measures adopted pursuant to this text. Due implementation of this provision is a key point for the application of the Directive.

2. **Annex 7** presents a table containing the penalties for infringements of each provision of the Directive as provided for in the Member States' national legislation. Infringement of the prohibition of money laundering (Article 2 of the Directive) is considered a criminal offence in all Member States and punished with imprisonment or with imprisonment and fines. Infringement of the other provisions of the Directive are punished in most countries with administrative penalties (i.e.: fines or other sanctions imposed by administrative authorities), although in some Member States (Denmark, Ireland, Italy, the Netherlands and the United Kingdom) penal sanctions (i.e. imprisonment or penal fines) are applied in some cases. In the countries (e.g. Luxembourg) where the money laundering offence may be committed by negligence (i.e. by disregarding professional obligations)

infringements of the provisions of the Directive may be punished as a crime of money laundering under certain circumstances.

The specific sanctions provided for the same infraction are rather different from one Member States to another. In order to allow comparison the fine amounts have been expressed approximately in ECU. As shown in the table some Member States have defined the specific penalties assigned to each infraction in detail while others provide for unlimited fines or have referred to sanctions established in the relevant prudential legislation. In some cases the legislations does not specify the penalties to be applied to certain infractions.

3. Although the Directive does not intend to harmonize the specific penalties to be imposed, the Commission considers that, according to Article 14 and to the jurisprudence of the European Court of Justice, the following principles must be observed:

   - principle of effectiveness: the sanctions should produce a clear and concrete result.

   - principle of proportionality: the sanctions should be "appropriate" to the infraction committed.

   - principle of dissuasion: the sanctions should be sufficiently dissuasive to prevent infringements.

   The Commission will especially monitor the application by the Member States of these principles, will request in the case of doubt additional information and will start when necessary the infraction procedures provided for in the Treaties.

11. AUTHORITIES RESPONSIBLE FOR ENSURING THE APPLICATION OF THE DIRECTIVE

1. The prevention of money laundering is a factor in the preservation of soundness and stability in the financial system, as the first recital of the Directive declares. However, as stated in the fourth recital, it is not exclusively nor even predominately a question of prudential control. The Directive assigns the principal role in countering money laundering to the "authorities responsible for combating money laundering", which are mentioned in Articles, 6, 7, 8, 9 and 10, while the prudential authorities, called "competent authorities" by Article 2, are given a limited role in Article 10. The Community text does not define the "authorities responsible for combating money laundering". The Member States are given discretion to decide which authority or authorities are to carry out this role. They may choose to use extant law enforcement authorities or to create one or more authorities for this

purpose. Nothing precludes the Member States to assign to the prudential authorities appropriate duties in this field.

2. As regards the role of the home/host authorities, a proper interpretation of the Directive leads to the conclusion that the host authorities are given primary competence for controlling the obligations provided for in this Community text. No actual mechanism for cooperation between Member States' money laundering authorities is provided for by the Directive due to the lack of Community competence in the penal field. Cooperation between these authorities will take place in the framework of the bilateral or multilateral conventions on police, administrative and judicial assistance as well as of the cooperation provided for in the third pillar of the Maastricht Treaty.

   Cooperation between host and home Member States' prudential authorities on specific cases of money laundering may be necessary when, as a result of these cases, some supervisory measures were required in order to ensure the soundness and stability of a credit or financial institution. Such a cooperation would take place in the framework of the already existing mechanisms provided for in the financial services directives and in the bilateral agreements.

3. The determination of the particular authorities responsible for combating money laundering in each Member State as well as the specific competence of these authorities have been left by the Directive to the Member States' discretion and are therefore not covered by this report.

4. Some Member States have decided to give to their legislation implementing the Directive an extraterritorial effect by which their financial institutions' branches located in another Member State would be subject to the home country rules. Potential conflicts of laws between home/host countries legislation would be avoided by assuming that, according to the principle of territoriality which inspires the Money Laundering Directive, home country legislation may only be applied to the extent that it is not in conflict with the host country rules.

III. CONCLUSIONS

1. The implementation of the Directive has had an obvious impact on the establishment of anti-money laundering systems by the Member States. At the moment that the Commission transmitted its proposal for a Directive to the Council (March 1990), money laundering was a specific criminal offence in only one Member State and the financial systems in the Community were not subject to mandatory rules aimed at preventing this phenomenon and ensuring cooperation with the relevant authorities.

At the time of drawing up this report, money laundering is a criminal offence in the twelve member countries. The eleven States having implementing the Directive have all set up rules aimed at protecting their financial systems from money laundering and their credit and financial institutions are obliged to cooperate actively with the relevant authorities in this regard.

2. As regards the status of money laundering under penal law, the twelve Member States have made the laundering of drug proceeds a criminal offence and eight of them have criminalized laundering of proceeds from any criminal activity or from serious crime. Three among the four countries whose money laundering definitions are still confined to drug proceeds are planning to expand their money laundering offence in the very near future.

3. With respect to the specific legislation implementing the Directive, ten Member States have gone beyond the mandatory scope of the Community text, as recommended in its recitals, and have covered laundering of criminal proceeds other than drugs. Six countries cover laundering of proceeds from any criminal activity and three countries, even if they do not have a general coverage, include in their money laundering legislation a very wide range of criminal proceeds.

4. The adopted legislations apply to the whole financial system (credit institutions, life-insurance companies, investment firms, "bureaux de change", credit and card issuers, leasing and factoring companies, etc.) as provided for in the Directive which refers to the Annex of the Second Banking Directive. Such a broad coverage is outstanding in comparative law. Nevertheless some Member States still need to develop their legislation in order to ensure application by these institutions of their obligations in the field of money laundering. This requires special work with regard to those institutions which are not subject to supervision on a prudential basis such as the "bureaux de change" in most countries.

5. On the professions beyond the financial system and in spite of the large margin of discretion granted in Article 12, six Member States apply, in whole or in part, their legislation to some categories of non-financial professions . The main areas covered are the gaming industry (casinos), dealers in object of high value (real-estate, precious metals, jewelry and art/antiques) and legal professions carrying out financial activities (lawyers, notaries, and other legal professions). The specific professions included and the obligations applied to them vary considerably from one country to another.

6. In all Member States the adopted legislation provides for the credit and financial institutions' duty of active cooperation with the authorities responsible for combating money laundering and therefore the full lifting of professional secrecy in this field. Nevertheless, since the Directive does not intent to harmonize the law enforcement procedures, matters such as the nature and organization of the authorities which should receive the reports on suspicious transactions, the

conditions in which the authorities may suspend a suspicious operation, and the sharing of information between the authorities combatting money laundering, have been regulated according to each Member State's discretion.

