



2018/0105(COD)

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AMENDMENTS

20 - 78

Draft opinion

Sander Loones

(PE628.491v01-00)

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

Proposal for a directive

(COM(2018)0213 – C8-0152/2018 – 2018/0105(COD))

Amendment 20

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) In order to enhance security in the Member States and across the Union, it is necessary to improve access to information by Financial Intelligence Units and public authorities responsible for the prevention, detection, investigation or prosecution of serious forms of crimes, to enhance their ability to conduct financial investigations and to improve cooperation between them.

Amendment

(2) In order to enhance security **and prosecution of financial crimes** in the Member States and across the Union, it is necessary to improve access to information by Financial Intelligence Units and public authorities responsible for the prevention, detection, investigation or prosecution of serious forms of crimes, to enhance their ability to conduct financial investigations and to improve cooperation between them.

Or. en

Amendment 21

Jeppe Kofod

Proposal for a directive

Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) Member States are obliged to cooperate sincerely, loyally and expeditiously as per Article 4(3) of the Treaty on European Union.

Or. en

Amendment 22

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) Immediate and direct access to the information held in centralised bank account registries is often indispensable for the success of a criminal investigation or for the timely identification, tracing and freezing of the related assets in view of their confiscation. Direct access is the most immediate type of access to the information held in centralised bank account registries. This Directive should therefore lay down rules granting direct access to information held in centralised bank account registries to designated Member States' authorities ***and other bodies*** competent for the prevention, detection, investigation or prosecution of criminal offences.

Amendment

(6) Immediate and direct access to the information held in centralised bank account registries is often indispensable for the success of a criminal investigation or for the timely identification, tracing and freezing of the related assets in view of their confiscation. Direct access is the most immediate type of access to the information held in centralised bank account registries. This Directive should therefore lay down rules granting direct access to information held in centralised bank account registries to designated Member States' authorities competent for the prevention, detection, investigation or prosecution of criminal offences.

Or. en

Amendment 23

Tom Vandenkendelaere

Proposal for a directive

Recital 9

Text proposed by the Commission

(9) To the extent that tax authorities and anti-corruption agencies are competent for the prevention, detection, investigation or prosecution of criminal offences under national law, they should also be considered authorities that can be designated for the purposes of this Directive. ***Administrative investigations should not be covered under the present Directive.***

Amendment

(9) To the extent that tax authorities and anti-corruption agencies are competent for the prevention, detection, investigation or prosecution of criminal offences under national law, they should also be considered authorities that can be designated for the purposes of this Directive.

Or. en

Amendment 24

Tom Vandenkendelaere

**Proposal for a directive
Recital 9 a (new)**

Text proposed by the Commission

Amendment

(9a) Administrative investigations, other than those conducted by the Financial Intelligence Units in the context of preventing, detecting and effectively combatting money laundering and terrorist financing, should not be covered under this Directive.

Or. en

Amendment 25

Tom Vandenkendelaere

**Proposal for a directive
Recital 12**

Text proposed by the Commission

Amendment

(12) Directive (EU) 2015/849 has substantially enhanced the Union legal framework that governs the activity and cooperation of Financial Intelligence Units. The powers of Financial Intelligence Units include the right to access the financial, administrative and law enforcement information that they require to combat money laundering, the associated predicate offences and terrorist financing. Nevertheless, Union law does not lay down all specific tools and mechanisms that Financial Intelligence Units must have at their disposal in order to access such information and accomplish their tasks. Since Member States remain entirely responsible for the setting up and deciding the organisational nature of Financial Intelligence Units, different Financial Intelligence Units have varying degrees of access to regulatory databases which leads

(12) Directive (EU) 2015/849 has substantially enhanced the Union legal framework that governs the activity and cooperation of Financial Intelligence Units. The powers of Financial Intelligence Units include the right to access the financial, administrative and law enforcement information that they require to ***prevent, detect, and*** combat money laundering, the associated predicate offences and terrorist financing. Nevertheless, Union law does not lay down all specific tools and mechanisms that Financial Intelligence Units must have at their disposal in order to access such information and accomplish their tasks. Since Member States remain entirely responsible for the setting up and deciding the organisational nature of Financial Intelligence Units, different Financial Intelligence Units have varying degrees of access to regulatory databases

to an insufficient exchange of information between law enforcement or prosecution services and Financial Intelligence Units.

which leads to an insufficient exchange of information between law enforcement or prosecution services and Financial Intelligence Units.

