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of 23 October 2018
on combating money laundering by criminal law
(OJ L 284, 12.11.2018, p. 22)

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**DIRECTIVE (EU) 2018/1673 OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL**

of 23 October 2018

on combating money laundering by criminal law

Article 1

Subject matter and scope

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

2. This Directive does not apply to money laundering as regards property derived from criminal offences affecting the Union's financial interests, which is subject to specific rules laid down in Directive (EU) 2017/1371.

Article 2

Definitions

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

- (1) 'criminal activity' means any kind of criminal involvement in the commission of any offence punishable, in accordance with national law, by deprivation of liberty or a detention order for a maximum of more than one year or, as regards Member States that have a minimum threshold for offences in their legal systems, any offence punishable by deprivation of liberty or a detention order for a minimum of more than six months. In any case, offences within the following categories are considered a criminal activity:
 - (a) participation in an organised criminal group and racketeering, including any offence set out in Framework Decision 2008/841/JHA;
 - (b) terrorism, including any offence set out in Directive (EU) 2017/541 of the European Parliament and of the Council ⁽¹⁾;
 - (c) trafficking in human beings and migrant smuggling, including any offence set out in Directive 2011/36/EU of the European Parliament and of the Council ⁽²⁾ and Council Framework Decision 2002/946/JHA ⁽³⁾;

⁽¹⁾ Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6).

⁽²⁾ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15.4.2011, p. 1).

⁽³⁾ Council Framework Decision 2002/946/JHA of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence (OJ L 328, 5.12.2002, p. 1).

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- (d) sexual exploitation, including any offence set out in Directive 2011/93/EU of the European Parliament and of the Council ⁽¹⁾;
- (e) illicit trafficking in narcotic drugs and psychotropic substances, including any offence set out in Council Framework Decision 2004/757/JHA ⁽²⁾;
- (f) illicit arms trafficking;
- (g) illicit trafficking in stolen goods and other goods;
- (h) corruption, including any offence set out in the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union ⁽³⁾ and in Council Framework Decision 2003/568/JHA ⁽⁴⁾;
- (i) fraud, including any offence set out in Council Framework Decision 2001/413/JHA ⁽⁵⁾;
- (j) counterfeiting of currency, including any offence set out in Directive 2014/62/EU of the European Parliament and of the Council ⁽⁶⁾;
- (k) counterfeiting and piracy of products;
- (l) environmental crime, including any offence set out in Directive 2008/99/EC of the European Parliament and of the Council ⁽⁷⁾ or in Directive 2009/123/EC of the European Parliament and of the Council ⁽⁸⁾;
- (m) murder, grievous bodily injury;
- (n) kidnapping, illegal restraint and hostage-taking;
- (o) robbery or theft;

⁽¹⁾ Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (OJ L 335, 17.12.2011, p. 1).

⁽²⁾ Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking (OJ L 335, 11.11.2004, p. 8).

⁽³⁾ Council Act of 26 May 1997 drawing up, on the basis of Article K.3 (2) (c) of the Treaty on European Union, the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union (OJ C 195, 25.6.1997, p. 1).

⁽⁴⁾ Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector (OJ L 192, 31.7.2003, p. 54).

⁽⁵⁾ Council Framework Decision 2001/413/JHA of 28 May 2001 combating fraud and counterfeiting of non-cash means of payment (OJ L 149, 2.6.2001, p. 1).

⁽⁶⁾ Directive 2014/62/EU of the European Parliament and of the Council of 15 May 2014 on the protection of the euro and other currencies against counterfeiting by criminal law, and replacing Council Framework Decision 2000/383/JHA (OJ L 151, 21.5.2014, p. 1).

⁽⁷⁾ Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law (OJ L 328, 6.12.2008, p. 28).

⁽⁸⁾ Directive 2009/123/EC of the European Parliament and of the Council of 21 October 2009 amending Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements (OJ L 280, 27.10.2009, p. 52).

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- (p) smuggling;
- (q) tax crimes relating to direct and indirect taxes, as laid down in national law;
- (r) extortion;
- (s) forgery;
- (t) piracy;
- (u) insider trading and market manipulation, including any offence set out in Directive 2014/57/EU of the European Parliament and of the Council ⁽¹⁾;
- (v) cybercrime, including any offence set out in Directive 2013/40/EU of the European Parliament and of the Council ⁽²⁾;

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- (w) violation of Union restrictive measures.