7. Although considerable work has been carried out by the Member States in order to set up an anti-money laundering system along the principles set out in the Directive, efforts at **national level** are still necessary especially in the following areas:

- Refining their surveillance systems in order to ensure effective application of their money laundering legislation by all the institutions covered by the Directive;

- Guiding, supporting and surveying credit and financial institutions in establishing appropriate internal control and communication procedures and in setting up training programmes. This includes establishing guidelines adapted to the different kinds of financial activity in coordination with the relevant competent authorities and professional associations.

- Guidance in defining patterns of money laundering methods and suspicious operations;

- Reinforcing cooperation between the different authorities and bodies having responsibilities in the field of money laundering.

8. At a **Community level** the action should be focused on the following directions:

- The Commission will continue to take all the necessary measures to ensure that the Directive is fully and duly implemented by all Member States. Special attention is paid to the transparency and effectiveness of sanctions concerning the different provisions of the Directive.

- The Commission and the Member States should pursue their work in the framework of the Contact Committee on Money Laundering in order to procure a more coordinated application of the Directive, and in particular, of its Article 12 dealing with professions beyond the financial system.

- In the framework of the Contact Committee, the Commission and the Member States should also continue their work on the problem of applying the identification requirements in remote operations in order to find alternative procedures which afford the appropriate balance of flexibility and safety. This exercise should take as much account as possible of any future developments in the FATF in this area.

9. **Beyond the scope of the Directive**, enhancing the European anti-money laundering system calls for increased coordination and cooperation among the Member States in the administrative, police and judicial fields. If matters such as defining the scope of the money laundering offence, the sharing of information with other Member States' authorities, legal assistance, and measures concerning seizure and confiscation of criminal proceeds were regulated exclusively at national level without taking into account the necessary coordination and cooperation between the Members of the European Union, such a situation would have a negative impact in the fight against money laundering due to the transnational dimension of this phenomenon.

Therefore, the Member States should make every effort to ratify and implement the Vienna and the Strasbourg Conventions, which harmonize, inter alia, substantial aspects of criminal law and legal assistance procedures in the field of money laundering. Moreover, the European Union should make full use of all the possibilities offered in Title VI of the Maastricht Treaty with regard to judicial and police cooperation, including the use of Europol where appropriate as provided for by the "Justice and Home Affairs" Action Plan adopted by the European Council on 10-11 December 1993. In this context, Member States should take due account of the recommendations on money laundering adopted by the Justice and Home Affairs Council in Copenhagen on 1-2 June 1993.

****

Article of Directive	Brief Description of Content	Corresponding Article in National Legislation					
		BELGIUM	DENMARK	GERMANY	GREECE	SPAIN	FRANCE
1 (indents 1,2)	Institutions covered by the Directive.	Article 2 of **A**	Article 1 of **C**	§ 1 of **E**	-	Article 2(1) of **H**	Article 1 of **J**
2, 1(indents 3 and 5)	Prohibition of Money Laundering.	Article 3(1),(2) of **A** and Articles 42, 43, 43bis and 505 of **B**	Articles 191a, 284 and 300c of **D** Article 2(1) of **C**	§ 261 of **F**	Article 394A of **G**	Article 1(1),(2) of **H** and Article 344bis (j) of **I**	Article 222-38 of **M**
3(1)	Identification of Customers when entering into business relations, including opening of accounts and offering safe custody facilities.	Article 4(1-) of **A**	Article 4(1) of **C**	§ 2 of **E** § 154, par2 of **FF**	-	Article 3(1) of **H**	Article 12 of **J** Article 3 of **K**
3(2)	Identification of customers in one-off transactions.	Article 4(2-) of **A**	Article 4(2),(3) of **C**	§ 2(1)(2) and (4) of **E**	-	Article 3(1) of **H**	Article 12 of **J**
3(3)	Exemption from identification requirements in the case of small insurance operations.	Article 6(2) of **A**	Article 5(1) of **C**	§ 4(1) of **E**	-	Exemption not used	Exemption not used
3(4)	*Optional* exemption from identification requirements in the case of employment pensions.	Option not used	Article 5(1) of **C**	§ 4(2) of **E**	-	Option not used	Option not used
3(5)	Reasonable measures to identify the beneficial owner.	Article 5 of **A**	Article 6(1) of **C**	§ 8(1) of **E**	-	Article 3(1) of **H**	Article 12 of **J** and Article 3 of **K**
3(6)	Identification in any case where there exists a suspicion of money laundering.	Article 4(2) of **A**	Articles 4(4) and 5(2) of **C**	§ 6 of **E**	-	Article 3(1) of **H**	-

A Belgium 1: Act on the prevention of the use of the financial system for money laundering (11/1/93)
B Belgium 2: Belgian Criminal Code
C Denmark 1:Danish Act on measures to prevent money laundering (Act No. 348; 9/6/93)
D Denmark 2:Danish Penal Code
E Germany 1:Act on the Detection of Proceeds from Serious Crimes (25/10/93)
F Germany 2: German Penal Code
FF: Germany 3: Fiscal Code
FFF Germany 4: Commercial Code
G Greece 1: Greek Penal Code
H Spain 1: Act 18 of 28/12:1993 concerning specific measures to prevent money laundering
I Spain 2: Spanish Penal Code
II Spain 3
J France 1: Act No. 90-614 of 12/7/90 relating to the involvement of financial institutions in the fight against the laundering of capitals proceeding from narcotics traficking
K France 2: Decree No. 91-160 of 13/2/91
L France 3: Regulation No. 91-07 of 15/2/91
M France 4: French Penal Code