Or. en

Amendment 26
Tom Vandenkendelaere

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) In order to enhance legal certainty and operational effectiveness, this Directive should lay down rules to strengthen the Financial Intelligence Units' ability to share information with their designated competent authorities for *all* serious criminal offences.

Amendment

(13) In order to enhance legal certainty and operational effectiveness, this Directive should lay down rules to strengthen the Financial Intelligence Units' ability to share information with their designated competent authorities for *the purposes of the prevention, detection, investigation or prosecution of money laundering, the associated predicate offences and terrorist financing, and, where it is necessary on a case-by-case basis, of serious criminal offences. At the same time, the operational independence and autonomy of Financial Intelligence Units as defined under Directive (EU) 2015/849 should not be jeopardised.*

Or. en

Amendment 27
Tom Vandenkendelaere

Proposal for a directive
Recital 14

Text proposed by the Commission

(14) This Directive should also set out a clearly defined legal framework to enable

Amendment

(14) This Directive should also set out a clearly defined legal framework to enable

Financial Intelligence Units to request relevant data stored by designated competent authorities in order to enable them to prevent and combat money laundering, the associated predicate offences and terrorist financing effectively.

Financial Intelligence Units to request relevant data stored by designated competent authorities in order to enable them to prevent, *detect* and combat money laundering, the associated predicate offences and terrorist financing effectively.

Or. en

Amendment 28
Pirkko Ruohonen-Lerner

Proposal for a directive
Recital 15

Text proposed by the Commission

(15) Sharing information between Financial Intelligence Units and with competent authorities should *only* be permitted *where it is necessary on a case-by-case basis, either* for the prevention, detection, investigation or prosecution of serious criminal offences or for money laundering, the associated predicate offences and terrorist financing.

Amendment

(15) Sharing information between Financial Intelligence Units and with competent authorities should be permitted for the prevention, detection, investigation or prosecution of serious criminal offences or for money laundering, the associated predicate offences and terrorist financing.

Or. fi

Amendment 29
Eva Joly
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 16

Text proposed by the Commission

(16) In order to prevent and combat money laundering, the associated predicate offences and terrorist financing more effectively and to reinforce its role in providing financial information and analysis, a Financial Intelligence Unit

Amendment

(16) In order to prevent and combat money laundering, the associated predicate offences and terrorist financing more effectively and to reinforce its role in providing financial information and analysis, a Financial Intelligence Unit

should be empowered to exchange information or analysis already in its possession or which can be obtained from obliged entities at the request of another Financial Intelligence Unit or of a competent authority in its Member State. This exchange should not hamper a Financial Intelligence Unit's active role in disseminating its analysis to other Financial Intelligence Units where that analysis reveals facts, conduct or suspicion of money laundering and terrorist financing of direct interest to those other Financial Intelligence Units. Financial analysis covers operational analysis which focuses on individual cases and specific targets or on appropriate selected information, depending on the type and volume of the disclosures received and the expected use of the information after dissemination as well as strategic analysis addressing money laundering and terrorist financing trends and patterns. However, this Directive should be without prejudice to the organisational status and role conferred to Financial Intelligence Units under the national law of Member States.

should be empowered to exchange information or analysis already in its possession or which can be obtained from obliged entities at the request of another Financial Intelligence Unit or of a competent authority in its Member State. This exchange should not hamper a Financial Intelligence Unit's active role in disseminating its analysis to other Financial Intelligence Units where that analysis reveals facts, conduct or suspicion of money laundering and terrorist financing of direct interest to those other Financial Intelligence Units. Financial analysis covers operational analysis which focuses on individual cases and specific targets or on appropriate selected information, depending on the type and volume of the disclosures received and the expected use of the information after dissemination as well as strategic analysis addressing money laundering and terrorist financing trends and patterns. However, this Directive should be without prejudice to the organisational status and role conferred to Financial Intelligence Units under the national law of Member States. ***In particular, FIUs should be under no obligation to comply with the request for information where there are objective grounds for assuming that the provision of such information would have a negative impact on ongoing investigations or analyses, or, in exceptional circumstances, where disclosure of the information would be clearly disproportionate to the legitimate interests of a natural or legal person or irrelevant with regard to the purposes for which it has been requested. Any refusal to comply with a request for information from another Financial Investigation Unit or from a competent authority in its Member State should be appropriately explained.***