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- (2) ‘property’ means assets of any kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or an interest in, such assets;
- (3) ‘legal person’ means any entity having legal personality under the applicable law, except for states or public bodies in the exercise of state authority and for public international organisations.

*Article 3***Money laundering offences**

1. Member States shall take the necessary measures to ensure that the following conduct, when committed intentionally, is punishable as a criminal offence:
 - (a) the conversion or transfer of property, knowing that such property is derived from criminal activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an activity to evade the legal consequences of that person’s action;
 - (b) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of, property, knowing that such property is derived from criminal activity;
 - (c) the acquisition, possession or use of property, knowing at the time of receipt, that such property was derived from criminal activity.

⁽¹⁾ Directive 2014/57/EU of the European Parliament and of the Council of 16 April 2014 on criminal sanctions for market abuse (market abuse directive) (OJ L 173, 12.6.2014, p. 179).

⁽²⁾ Directive 2013/40/EU of the European Parliament and of the Council of 12 August 2013 on attacks against information systems and replacing Council Framework Decision 2005/222/JHA (OJ L 218, 14.8.2013, p. 8).

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2. Member States may take the necessary measures to ensure that the conduct referred to in paragraph 1 is punishable as a criminal offence where the offender suspected or ought to have known that the property was derived from criminal activity.
3. Member States shall take the necessary measures to ensure that:
 - (a) a prior or simultaneous conviction for the criminal activity from which the property was derived is not a prerequisite for a conviction for the offences referred to in paragraphs 1 and 2;
 - (b) a conviction for the offences referred to in paragraphs 1 and 2 is possible where it is established that the property was derived from a criminal activity, without it being necessary to establish all the factual elements or all circumstances relating to that criminal activity, including the identity of the perpetrator;
 - (c) the offences referred to in paragraphs 1 and 2 extend to property derived from conduct that occurred on the territory of another Member State or of a third country, where that conduct would constitute a criminal activity had it occurred domestically.
4. In the case of point (c) of paragraph 3 of this Article, Member States may further require that the relevant conduct constitutes a criminal offence under the national law of the other Member State or of the third country where that conduct was committed, except where that conduct constitutes one of the offences referred to in points (a) to (e) and (h) of point (1) of Article 2 and as defined in the applicable Union law.
5. Member States shall take the necessary measures to ensure that the conduct referred to in points (a) and (b) of paragraph 1 is punishable as a criminal offence when committed by persons who committed, or were involved in, the criminal activity from which the property was derived.

*Article 4***Aiding and abetting, inciting and attempting**

Member States shall take the necessary measures to ensure that aiding and abetting, inciting and attempting an offence referred to in Article 3(1) and (5) is punishable as a criminal offence.

*Article 5***Penalties for natural persons**

1. Member States shall take the necessary measures to ensure that the offences referred to in Articles 3 and 4 are punishable by effective, proportionate and dissuasive criminal penalties.

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2. Member States shall take the necessary measures to ensure that the offences referred to in Article 3(1) and (5) are punishable by a maximum term of imprisonment of at least four years.

3. Member States shall also take the necessary measures to ensure that natural persons who have committed the offences referred to in Articles 3 and 4 are, where necessary, subject to additional sanctions or measures.

*Article 6***Aggravating circumstances**

1. Member States shall take the necessary measures to ensure that, in relation to the offences referred to in Article 3(1) and (5) and Article 4, the following circumstances are to be regarded as aggravating circumstances:

- (a) the offence was committed within the framework of a criminal organisation within the meaning of Framework Decision 2008/841/JHA; or
- (b) the offender is an obliged entity within the meaning of Article 2 of Directive (EU) 2015/849 and has committed the offence in the exercise of their professional activities.

2. Member States may provide that, in relation to the offences referred to in Article 3(1) and (5) and Article 4, the following circumstances are to be regarded as aggravating circumstances:

- (a) the laundered property is of considerable value; or
- (b) the laundered property derives from one of the offences referred to in points (a) to (e) and (h) of point (1) of Article 2.