Article of Directive	Brief Description of Content	Corresponding Article in National Legislation					
		BELGIUM	DENMARK	GERMANY	GREECE	SPAIN	FRANCE
3(7)	Exemption from identification requirements for credit and financial institutions which are themselves covered by the Directive.	Article 6 of **A**	Article 8(1) of **C**	§ 2(3) and 8(2) of **E**	-	Article 3(1) of **H**	Article 3 of **K**
3(8)	*Optional* exemption from I.D. requirements in insurance operations when payment is made from accounts subject to this Directive.	Option not used	Article 5 in relation to 4 and 7 of **C**	§ 4(4) of **E**	-	Option not used	Option not used
4(1)	Duty to keep a copy or the references of identification required for a minimum of five years.	Article 7(1-)(2-) of **A**	Article 9(1) of **C**	§ 9(1),(3) of **E**	-	Article 3(3) of **H**	Article 15 of **J** and Article 2 of **L**
4(2)	Duty to keep records and evidence of transactions for minimum of five years.	Article 7(3-) of **A**	Article 9(2) of **C**	§ 257, 238 and 239 of **FFF**	-	Article 3(3) of **H**	Article 15 of **J** and Article 2 of **L**
5	Duty to use enhanced diligence in transactions most likely to be related to money laundering.	Article 8 of **A**		-	-	Article 3(2) of **H**	Article 14 of **J**, Article 4 of **K** and Article 4 of **L**
6 and 7	Duty of credit and financial institutions to cooperate with authorities and to report suspicious transactions.	Articles 12, 13, 14, 15§1 and 18 of **A**	Article 10 of **C**	§ 11(1) and (2) of **E**	-	Article 3(4),(5) of **H**	Articles 3, 6 of **J** and Article 3 of **L**
8	Duty of confidentiality of credit and financial institutions in respect to investigations being carried out.	Article 19 of **A**	Article 12(1) of **C**	§ 11(3) of **E**	-	Article 3(6) of **H**	Article 10 of **J**
9	Exemption from liability for employees disclosing information on the basis of this directive in good faith.	Article 20 of **A**	Article 12(2) of **C**	§ 12 of **E**	-	Article 4 of **H**	Article 9 of **J**

A Belgium 1: Act on the prevention of the use of the financial system for money laundering (11/1/93)
B Belgium 2: Belgian Criminal Code
C Denmark 1:Danish Act on measures to prevent money laundering (Act No. 348; 9/6/93)
D Denmark 2:Danish Penal Code
E Germany 1:Act on the Detection of Proceeds from Serious Crimes (25/10/93)
F Germany 2: German Penal Code
FF: Germany 3: Fiscal Code
FFF Germany 4: Commercial Code
G Greece 1: Greek Penal Code
H Spain 1: Act 18 of 28/12:1993 concerning specific measures to prevent money laundering
I Spain 2: Spanish Penal Code
II Spain 3
J France 1: Act No. 90-614 of 12/7/90 relating to the involvement of financial institutions in the fight against the laundering of capitals proceeding from narcotics traficking
K France 2: Decree No. 91-160 of 13/2/91
L France 3: Regulation No. 91-07 of 15/2/91
M France 4: French Penal Code

Article of Directive	Brief Description of Content	Corresponding Article in National Legislation					
		BELGIUM	DENMARK	GERMANY	GREECE	SPAIN	FRANCE
10	Obligation of prudential authorities to report suspicious transactions.	Article 21 of **A**	Article 11(1) of **C**	§ 13 of **E**	-	Article 16 of **H**	Article 16 of **J**
11(1)	Duty of credit and financial instits. to set up internal control and communication procedures for the prevention of money	Article 10 of **A**	Article 3 (1) of **C**	§ 14 (1)(2) of **E**	-	Article 3(7) of **H**	Articles 2 and 6 of **L**
11(2)	Duty of credit and financial institution to provide training programmes for their employees.	Article 9 of **A**	Article 3(1) of **C**	§ 14(1)(2) of **E**	-	Article 3(8) of **H**	Articles 2 and 6 of **L**
12	Extension of provisions of the Directive to professions and undertakings other than credit and financial institutions.	-	Law on casinos	§ 3(1) and § 6 of **E**	-	Article 2(2) of **H**	Articles 2 and 18 of **J**
14	Sanctions for infractions of the obligations provided for in Article 2	Articles 42, 43, 43bis and 505 of **B**	Articles 191a, 284 and 300c of **D**	§ 261 of **F**	Article 394A of **G**	Article 344bis (j) of **I**	Article 222-38 of **M**
14	Sanctions for infractions of the obligations provided for in the Directive other than those in Article 2	Article 22 of **A**	Article 13 of **C**	§ 17 of **E**	-	Articles 5 to 12 of **H**	Articles 7 and 17 of **J**

A Belgium 1: Act on the prevention of the use of the financial system for money laundering (11/1/93)
B Belgium 2: Belgian Criminal Code
C Denmark 1:Danish Act on measures to prevent money laundering (Act No. 348; 9/6/93)
D Denmark 2:Danish Penal Code
E Germany 1:Act on the Detection of Proceeds from Serious Crimes (25/10/93)
F Germany 2: German Penal Code
FF: Germany 3: Fiscal Code
FFF Germany 4: Commercial Code
G Greece 1: Greek Penal Code
H Spain 1: Act 18 of 28/12:1993 concerning specific measures to prevent money laundering
I Spain 2: Spanish Penal Code
II Spain 3
J France 1: Act No. 90-614 of 12/7/90 relating to the involvement of financial institutions in the fight against the laundering of capitals proceeding from narcotics traficking
K France 2: Decree No. 91-160 of 13/2/91
L France 3: Regulation No. 91-07 of 15/2/91
M France 4: French Penal Code

Article of Directive	Brief Description of Content	Corresponding Article in National Legislation					
		IRELAND	ITALY	LUXEMBOURG	NETHERLANDS	PORTUGAL	UK
1 (indents 1,2)	Institutions covered by the Directive.	Article 32(1) of **N**	Article 1 of **Q**	Article 38(1) of **R**	Article 1(1)(a) of **U**	Article 2 of **Y**	Article 4 of **AA**
2, 1(indents 3 and 5)	Prohibition of Money Laundering.	Article 31 of **N**	Article 648bis of **O**	Article 38(3) of **R** and Article 8-1 of **S**	Articles 416, 417, 417bis of **X**	Article 23 of **Z**	Articles 93, 102 of **BB** Article 23A, 24, of **CC** Art 14 of **DD**
3(1)	Identification of Customers when entering into business relations, including opening of accounts and offering safe custody facilities.	Article 32(3) of **N**	Article 2.4 of **Q**	Article 39(1) of **R**	Articles 1(1)(b), 2(1) and 3 of **U** Articles 5,6 of **W**	Article 3(1) of **Y**	Article 7(1),(2) of **AA**
3(2)	Identification of customers in one-off transactions.	Article 32(3) of **N**	Article 2.1,2.2 of **Q**	Article 39(2) of **R**	Articles 2(1) and 3 of **U** Article 3 of **W**	Article 3(2) of **Y**	Article 7(1),(4),(5) of **AA**
3(3)	Exemption from identification requirements in the case of small insurance operations.	Article 32(7) of **N**	Exemption not used	Article 89-2(2) of **SS**	Article 1(1)(b)(5) of **U** Articles 1 and 2 of **W**	Article 4(1),(2) of **Y**	Article 10 of **AA**
3(4)	*Optional* exemption from identification requirements in the case of employment pensions.	Article 32(7) of **N**	Option not used	Article 89-2(3) of **SS**	Article 2(3) of **U**	Article 4(1)(b) of **Y**	Article 10(1)(e) of **AA**
3(5)	Reasonable measures to identify the beneficial owner.	Article 32(5) of **N**	Article 4.1 of **P**	Article 39(3) of **R**	Article 5(4) of **U**	Article 6 of **Y**	Article 9 of **AA**
3(6)	Identification in any case where there exists a suspicion of money laundering.	Article 32(3) of **N**	-	Article 39(4) of **R**	Article 2(2) of **U**	Article 5 of **Y**	Article 7(3) of **AA**

