



TEXTS ADOPTED

Provisional edition

P9_TA-PROV(2019)0022

State of implementation of anti-money laundering legislation

European Parliament resolution of 19 September 2019 on the state of implementation of the Union's anti-money laundering legislation (2019/2820(RSP))

The European Parliament,

- having regard to Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC¹ of the European Parliament and of the Council and Commission Directive 2006/70/EC (4AMLD)², and as amended by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU (5AMLD)³,
- having regard to Directive (EU) 2019/1153 of the European Parliament and of the Council of 20 June 2019 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/JHA⁴, Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law⁵ and Regulation (EU) 2018/1672 of the European Parliament and of the Council of 23 October 2018 on controls on cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005⁶,
- having regard to the Commission's Anti-Money Laundering Package as adopted on 24 July 2019, consisting of a political communication entitled 'Towards better implementation of the EU's anti-money laundering and countering the financing of

¹ Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (3AMLD), OJ L 309, 25.11.2005, p. 15.

² OJ L 141, 5.6.2015, p. 73.

³ OJ L 156, 19.6.2018, p. 43.

⁴ OJ L 186, 11.7.2019, p. 122.

⁵ OJ L 284, 12.11.2018, p. 22.

⁶ OJ L 284, 12.11.2018, p. 6.

- terrorism framework' (COM(2019)0360), the report on the assessment of recent alleged money laundering cases involving EU credit institutions ('post-mortem') (COM(2019)0373), the report on the assessment of the risk of money laundering and terrorist financing affecting the internal market and relating to cross-border activities (the Supranational Risk Assessment Report (SNRA)) (COM(2019)0370) and the accompanying staff working document (SWD(2019)0650), and the report on the interconnection of national centralised automated mechanisms (central registries or central electronic data retrieval systems) of the Member States on bank accounts (COM(2019)0372),
- having regard to the opinion of the European Banking Authority on communications to supervised entities regarding money laundering and terrorist financing risks in prudential supervision, published on 24 July 2019,
 - having regard to the Commission roadmap entitled 'Towards a new methodology for the EU assessment of High Risk Third Countries under Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing',
 - having regard to the Commission staff working document of 22 June 2018 entitled 'Methodology for identifying high risk third countries under Directive (EU) 2015/849' (SWD(2018)0362),
 - having regard to the four Delegated Regulations adopted by the Commission – (EU) 1675/2016, (EU) 2018/105, (EU) 2018/212 and (EU) 2018/1467 – supplementing Directive 2015/849 of the European Parliament and of the Council by identifying high-risk third countries with strategic deficiencies,
 - having regard to its resolution of 14 March 2019 on the urgency for an EU blacklist of third countries in line with the Anti-Money Laundering Directive¹,
 - having regard to its resolution of 26 March 2019 on financial crimes, tax evasion and tax avoidance²,
 - having regard to the exchange of views of 5 September 2019 in the Committee on Economic and Monetary Affairs with the Commission and the European Banking Authority,
 - having regard to Rule 132(2) of its Rules of Procedure,
- A. whereas the Union's framework for anti-money laundering and countering terrorist financing (AML/CTF) has been progressively strengthened by the adoption of 4AMLD in May 2015 and 5AMLD in April 2018 and their respective dates of transposition into the Member States' national legislation by June 2017 and January 2020, and by other accompanying legislation and actions;
- B. whereas, according to Europol, as much as 0.7-1.28 % of the Union's annual GDP is 'detected as being involved in suspect financial activity'³ such as money laundering connected to corruption, arms trafficking, human trafficking, drug dealing, tax evasion

¹ Texts adopted, P8_TA(2019)0216.

² Texts adopted, P8_TA(2019)0240.

³ EUROPOL Financial Intelligence Group Report 'From suspicion to action'(2017).

and fraud, terrorist financing or other illicit activities which affect EU citizens in their daily lives;

- C. whereas under Article 9 of 4AMLD, the Commission is empowered to adopt delegated acts in order to identify high-risk third countries, taking into account strategic deficiencies in several areas; whereas Parliament supports the establishment by the Commission of a new methodology that does not only rely on external information sources to identify high-risk third countries with strategic deficiencies as regards AML and CTF, which represent a threat to the EU financial system and for which enhanced customer due diligence measures are necessary at EU obliged entities under 4AMLD and 5AMLD;
- D. whereas 3AMLD, which entered into effect on 15 December 2007, was repealed by the adoption of 4AMLD; whereas the implementation of several provisions of 3AMLD, including the adequate power and staffing of national competent authorities, was not appropriately checked in the past and should be considered a priority for ongoing completeness and correctness checks and infringement procedures performed by the Commission in the context of 4AMLD implementation;
- E. whereas the Council and Parliament rejected three proposed amending delegated regulations¹ on the grounds that either the proposals were not established in a transparent and resilient process that actively incentivises affected countries to take decisive action while also respecting their right to be heard, or the Commission's process for identifying high-risk third countries was not sufficiently autonomous;
- F. whereas on 13 February 2019 the Commission adopted a new list of 23 third countries with strategic deficiencies in their anti-money laundering and counter-terrorist financing frameworks under the new methodology, namely Afghanistan, American Samoa, the Bahamas, Botswana, the Democratic People's Republic of Korea, Ethiopia, Ghana, Guam, Iran, Iraq, Libya, Nigeria, Pakistan, Panama, Puerto Rico, Samoa, Saudi Arabia, Sri Lanka, Syria, Trinidad and Tobago, Tunisia, the US Virgin Islands and Yemen; whereas on 7 March 2019 the Council rejected this delegated act in the Justice and Home Affairs Council;
- G. whereas the Commission has initiated infringement procedures against the majority of Member States for having failed to properly transpose 4AMLD into national law;
- H. whereas on 24 July 2019 the Commission adopted an AML package, informing Parliament and the Council about achievements to date and remaining shortcomings in the Union's AML/CTF framework, and thereby set the scene for further improvements in the enforcement and implementation of the existing legislation and for possible future legislative and institutional reforms;
- I. whereas during the exchange of views held with the Commission and the European Banking Authority (EBA) in the Committee on Economic and Monetary Affairs on 5 September 2019, the EBA's chair, José Manuel Campa, stated that the EBA was not a supervisor in the area of AML, but rather an authority with a mandate to provide guidelines to foster collaboration and coordination, as well to assess the implementation of the AML legislation; whereas he also underlined that the core responsibility for implementation lies with the national authorities;