Or. en

Amendment 30
Tom Vandenkendelaere

Proposal for a directive
Recital 16

Text proposed by the Commission

(16) In order to prevent and combat money laundering, the associated predicate offences and terrorist financing more effectively and to reinforce its role in providing financial information and analysis, a Financial Intelligence Unit should be empowered to exchange information or analysis already in its possession or which can be obtained from obliged entities at the request of another Financial Intelligence Unit or of a competent authority in its Member State. This exchange should not hamper a Financial Intelligence Unit's active role in disseminating its analysis to other Financial Intelligence Units where that analysis reveals facts, conduct or suspicion of money laundering and terrorist financing of direct interest to those other Financial Intelligence Units. Financial analysis covers operational analysis which focuses on individual cases and specific targets or on appropriate selected information, depending on the type and volume of the disclosures received and the expected use of the information after dissemination as well as strategic analysis addressing money laundering and terrorist financing trends and patterns. However, this Directive should be without prejudice to the organisational status and role conferred to Financial Intelligence Units under the national law of Member States.

Amendment

(16) In order to prevent, ***detect***, and combat money laundering, the associated predicate offences and terrorist financing more effectively and to reinforce its role in providing financial information and analysis, a Financial Intelligence Unit should be empowered to exchange information or analysis already in its possession or which can be obtained from obliged entities at the request of another Financial Intelligence Unit or of a competent authority in its Member State. This exchange should not hamper a Financial Intelligence Unit's active role in disseminating its analysis to other Financial Intelligence Units where that analysis reveals facts, conduct or suspicion of money laundering and terrorist financing of direct interest to those other Financial Intelligence Units. Financial analysis covers operational analysis which focuses on individual cases and specific targets or on appropriate selected information, depending on the type and volume of the disclosures received and the expected use of the information after dissemination as well as strategic analysis addressing money laundering and terrorist financing trends and patterns. ***The Financial Intelligence Units should receive feedback on the use of the information and analysis provided.*** However, this Directive should be without prejudice to the organisational status and role conferred to Financial Intelligence Units under the national law of Member States.

Or. en

Amendment 31

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) In order to enhance trust and cooperation between FIUs and competent authorities, as well as to improve the efficiency of the fight against money laundering and serious criminal offences, it is essential that FIUs are provided with feedback from competent authorities as regards to the use made of the financial information provided and about the outcome of the investigation or prosecution relating to such information. Member States should therefore require that competent authorities provide regular feedback to the Financial Intelligence Unit and should put in place appropriate mechanisms to allow for such exchanges of information and follow-ups.

Or. en

Amendment 32

Jeppe Kofod

Proposal for a directive

Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) Designated competent authorities should be empowered to exchange information or analysis already in their possession or which can be obtained following a request to a Financial Intelligence Unit with designated competent authorities of another Member State, following a specific request and on a case-by-case basis, where that

information or analysis is necessary for the prevention and combating of money laundering, associate predicate offences and terrorist financing.

Or. en

Amendment 33

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) Time limits for exchanges of information between Financial Intelligence Units are necessary to ensure quick, effective and consistent cooperation. Sharing information necessary to solve cross-border cases and investigations should be carried out with the same celerity and priority as for a similar domestic case. Time limits should be provided to ensure effective sharing of information within reasonable time or to meet procedural constraints. Shorter time limits should be provided in duly justified cases, where the requests relate to specific serious criminal offences, such as terrorist offences and offences related to a terrorist group or activities as laid down in Union law.

Amendment

(17) Time limits for exchanges of information between Financial Intelligence Units are necessary to ensure quick, effective and consistent cooperation. Sharing information necessary to solve cross-border cases and investigations should be carried out with the same celerity and priority as for a similar domestic case. Time limits should be provided to ensure effective sharing of information within reasonable time or to meet procedural constraints, *as well as to harmonise practices of exchange of information between FIUs across the Union*. Shorter time limits should be provided in duly justified cases, where the requests relate to specific serious criminal offences, such as terrorist offences and offences related to a terrorist group or activities as laid down in Union law.

Or. en

Amendment 34

Tom Vandenkendelaere

Proposal for a directive

Recital 19

Text proposed by the Commission

(19) Given the sensitivity of financial data that should be analysed by Financial Intelligence Units and the necessary data protection safeguards, this Directive should specifically set out the type and scope of information that can be exchanged between Financial Intelligence Units and with designated competent authorities. This Directive should not bring any changes to currently agreed methods of data collection.