N Ireland 1: Irish Penal Code
O Italy 1: Italian Penal Code as amended by Law No. 55 of 19th March 1990.
P Italy 2: Act No. 197 of 3/5/91 "...to prevent the use of the financial system for the purpose of money laundering.
Q Italy 3: Decree of the Ministry of The Treasury of 19/12/91.
R Luxembourg 1: Act of 5/4/93 relating to the Financial Sector (Part II).
S Luxembourg 2: Act of 7/7/89 amending the 19/2/73 Act on the sale of Medical Substances
SS Luxembourg 3: Act of 18/12/93 amending insurance legislation
T Netherlands 1: Act of 16/12/93 on the Disclosure of Unusual Transactions.
U Netherlands 2: Act of 16/12/93 on the Identification of Clients of Financial Institutions.
V Netherlands 3 Ministerial Regulation pursuant to the 1993 Disclosure of Unusual Transactions Act
W Netherlands 4 Ministerial Regulation pusuant to the 1993 Identification (Financial Services) Act
X Netherlands 3: Dutch Penal Code
Y Portugal 1: Decree Law No. 313 of 15/08/93.
Z Portugal 2: Decree Law No. 15 of 22/1/93
AA United Kingdom 1: Money Laundering Regulations (1993)
BB United Kingdom 2: Criminal Justice Act (1988) as amended by the Criminal Justice Act (1993)
CC United Kingdom 3: Drug Trafficking Offences Act (1986)
DD United Kingdom 4: Criminal Justice (International Co-operation) Act (1990)
EE United Kingdom 5: Criminal Justice (Scotland) Act (1987) as amended by the Criminal Justice Act (1993)
FF United Kingdom 6: Prevention of Terrorism (Temporary Provisions) Act (1989)

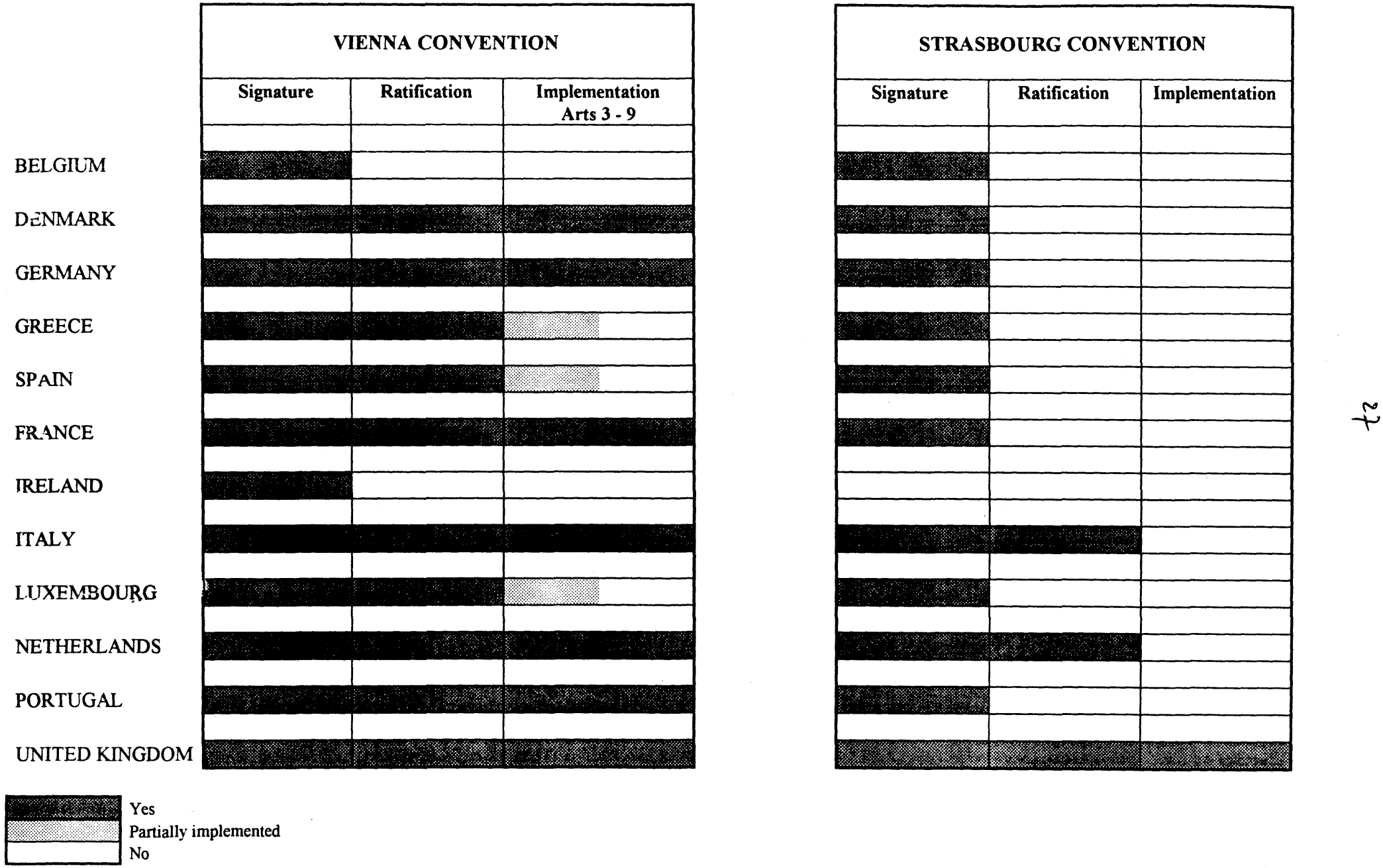
Article of Directive	Brief Description of Content	Corresponding Article in National Legislation					
		IRELAND	ITALY	LUXEMBOURG	NETHERLANDS	PORTUGAL	UK
3(7)	Exemption from identification requirements for credit and financial institutions which are themselves covered by the Directive.	Article 32(6) of **N**	Article 2.5 of **Q**	Article 39(5) of **R**	Articles 2(4)(a),(b) of **U** Article 4(1)(3) of **W**	Article 4(3) of **Y**	Article 10(1) of **AA**
3(8)	*Optional* exemption from ID. requirement in insurance operations when payment is made from accounts subject to this Directive.	Article 32(8) of **N**	Option not used	Article 89-2(3) of **SS**	Article 4(2),(3) of **U**	Article 4(1)(c) of **Y**	Article 8 of **AA**
4(1)	Duty to keep a copy or the references of identification required for a minimum of five years.	Article 32(9) of **N**	Article 2.4, 2.5, 2.6 of **P**	Article 39(6)(1-) of **R**	Articles 6 and 7 of **U**	Article 9(1) of **Y**	Article 12 of **AA**
4(2)	Duty to keep records and evidence of transactions for minimum of five years.	Article 32(9) of **N**	Article 2.4, 2.5, 2.6 of **P**	Article 39(6)(2-) of **R**	Article 6 and 7 of **U**	Article 9(2) of **Y**	Article 12 of **AA**
5	Duty to use enhanced diligence in transactions most likely to be related to money laundering.	-	-	Article 39(7) of **R**	-	Article 8 of **Y**	-
6 and 7	Duty of credit and financial institutions to co-operate with authorities and to report suspicious transactions.	Articles 57(1) and 63(2) of **N**	Article 3 of **P**	Article 40(1),(2),(3) of **R**	Articles 9 and 10 of **T** Articles 1-3 of **V**	Articles 10(1),(2),(3) and 11 of **Y**	Article 26B of **CC** Article 43A of **EE** Article 18 of **FF**
8	Duty of confidentiality of credit and financial institutions in respect to investigations being carried out.	Article 58 of **N**	Article 3(7) of **P**	Article 40(4) of **R**	Articles 19 of **T**	Article 10(4) of **Y**	Article 93D of **BB** Article 26C of **CC** Article 43B of **EE**
9	Exemption from liability for employees disclosing information on the basis of this directive in good faith.	Article 57(7) of **N**	Article 3(5) of **P**	Article 41(2),(6) of **R**	Article 13 of **T**	Article 13 of **Y**	Article 23A(5) and 26B(4)(5),(6) of **CC**

