Combating fraud and counterfeiting of non-cash means of payment

2017/0226(COD) - 10/05/2019 - Final act

PURPOSE: to effectively combat fraud and counterfeiting of non-cash means of payment.

LEGISLATIVE ACT: Directive (EU) 2019/713 of the European Parliament and of the Council on combating fraud and counterfeiting of non-cash means of payment and replacing Council Framework Decision 2001/413/JHA.

CONTENT: credit card or online shopping fraud is on the rise. It undermines consumer’s trust and makes consumers more reluctant to make online purchases. In addition, the proceeds of this type of fraud are used to finance criminal groups.

This Directive establishes minimum rules concerning the definition of criminal offences and sanctions in the areas of fraud and counterfeiting of non-cash means of payment. It facilitates the prevention of such offences, and the provision of assistance to and support for victims.

The Directive is technology-neutral and covers not only traditional non-cash means of payment, such as bank cards or cheques, but also new payment methods that have emerged in recent years, such as electronic money, mobile payments and virtual currencies.

The Directive updates and complements existing rules by including new provisions relating in particular to:

- the harmonisation of definitions in the areas of fraud and counterfeiting of non-cash means of payment, including hacking into a victim's computer, to ensure a consistent approach by Member States of the application of the Directive and to facilitate the exchange of information and cooperation between competent authorities;
- the extension of the scope of punishable criminal offences where they are intentional to include, for example, transactions in virtual currencies, fraud relating to information systems, as well as the use or provision of a device, computer data or other means mainly designed or specifically adapted to commit an offence;
- harmonisation of the rules on penalties applicable to natural persons: the minimum penalties shall range from 1 to 5 years' imprisonment depending on the type of offence. For legal persons, sanctions shall include criminal or non-criminal fines, and possibly sanctions such as temporary or permanent exclusion from access to public funding, prohibition of commercial activity or closure of establishments which have been used to commit the offence;
- clarification of the scope of competences in order to ensure more effective treatment of cross-border fraud as well as the obligation for Member States to put in place procedures to deal promptly with urgent requests for assistance and measures to ensure that appropriate reporting channels are made available to facilitate reporting to law enforcement authorities and other competent national authorities, without undue delay;
- assistance and support to ensure that victims who have suffered harm as a result of offences committed through the misuse of personal data are sufficiently informed of their rights and that

citizens are provided with advice on how to protect themselves against fraud. Member States are encouraged to set up single national online information tools to facilitate access to support and assistance measures for victims;

- the collection of statistics on, as a minimum, covering existing data on the number of offences registered by the Member States and on the number of persons prosecuted for and convicted of the offences. By 31 August 2019, the Commission shall establish a detailed programme for monitoring the outputs, results and impacts of this Directive.

ENTRY INTO FORCE: 30.5.2019.

TRANSPOSITION: no later than 31.5.2021.