

Use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences

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The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Emil RADEV (EPP, BG) on the proposal for a Directive of the European Parliament and of the Council laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences and repealing Council Decision 2000/642/JHA.

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

Subject matter: the proposed Directive seeks to lay down measures to facilitate **access to and use of** financial information and bank account information by competent authorities for the prevention, detection, investigation or prosecution of serious criminal offences. It also provides for measures to facilitate access by Financial Intelligence Units to law enforcement information, where this information is necessary, on a case-by-case basis, and to facilitate the cooperation between Financial Intelligence Units.

Access and search by competent authorities to bank account information: Member States shall ensure that the competent authorities shall have the power to access and search, directly and immediately, bank account information when necessary for the performance of their tasks for the purposes of preventing, detecting, investigating or prosecuting a serious criminal offence or supporting a criminal investigation concerning a serious criminal offence, including the identification, tracing and freezing of the assets related to such investigation. Access and search is also deemed direct and immediate where the national authorities operating the central bank account registries transmit the bank account information **expeditiously** by an automated mechanism to competent authorities, provided that no intermediary institution interferes with the requested data or the information to be provided.

Member States providing access to bank account information through central **electronic data retrieval systems** shall ensure that the authority operating the retrieval systems reports search results in an immediate and unfiltered way to competent authorities.

Conditions for the access and search by competent authorities: the amended text stipulated that Member States shall ensure that the staff of the national designated competent authorities maintains high professional standards of confidentiality and data protection. The access and search by competent authorities shall be supported by technical and organisational measures ensuring the security of the data to the **highest technological standard** available.

Monitoring the access and search: Member States shall ensure that the authorities operating the centralised bank account registries keep a **log** of any access by competent authorities to bank account information. The logs shall include, in particular, the following elements: (i) the unique identifiers of the results; (ii) the identifiers of the official who carried out the query or search and of the official who ordered the query or search, and as far as possible, the **identity** of the recipient of the results of the query or search.

Requests for information by competent authorities to the Financial Intelligence Unit (FIU): subject to national procedural safeguards, each Member State shall ensure that its national FIU is required to

reply, in a **timely manner**, to **reasoned requests** for financial information or financial analysis by its designated competent authorities.

Exchange of information between FIUs of different Member States: each Member State shall ensure that its Financial Intelligence Unit exchanges financial information or financial analysis **free of charge** with any FIU in the Union where that financial information or financial analysis is necessary for the prevention, detection and combating of money laundering, associate predicate offences and terrorist financing.

A Financial Investigation Unit may **refuse** to exchange information only in exceptional circumstances where the exchange could be contrary to fundamental principles of its national law. Those exceptions shall be specified in a way which prevents misuse of, and undue limitations on, the free exchange of information for analytical purposes. Any refusal shall be appropriately explained.

Member States shall ensure that the information exchanged is used only for the purpose for which it was sought or provided, and that any dissemination of that information by the receiving Financial Intelligence Unit to any other authority, agency or department, or any use of this information for purposes other than those originally approved, is made subject to the **prior consent** of the Financial Intelligence Unit providing the information.

The **deadlines for exchange of information** have been slightly prolonged in order to ensure that FIUs have enough operational time for response.

Exchange of information between Europol and FIUs: each Member State shall ensure that its FIU is entitled to reply to duly justified requests made by Europol through the Europol National Unit that are related to financial information and financial analysis on a case-by-case basis within the limits of the responsibilities of Europol and for the performance of its tasks.

Monitoring: Member States shall review the effectiveness and efficiency of their systems with regard to the use of financial and other information for the prevention, detection, investigation or prosecution of serious criminal offences by maintaining comprehensive statistics.

The Commission shall assess the obstacles and opportunities to enhance cooperation between FIUs in the Union including the possibility and appropriateness of establishing a coordination and support mechanism, such as an EU FIU.