N Ireland 1: Irish Penal Code
O Italy 1: Italian Penal Code as amended by Law No. 55 of 19th March 1990.
P Italy 2: Act No. 197 of 3/5/91 "...to prevent the use of the financial system for the purpose of money laundering.
Q Italy 3: Decree of the Ministry of The Treasury of 19/12/91.
R Luxembourg 1: Act of 5/4/93 relating to the Financial Sector (Part II).
S Luxembourg 2: Act of 7/7/89 amending the 19/2/73 Act on the sale of Medical Substances
SS Luxembourg 3: Act of 18/12/93 amending insurance legislation
T Netherlands 1: Act of 16/12/93 on the Disclosure of Unusual Transactions.
U Netherlands 2: Act of 16/12/93 on the Identification of Clients of Financial Institutions.
V Netherlands 3 Ministerial Regulation pursuant to the 1993 Disclosure of Unusual Transactions Act
W Netherlands 4 Ministerial Regulation pusuant to the 1993 Identification (Financial Services) Act
X Netherlands 3: Dutch Penal Code
Y Portugal 1: Decree Law No. 313 of 15/08/93.
Z Portugal 2: Decree Law No. 15 of 22/1/93
AA United Kingdom 1: Money Laundering Regulations (1993)
BB United Kingdom 2: Criminal Justice Act (1988) as amended by the Criminal Justice Act (1993)
CC United Kingdom 3: Drug Trafficking Offences Act (1986)
DD United Kingdom 4: Criminal Justice (International Co-operation) Act (1990)
EE United Kingdom 5: Criminal Justice (Scotland) Act (1987) as amended by the Criminal Justice Act (1993)
FF United Kingdom 6: Prevention of Terrorism (Temporary Provisions) Act (1989)

Article of Directive	Brief Description of Content	Corresponding Article in National Legislation IRELAND	ITALY	LUXEMBOURG	NETHERLANDS	PORTUGAL	UK
10	Obligation of prudential authorities to report suspicious transactions.	Article 57(2) of **N**	-	-	Article 17 of **T**	Article 12 of **Y**	Articles 15 and 16 of **AA**
11(1)	Duty of credit and financial instits. to set up internal control and communic tion procedures for the preventi n of money laundering.	-	Article 3(8) of **P**	Article 40(5)(a) of **R**	Article 3(e) of **T**	Article 14(1) of **Y**	Articles 5(1)(a) and 14 of **AA**
11(2)	Duty of credit and financial institutions to provide training programmes for their employees.	-	Article 3(8) of **P**	Article 40(5)(b) of **R**	Article 3(e) of **T**	Article 14(2) of **Y**	Article 5 of **AA**
12	Extension of provisions of the Directive to professions and undertakings other than credit and financial institutions.	Article 32(10)(a) of **N**	-	-	Article 1(a)(6) of **T**	-	Article 26(B)(1) of **CC** Article 43(A)(1) of **EE** (obligation to report)
14	Sanctions for infractions of the obligations provided for in Article 2	Article 31 of **N**	Articles 648bis, 648ter of **O**	Articles 8-1 and 10 of **S**	Sections 416, 417, 417bis of **X**	Article 23 of **Z**	Article 93 of **BB** Article 23(A),24 of **CC** Article 14 of **DD** Article 11 of **FF**
14	Sanctions for infractions of the obligations provided for in the Directive other than those in Article 2	Articles 32(12), 57(5), 58(4) and 63(10) of **N**	Articles 2(7),(8) and 5 of **Q**	Articles 59 and 63 of **R** and Article 8-1 of **S**	Article 21 of **T** and Article 9 of **U**	Articles 24 to 29 of **Y**	Article 5 of **AA** Article 26(B),(C) of **CC**, Article 43(A),(B) of **EE**