*Article 7***Liability of legal persons**

1. Member States shall take the necessary measures to ensure that legal persons can be held liable for any of the offences referred to in Article 3(1) and (5) and Article 4 committed for their benefit by any person, acting either individually or as part of an organ of the legal person and having a leading position within the legal person, based on any of the following:

- (a) a power of representation of the legal person;
- (b) an authority to take decisions on behalf of the legal person; or
- (c) an authority to exercise control within the legal person.

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2. Member States shall take the necessary measures to ensure that legal persons can be held liable where the lack of supervision or control by a person referred to in paragraph 1 of this Article has made possible the commission of any of the offences referred to in Article 3(1) and (5) and Article 4 for the benefit of that legal person by a person under its authority.

3. Liability of legal persons under paragraphs 1 and 2 of this Article shall not preclude criminal proceedings from being brought against natural persons who are perpetrators, inciters or accessories in any of the offences referred to in Article 3(1) and (5) and Article 4.

*Article 8***Sanctions for legal persons**

Member States shall take the necessary measures to ensure that a legal person held liable pursuant to Article 7 is punishable by effective, proportionate and dissuasive sanctions, which shall include criminal or non-criminal fines and may include other sanctions, such as:

- (a) exclusion from entitlement to public benefits or aid;
- (b) temporary or permanent exclusion from access to public funding, including tender procedures, grants and concessions;
- (c) temporary or permanent disqualification from the practice of commercial activities;
- (d) placing under judicial supervision;
- (e) a judicial winding-up order;
- (f) temporary or permanent closure of establishments which have been used for committing the offence.

*Article 9***Confiscation**

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

*Article 10***Jurisdiction**

1. Each Member State shall take the necessary measures to establish its jurisdiction over the offences referred to in Articles 3 and 4 where:

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- (a) the offence is committed in whole or in part on its territory;
- (b) the offender is one of its nationals.

2. A Member State shall inform the Commission where it decides to extend its jurisdiction to offences referred to in Articles 3 and 4 which have been committed outside its territory where:

- (a) the offender is a habitual resident on its territory;
- (b) the offence is committed for the benefit of a legal person established on its territory.

3. Where an offence referred to in Articles 3 and 4 falls within the jurisdiction of more than one Member State and where any of the Member States concerned can validly prosecute on the basis of the same facts, the Member States concerned shall cooperate in order to decide which of them will prosecute the offender, with the aim of centralising proceedings in a single Member State.

Account shall be taken of the following factors:

- (a) the territory of the Member State on which the offence was committed;
- (b) the nationality or residency of the offender;
- (c) the country of origin of the victim or victims; and
- (d) the territory on which the offender was found.

The matter shall, where appropriate and in accordance with Article 12 of Framework Decision 2009/948/JHA, be referred to Eurojust.

*Article 11***Investigative tools**

Member States shall take the necessary measures to ensure that effective investigative tools, such as those used in combating organised crime or other serious crimes are available to the persons, units or services responsible for investigating or prosecuting the offences referred to in Article 3(1) and (5) and Article 4.

*Article 12***Replacement of certain provisions of Framework Decision 2001/500/JHA**

Point (b) of Article 1 and Article 2 of Framework Decision 2001/500/JHA are replaced with regard to the Member States bound by this Directive, without prejudice to the obligations of those Member States with regard to the date for transposition of that Framework Decision into national law.

With regard to the Member States bound by this Directive, references to the provisions of Framework Decision 2001/500/JHA referred to in the first paragraph shall be construed as references to this Directive.



Article 13

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 3 December 2020. They shall immediately inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 14

Reporting

The Commission shall, by 3 December 2022, submit a report to the European Parliament and to the Council, assessing the extent to which the Member States have taken the necessary measures to comply with this Directive.

The Commission shall, by 3 December 2023, submit a report to the European Parliament and to the Council assessing the added value of this Directive with regard to combating money laundering as well as its impact on fundamental rights and freedoms. On the basis of that report, the Commission shall, if necessary, present a legislative proposal to amend this Directive. The Commission shall take into account the information provided by Member States.

Article 15

Entry into force

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

Article 16

Addressees

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