

# German Lawyer Associations Voice Concerns over Commission's Anti-corruption Directive



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European Law Forum: Prevention • Investigation • Prosecution

## News

**Thomas Wahl**

The proposed anti-corruption directive faces initial criticism by stakeholders. In September 2023, both the [German Federal Law Society \(Bundesrechtsanwaltskammer, BRAK\)](#) and the [German Bar Association \(Deutscher Anwaltverein, DAV\)](#) emphasised that the Commission's draft (→ [euclid news of 3 August 2023](#)) disregards the principles of proportionality and subsidiarity and warned that the proposal could restrict the sovereignty of the Member States in shaping their criminal law.

Both associations particularly criticized the definitions of "public officials" and "national officials", as they extend the protection of public services far beyond the level currently applicable in Germany and the EU as well as the lack of coherence with Directive 2017/1371 on combating fraud to the Union's financial interests by means of criminal law. In addition, the draft directive lacks clarity and vagueness of breaches of duty in the area of duty-related offenses in the proposal. The objection here is that benefits could be included that are promised in return for almost any breach of duty, including breaches of employment contract obligations, thus extending civil and employment law obligations into the area of criminal law.

The BRAK concluded that the Commission's proposal goes beyond the objective of creating a harmonized criminal law on corruption, which is commendable in itself, having "overshot the mark" in terms of content and function. The DAV summed up that the proposal is not in line with the *ultima-ratio* principle of criminal law and provides for an apodictic increase of penalties without regard to internal coherence.

### AUTHOR

**Thomas Wahl**

Senior Researcher  
Max Planck Institute for the  
Study of Crime, Security and  
Law

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