N Ireland 1: Irish Penal Code
O Italy 1: Italian Penal Code as amended by Law No. 55 of 19th March 1990.
P Italy 2: Act No. 197 of 3/5/91 "...to prevent the use of the financial system for the purpose of money laundering.
Q Italy 3: Decree of the Ministry of The Treasury of 19/12/91.
R Luxembourg 1: Act of 5/4/93 relating to the Financial Sector (Part II).
S Luxembourg 2: Act of 7/7/89 amending the 19/2/73 Act on the sale of Medical Substances
SS Luxembourg 3: Act of 18/12/93 amending insurance legislation
T Netherlands 1: Act of 16/12/93 on the Disclosure of Unusual Transactions.
U Netherlands 2: Act of 16/12/93 on the Identification of Clients of Financial Institutions.
V Netherlands 3 Ministerial Regulation pursuant to the 1993 Disclosure of Unusual Transactions Act
W Netherlands 4 Ministerial Regulation pusuant to the 1993 Identification (Financial Services) Act
X Netherlands 3: Dutch Penal Code
Y Portugal 1: Decree Law No. 313 of 15/08/93.
Z Portugal 2: Decree Law No. 15 of 22/1/93
AA United Kingdom 1: Money Laundering Regulations (1993)
BB United Kingdom 2: Criminal Justice Act (1988) as amended by the Criminal Justice Act (1993)
CC United Kingdom 3: Drug Trafficking Offences Act (1986)
DD United Kingdom 4: Criminal Justice (International Co-operation) Act (1990)
EE United Kingdom 5: Criminal Justice (Scotland) Act (1987) as amended by the Criminal Justice Act (1993)
FF United Kingdom 6: Prevention of Terrorism (Temporary Provisions) Act (1989)

ANNEX 2: Signature, ratification and implementation of the Vienna and Strasbourg Conventions



ANNEX 3: ***Types of proceeds from criminal activities covered by the criminal offence of money laundering in Member States' penal legislation***

Member State	Drugs	Terrorism	Illicit Arms Trafficking	Prostitution	Contraband	Extorsion	Others	Organised Crime	All criminal activity or any serious crime
Belgium									
Denmark							Crimes against property		
Germany									
Greece							Kidnapping, illegal removal of human organs		
Spain									
France									
Ireland									
Italy									
Luxembourg									
Netherlands									
Portugal									
United Kingdom									

Types of proceeds which are specifically covered

Types of proceeds which are implicitly covered since proceeds from all criminal activities or from any serious crimes are included

Types of proceeds which are not covered

ANNEX 4 Types of proceeds from criminal activities covered by the definition of "Money Laundering"in the specific Member States' legislation implementing the Directive Article 1 (indents 3 and 5) of the Money Laundering Directive.

Member State	Drugs	Terrorism	Illicit Arms Trafficking	Prostitution	Contraband	Others	Organised Crime	All Criminal Activity or a
BELGIUM[1]						Black labour and slave trafficking		
DENMARK[2]								
GERMANY								
GREECE[3]								
SPAIN[2]								
FRANCE[2]								
IRELAND								
ITALY								
LUXEMBOURG								
NETHERLANDS								
PORTUGAL								
U. KINGDOM[4]								

Types of proceeds which are specifically covered

Types of proceeds which are generically covered since proceeds from all criminal activities or from any serious crime (or from organised crime) are included

Types of proceeds which are not covered

---

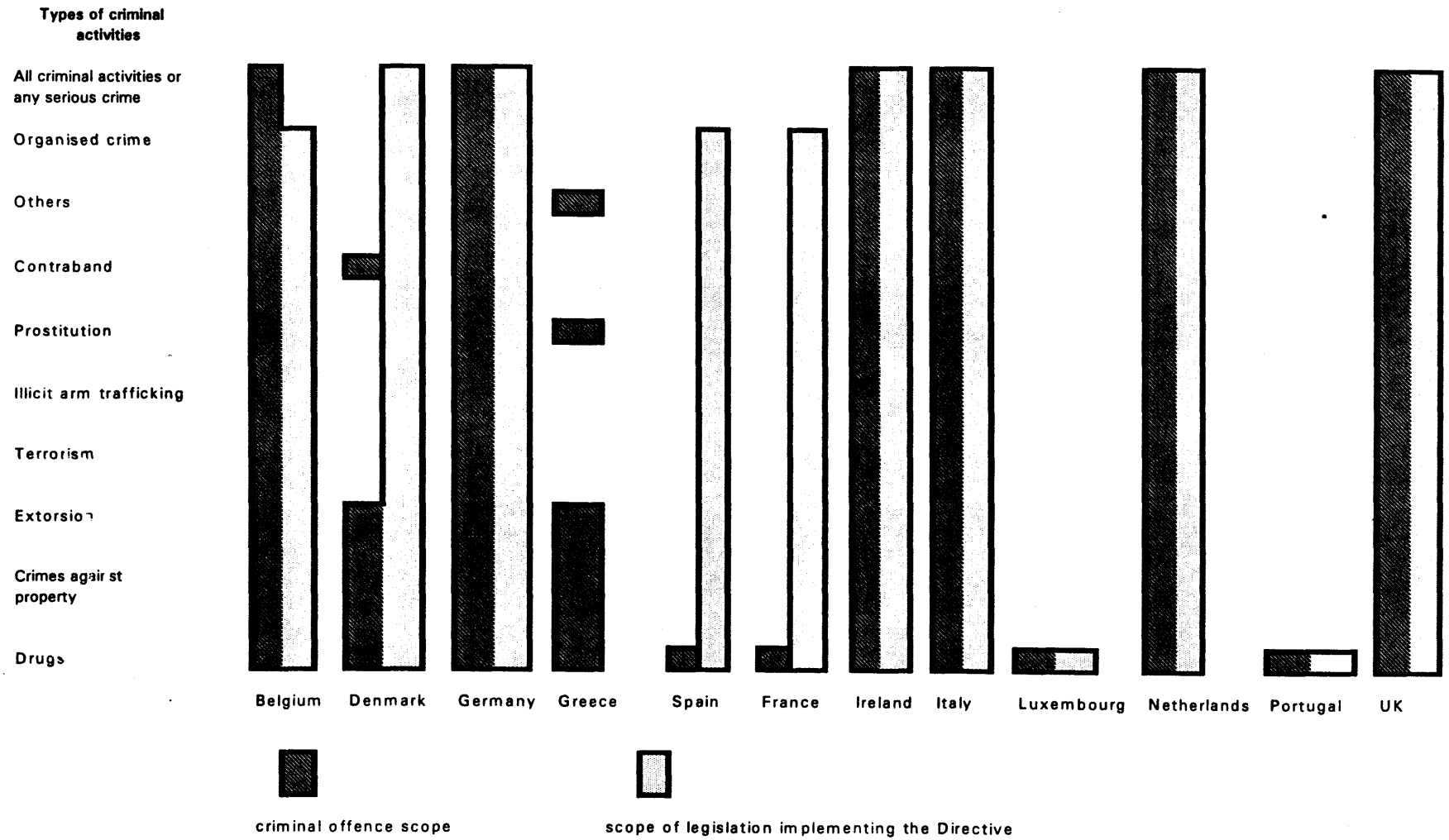
1 The crimina. definition of money laundering in Belgium is wider than that of the legislation implementing the Directive since the criminal offence of money laundering covers proceeds from any criminal activity.

