

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

2018/0105(COD) - 11/07/2019 - Final act

PURPOSE: to strengthen the fight against terrorist financing by providing competent authorities with direct access to bank account information.

LEGISLATIVE ACT: Directive (EU) 2019/1153 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.

CONTENT: the Directive lays down measures to:

- facilitate access to and the use of financial information and bank account information by competent authorities for the prevention, detection, investigation or prosecution of serious criminal offences;
- facilitate access to law enforcement information by Financial Intelligence Units ('FIUs') for the prevention and combating of money laundering, associate predicate offences and terrorist financing and measures to facilitate cooperation between FIUs.

Competent authorities

The Directive requires each Member State to designate the competent authorities empowered to access and search its national centralised bank account register. These competent authorities shall include at least the Asset Recovery Offices.

Access and consultation of information relating to bank accounts

Member States shall ensure that the competent national authorities designated 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 searches shall be considered to be direct and immediate, *inter alia*, 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 is able to interfere with the requested data or the information to be provided.

Monitoring access and searches

Each access to and search of bank account information by the designated competent authorities shall be recorded in logs which shall include, *inter alia*, the date and time of the request or search, the name of the designated competent authority which consulted the register and the identifiers of the agent who carried out the search and the agent who ordered the search and, to the extent possible, the unique user identifier of the recipient of the results of the query or search.

Exchanges of information between competent authorities and FIUs and between FIUs

The Regulation ensures that FIUs are required to cooperate with the competent authorities and are able to respond in a timely manner to reasoned requests for financial information or financial analysis from the competent authorities.

The FIU shall not be required to respond to the request for information if there are objective reasons to assume that the disclosure of such information would have a negative impact on ongoing investigations or analyses. FIUs shall be required to explain any refusal to respond to a request for information.

The Directive also provides for the following:

- FIUs from different Member States shall be empowered to exchange information in exceptional and urgent cases related to terrorism or organised crime associated with terrorism;
- the designated competent authorities may exchange information or financial analyses obtained from the FIU of their Member State, upon request and on a case-by-case basis, with a designated competent authority of another Member State;
- the competent authorities and the FIU shall be empowered to respond (directly or through the Europol national unit) to duly justified requests from Europol for information relating to bank accounts and of a financial nature.

Processing of sensitive personal data

The processing of personal data revealing a person's racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership or of data concerning a natural person's health, sex life or sexual orientation shall only be allowed subject to appropriate safeguards for the rights and freedoms of the data subject, in accordance with the applicable data protection rules.

The Directive shall not preclude Member States from maintaining or concluding bilateral or multilateral agreements or arrangements between themselves on the exchange of information between competent authorities, insofar as such agreements or arrangements are compatible with Union law.

ENTRY INTO FORCE: 31.7.2019.

TRANSPOSITION: no later than 1.8.2021.