

Courtesy translation



THE SENATE
OF THE PARLIAMENT OF THE CZECH REPUBLIC

11TH TERM

451st

RESOLUTION OF THE SENATE

Delivered on the 16th session held on 18th July 2018

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 /Senate Print no. N 128/11, COM(2018) 213/

The Senate

I.

1. Is of the opinion

that securing access to information held by Financial Intelligence Units for authorities acting in criminal proceedings and cross-border exchange of such information can contribute to uncovering and prosecution of serious criminal offences, especially terrorist financing;

2. Emphasizes

that a direct access to a Member State's centralised bank account registry must be limited to authorities of this Member State (e.g. also its Europol National Unit) and that the provisions of the Directive must not be interpreted as restricting the parliamentary oversight of the use of the bank account registry;

3. Finds

that the Proposal for a Directive suffers from many legislative shortcomings identified in the Position of the Government, in particular:

- it is necessary to further clarify the terms "financial information" and "financial analysis" and harmonize the provisions of the Directive with the 5th Anti-Money Laundering Directive;
- records of information requests regarding the bank account registry must be available for possible prosecution of criminal offences consisting in unauthorised use of data from the registry; consequently, also the period for which those records are kept must be prolonged accordingly;

- the strict time limits for the exchange of financial analyses and information will be unrealistic for complicated cases;
- the time limit for transposition of the Directive by the Member States should be prolonged to 24 months from the adoption of the Directive, also in view of the costs that may be caused by the Directive as a result of an increased workload of the Financial Intelligence Units;

4. Therefore requires the Government

to pursue the objective of amending the text of the Directive accordingly in the course of negotiations rather than to seek a withdrawal of the Proposal;

5. However, does not agree with the Government's opinion,

that the obligation of the Financial Intelligence Unit (FIU) to provide information to authorities acting in criminal proceedings, in defined cases and at their request, could challenge the operational independence of the FIU, because this operational independence consists rather in guaranteeing that no authority may prohibit the FIU to investigate certain facts or to forward the relevant findings to responsible authorities; the Directive respects this;

II.

1. Requests

the Government to inform the Senate about the way this resolution was taken into account and about further development of negotiations once the political agreement of the required number of Member States on the main elements of the proposal is reached, or at an earlier time, should the results of negotiations in the Council begin to depart considerably from the position of the Czech Republic expressed in the General Position of the Government;

2. Authorises

the President of the Senate to forward this resolution to the European Commission.

Milan Štěch
sign manual
President of the Senate

Jaromír Strnad
sign manual
Senate Verifier