¹ C(2019)1326, C(2016)07495 and C(2017)01951.

- J. whereas, according to the Commission communication of 24 July 2019 entitled ‘Towards better implementation of the EU’s anti-money laundering and countering the financing of terrorism framework’, consideration could be given to further harmonising the anti-money laundering/countering the financing of terrorism rulebook, e.g. by transforming the Anti-Money Laundering Directive into a regulation, which would offer the potential of setting a harmonised, directly applicable Union anti-money laundering regulatory framework;
- K. whereas, according to the Commission in the aforementioned communication, the assessments show a need for a stronger mechanism to coordinate and support cross-border cooperation and analysis by Financial Intelligence Units;
1. Is seriously concerned about the lack of implementation of 4AMLD by a large number of Member States; welcomes, therefore, the Commission’s initiation of infringement procedures against Member States based on the findings of its completeness checks; calls on the Commission to complete thorough correctness checks as soon as possible and to open infringement procedures where necessary; urges those Member States that have not yet done so to properly transpose 4AMLD into their national legislation as soon as possible;
 2. Is concerned that the transposition deadline for 5AMLD of 10 January 2020, and the respective deadlines of 10 January 2020 for the beneficial ownership registers for corporate and other legal entities and 10 March 2020 for trusts and similar legal arrangements, will not be met by Member States; calls on the Member States to take urgent action to speed up the transposition process;
 3. Appreciates the recommendation by the Breach of Union Law Panel of the EBA, as addressed during the exchange of views with EBA chair José Manuel Campa held in the Committee on Economic and Monetary Affairs on 5 September 2019, on the Danske Bank money laundering case, which is to date the largest known such case in the EU, involving suspicious transactions worth upwards of EUR 200 billion; regrets that the Member State supervisors, as the voting members of the EBA’s Board of Supervisors, rejected a proposal for a breach of Union law recommendation; calls on the Commission to keep following the case and to launch an infringement procedure if justified;
 4. Is extremely concerned about regulatory and supervisory fragmentation in the AML/CTF area, which is ill-suited to the ever increasing cross-border activity in the Union and centralised prudential supervision in the banking union and other non-banking sectors;
 5. Stresses that the current EU AML/CTF framework suffers from shortcomings in the enforcement of EU rules combined with a lack of efficient supervision; highlights that it has been repeatedly stressed that ‘minimum standards’ legislation on AML/CTF could pose risks to effective supervision, seamless exchange of information and coordination; calls on the Commission to assess, in the context of the required impact assessment for any future revision of the AML legislation, whether a regulation would be a more appropriate legal act than a directive;
 6. Points to the need for better cooperation between the administrative, judicial and law enforcement authorities within the EU, and in particular the Member States’ Financial Intelligence Units (FIUs), as stressed in the Commission report; reiterates its call on the

Commission to carry out an impact assessment in the near future to evaluate the possibility and appropriateness of establishing a coordination and support mechanism; considers that further impetus should be given to initiatives that could enforce AML/CTF actions at EU and national level;

7. Notes the Commission's assessment in its post-mortem report of 24 July 2019 that specific anti-money laundering supervisory tasks may be given to a Union body;
8. Considers that in order to safeguard the integrity of the list of high-risk third countries, the screening and decision-making process should not be affected by considerations that go beyond the area of AML/CTF deficiencies; underlines that lobbying and diplomatic pressure should not undermine the EU institutions' ability to tackle money laundering and to counter terrorism financing in a way that is linked to the EU in an effective and autonomous manner; calls on the Commission to further assess the possibility of establishing a 'grey list' of potentially high-risk third countries on a basis analogous to the Union's approach in listing non-cooperative jurisdictions for tax purposes; expresses its concern that the length of the 12 month-long process leading to the final assessment in identifying third countries with strategic deficiencies may result in unnecessary delays for effective AML/CTF action;
9. Calls on the Commission to ensure a transparent process with clear and concrete benchmarks for countries which commit to undergo reforms in order to avoid being listed; further calls on the Commission to publish its initial and final assessments of the listed countries, as well as the benchmarks applied, so as to ensure public scrutiny in such a way that they cannot be misused;
10. Calls for more human and financial resources to be allocated to the relevant unit of the competent Directorate-General, and welcomes the increase in resources devoted to the EBA;
11. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.