2 The criminal definition of money laundering is narrower than that of the legislation implementing the Directive in the following member states:
(a) Denmark, where it covers proceeds from drug-related offences, extorsion, smuggling and crimes against property.
(b) Spain and France where it covers proceeds from drug-related offences.

3 The criminal definition of money laundering in Greece covers proceeds from drug-related offences, extortion, kidnapping, illicit arms trafficking, and the illegal removal of human organs and tissues.

4 In the UK, the specific legislation implementing the Directive as well as the criminal definition of money laundering covers proceeds from any serious crimes. However the offences of "failure to disclose knowledge or suspicion of money laundering" is confined to proceeds from drug offences and terrorism.

ANNEX 5: Comparison between the type of proceeds from criminal activities covered by the Member States' criminal offence of money laundering and those included in the scope of the specific national legislation implementing the Directive



ANNEX 6 ***Professions and Undertakings beyond the financial system covered by the Member States' Legislation implementing the Directive.*** ***(Article 12 of the Money Laundering Directive)***

Member State	Gaming Industry	Dealers in objects of high value				Legal professions carrying out financial activities.						
	Casino Operators	Real Estate	Precious Metals	Jewellery	Art and Antiques	Lawyers	Notaries	Other legal prof.	Others	All Traders	All Professions	All Persons
BELGIUM												
DENMARK												
GERMANY[1]												
GREECE												
SPAIN[2]												
FRANCE[3]												
IRELAND[4]												
ITALY[5]												
LUXEMBOURG												
NETHERLANDS												
PORTUGAL												
U. KINGDOM[6]												

Types of professions and undertakings which are specifically covered
Types of professions and undertakings which are implicitly covered.
Types of professions and undertakings which are not covered

---

1 The duty to identify all customers in transactions above 20,000 DM extends to all those practising a profession and to all traders, including Casinos and administrators of other persons' property. Casinos, bullion dealers and auctioneers are also obliged to set up internal control procedures against money laundering.

2 The law also empowers the government to include within the scope of the law any person who practices a trade and who - in view of their habitual acceptance of cash or bearer instruments as a means of payment, the high unit value of their goods or services, the location of their establishment or other relevant circumstances are - particularly susceptible to money laundering.

3 All persons who, in exercising their profession advise upon, execute or control operations involving capital movements are obliged to notify the authorities of any transactions which he knows to be related to money laundering.

4 The Criminal Code empowers the government to extend the scope of application of the directive to other professions and undertakings

5 Payments in cash and bearer securities over LIT 20M must be carried out through a financial intermediary. However this measure does not implement any provision of the directive

6 The duty to report suspicious transactions extends to all persons.

ANNEX 7 ***Penalties for infractions of the Member States' legislation implementing the Money Laundering Directive (MLD): Article 14 of the MLD*** *page 1*

Member State	Prohibition of Money Laundering Art. 2 MLD	Duty to identify customers Art. 3 MLD	Duty to report suspicious transactions Art. 6-7 MLD	Duty to keep records of transactions and identification documents Art. 4 MLD	Duty of enhanced diligence Art. 5 MLD	Duty of confidentiality (Tipping-off clause) Art. 8 MLD	Duty to set up internal control and communication procedures Art. 11-1 MLD	Duty to provide training programmes for employees. Art. 11-2 MLD	Duty of prudential authorities to report suspicious transactions. Art.10 MLD
BELGIUM	Imprisonment for 15 days to 5 years, and/or fines of up to 20,000,000 BFR (500,000 ECU)	Fine of 10,000 to 50M BFR (250 to 2.5M ECU)	Fine of 10,000 to 50M BFR (250 to 2.5M ECU)	Fine of 10,000 to 50M BFR (250 to 2.5M ECU)	Fine of 10,000 to 50M BFR (250 to 2.5M ECU)	Fine of 10,000 to 50M BFR (250 to 2.5M ECU)	Fine of 10,000 to 50M BFR (250 to 2.5M ECU)	Fine of 10,000 to 50M BFR (250 to 2.5M ECU)	Fine of 10,000 to 50M BFR (250 to 2.5M ECU)
DENMARK	Imprisonment for up to 6 years and fines	Unlimited fine	Unlimited fine	Unlimited fine		Unlimited fine	Unlimited fine	Unlimited fine	
GERMANY	Imprisonment for up to 5 years or a fine; (or for 6 months up to 10 years)	Fine of up to 200,000 DM (104,000 ECU)		Fine of up to 100,000 DM (52,000 ECU)		Fine of up to 100,000 DM (52,000 ECU)	Fines of up to 50,000 DM (26,000 ECU) and other prudential sanctions	Fines of up to 50,000 DM (26,000 ECU) and other prudential sanctions	Disciplinary measures
GREECE	Imprisonment for 1 to 10 years								
SPAIN	Imprisonment for up to six years and fines from 1M Ptas (6,350 ECU) to 100M Ptas (635,000 ECU)	Fine of a min. of 1M Ptas (6,350 ECU) and a max. of the highest of the following: 25M Ptas (160,000 ECU) or 1% of the institution's equity or the value of the tranaction plus fifty per cent	Fine of between 15M and 250M Ptas (95,000 to 1.6M ECU) and revocation of the permit to operate.	Fine of a min. of 1M Ptas (6,350 ECU) and a max. of the highest of the following: 25M Ptas (160,000 ECU) or 1% of the institution's equity or the value of the tranaction plus fifty per cent	Fine of a min. of 1M Ptas (6,350 ECU) and a max. of the highest of the following: 25M Ptas (160,000 ECU) or 1% of the institution's equity or the value of the tranaction plus fifty per cent	Fine of between 15M and 250M Ptas (95,000 to 1.6M ECU) and revocation of the permit to operate.	Fine of a min. of 1M Ptas (6,350 ECU) and a max. of the highest of the following: 25M Ptas (160,000 ECU) or 1% of the institution's equity or the value of the tranaction plus fifty per cent	Fine of a min. of 1M Ptas (6,350 ECU) and a max. of the highest of the following: 25M Ptas (160,000 ECU) or 1% of the institution's equity or the value of the tranaction plus fifty per cent	

*All amounts expr ssed in ECU are approximative

Penalties for infractions of the Member States' legislation implementing the Money Laundering Directive (MLD): Article 14 of the MLD

Member State	Prohibition of Money Laundering Art. 2 MLD	Duty to identify customers Art. 3 MLD	Duty to report suspicious transactions Art. 6-7 MLD	Duty to keep records of transactions and identification documents Art. 4 MLD	Duty of enhanced diligence Art. 5 MLD	Duty of confidentiality (tipping-off clause) Art. 8 MLD	Duty to set up internal control and communication procedures Art. 11-1 MLD	Duty to provide training programmes for employees. Art. 11-2 MLD	Duty of prudential authorities to report suspicious transactions. Art.10 MLD
FRANCE	Imprisonment for up to 10 years and fines of up to 1M FF (150,000 ECU)	Sanctions provided for in the relevant prudential legislation.	Sanctions provided for in the relevant prudential legislation.	Sanctions provided for in the relevant prudential legislation.	Sanctions provided for in the relevant prudential legislation.	Fine of 15,000 to 150,000 FF (2,250 to 22,500 ECU)	Sanctions provided for in the relevant prudential legislation.	Sanctions provided for in the relevant prudential legislation.	
IRELAND	Imprisonment for up to fourteen years, or a fine or both	Imprisonment for up to five years, or a fine or both	Imprisonment for up to five years, or a fine or both	Imprisonment for up to five years, or a fine or both		Imprisonment for up to five years, or a fine or both			Imprisonment for up to five years, or a fine or both
ITALY	Imprisonment for 4 to 12 years and fines of between LIT 2M and 30M (1,000 to 16,000 ECU)	Fine of between LIT 5M and 25M (2,700 to 13,500 ECU)	Fine of up to half the amount of the transaction.	Fine of between LIT 5M and 25M (2,700 to 13,500 ECU)	Sanctions provided for in the relevant prudential legislation	Imprisonment for 6 to 12 months or a fine of LIT 10M to 100M (5,400 to 54,000 ECU)	Imprisonment for 6 to 12 months and a fine of LIT 10M to 50M (5,400 to 27,000 ECU) and prudential sanctions	Sanctions provided for in the relevant prudential legislation	
LUXEMBOURG	Imprisonment for between one and twenty years and fines of between LUF 5,000 and 50,000,000 (125 to 1,250,000 ECU)	Fine of LUF 5,000 to 500,000 (125 to 12,500 ECU) suspension of directors, shareholders' voting rights or the institution's activities.	Fine of LUF 5,000 to 500,000 (125 to 12,500 ECU) suspension of directors, shareholders' voting rights or the institution's activities.	Fine of LUF 5,000 to 500,000 (125 to 12,500 ECU) suspension of directors, shareholders' voting rights or the institution's activities.	Fine of LUF 5,000 to 500,000 (125 to 12,500 ECU) suspension of directors, shareholders' voting rights or the institution's activities.	Fine of LUF 5,000 to 500,000 (125 to 12,500 ECU) suspension of directors, shareholders' voting rights or the institution's activities.	Fine of LUF 5,000 to 500,000 (125 to 12,500 ECU) suspension of directors, shareholders' voting rights or the institution's activities.	Fine of LUF 5,000 to 500,000 (125 to 12,500 ECU) suspension of directors, shareholders' voting rights or the institution's activities	

*All amounts expressed in ECU are approximative

ANNEX 7 ***Penalties for infractions of the Member States' legislation implementing the Money Laundering Directive (MLD): Article 14 of the MLD*** *page 3*

Member State	Prohibition of Money Laundering Art. 2 MLD	Duty to identify customers Art. 3 MLD	Duty to report suspicious transactions Art. 6-7 MLD	Duty to keep records of transactions and identification documents Art. 4 MLD	Duty of enhanced diligence Art. 5 MLD	Duty of confidentiality (Tipping-off clause) Art. 8 MLD	Duty to set up internal control and communication procedures Art. 11-1 MLD	Duty to provide training programmes for employees. Art. 11-2 MLD	Duty of prudential authorities to report suspicious transactions. Art.10 MLD
NETHERLANDS	Imprisonment for up to four years or a fine	Imprisonment for up to two years and/or a fine. Also confiscation of assets, temporary shut-down or termination of activities and seizing of profits from illegal activities.	Imprisonment for up to two years and or a fine. Also confiscation of assets, temporary shut-down or termination of activities and seizing of profits from illegal activities.	Imprisonment for up to two years and or a fine. Also confiscation of assets, temporary shut-down or termination of activities and seizing of profits from illegal activities.		Imprisonment for up to two years and or a fine. Also confiscation of assets, temporary shut-down or termination of activities and seizing of profits from illegal activities.			
PORTUGAL	Imprisonment for a term of 1 to 12 years	Fine of between 50,000 and 150M PTE (250 to 750,000 ECU) and disqualification from exercising certain duties for up to ten years	Fine of between 1M PTE and 200M PTE (5,040 to 1M ECU) and disqualification from exercising certain duties for up to ten years	Fine of between 50,000 and 150M PTE (250 to 750,000 ECU) and disqualification from exercising certain duties for up to ten years	Fine of between 50,000 and 150M PTE (250 to 750,000 ECU) and disqualification from exercising certain duties for up to ten years	Fine of between 1M PTE and 200M PTE (5,040 to 1M ECU) and disqualification from exercising certain duties for up to ten years	Fine of between 1M PTE and 200M PTE (5,040 to 1M ECU) and disqualification from exercising certain duties for up to ten years	Fine of between 1M PTE and 200M PTE (5,040 to 1M ECU) and disqualification from exercising certain duties for up to ten years	
U. KINGDOM	Imprisonment for a term of up to 14 years and/or an unlimited fine	Imprisonment for up to two years and/or an unlimited fine	Imprisonment for up to five years and/or an unlimited fine	Imprisonment for up to two years and/or an unlimited fine		Imprisonment for up to five years and/or an unlimited fine	Imprisonment for up to two years and/or an unlimited fine	Imprisonment for up to two years and/or an unlimited fine	

* All amounts e pressed in ECU are approximative

ISSN 1024-4492

KOM(95) 54 lopullinen

ASIAKIRJAT

FI 09 10

Luettelonumero : CB-CO-95-065-FI-C

ISBN 92-77-86124-X

Euroopan yhteisöjen virallisten julkaisujen toimisto

L-2985 Luxembourg