Amendment

(19) Given the sensitivity of financial data that should be analysed by Financial Intelligence Units and the necessary data protection safeguards, this Directive should specifically set out the type and scope of information that can be exchanged between Financial Intelligence Units and with designated competent authorities.
However, Member States should be able to decide to broaden the scope of financial information and bank account information that can be exchanged between their own Financial Intelligence Unit and their own designated competent authorities. Moreover, Member States may facilitate access by competent authorities to financial information and bank account information for the prevention, detection, investigation or prosecution of criminal offences other than serious criminal offences. This Directive should not bring any changes to currently agreed methods of data collection.

Or. en

Amendment 35

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 19

Text proposed by the Commission

(19) Given the sensitivity of financial data that should be analysed by Financial Intelligence Units and the necessary data protection safeguards, this Directive should specifically set out the type and scope of information that can be exchanged between Financial Intelligence Units and with

Amendment

(19) Given the sensitivity of financial data that should be analysed by Financial Intelligence Units and the necessary data protection safeguards, this Directive should specifically set out the type and scope of information that can be exchanged between Financial Intelligence Units and with

designated competent authorities. This Directive should not bring any changes to currently agreed methods of data collection.

designated competent authorities. This Directive should not bring any changes to currently agreed methods of data collection ***and should not derogate from the existing Union data protection law.***

Or. en

Amendment 36
Pirkko Ruohonen-Lerner

Proposal for a directive
Recital 20

Text proposed by the Commission

(20) Under its specific competences and tasks as laid down in Article 4 of Regulation (EU) 2016/794 of the European Parliament and of the Council¹⁶, Europol provides support to Member States' cross-border investigations into the money laundering activities of transnational criminal organisations. According to Regulation (EU) 2016/794, the Europol National Units are the liaison bodies between Europol and the Member States' authorities competent to investigate criminal offences. To provide Europol with the information necessary to carry out its tasks, Member States should provide that their Financial Intelligence Unit replies to requests for financial information and financial analysis made by Europol through the respective Europol National Unit. Member States should also provide that their Europol National Unit replies to requests for information on bank accounts by Europol. Requests made by Europol have to be duly justified. They have to be made on a case-by case basis, within the limits of Europol's responsibilities and for the performance of its tasks.

Amendment

(20) Under its specific competences and tasks as laid down in Article 4 of Regulation (EU) 2016/794 of the European Parliament and of the Council¹⁶, Europol provides support to Member States' cross-border investigations into the money laundering activities of transnational criminal organisations. According to Regulation (EU) 2016/794, the Europol National Units are the liaison bodies between Europol and the Member States' authorities competent to investigate criminal offences. To provide Europol with the information necessary to carry out its tasks, Member States should provide that their Financial Intelligence Unit replies ***swiftly and to the best of its ability*** to requests for financial information and financial analysis made by Europol through the respective Europol National Unit. Member States should also provide that their Europol National Unit replies to requests for information on bank accounts by Europol. Requests made by Europol have to be duly justified. They have to be made on a case-by case basis, within the limits of Europol's responsibilities and for the performance of its tasks.

¹⁶ Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA, OJ L 135, 24.5.2016, p. 53.

¹⁶ Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA, OJ L 135, 24.5.2016, p. 53.

Or. fi

Amendment 37

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 20

Text proposed by the Commission

(20) Under its specific competences and tasks as laid down in Article 4 of Regulation (EU) 2016/794 of the European Parliament and of the Council¹⁶, Europol provides support to Member States' cross-border investigations into the money laundering activities of transnational criminal organisations. According to Regulation (EU) 2016/794, the Europol National Units are the liaison bodies between Europol and the Member States' authorities competent to investigate criminal offences. To provide Europol with the information necessary to carry out its tasks, Member States should provide that their Financial Intelligence Unit *replies* to requests for financial information and financial analysis made by Europol through the respective Europol National Unit. Member States should also provide that their Europol National Unit *replies* to requests for information on bank accounts by Europol. Requests made by Europol have to be duly justified. They have to be made on a case-by case basis, within the

Amendment

(20) Under its specific competences and tasks as laid down in Article 4 of Regulation (EU) 2016/794 of the European Parliament and of the Council¹⁶, Europol provides support to Member States' cross-border investigations into the money laundering activities of transnational criminal organisations. According to Regulation (EU) 2016/794, the Europol National Units are the liaison bodies between Europol and the Member States' authorities competent to investigate criminal offences. To provide Europol with the information necessary to carry out its tasks, Member States should provide that their Financial Intelligence Unit *are able to reply* to requests for financial information and financial analysis made by Europol through the respective Europol National Unit. Member States should also provide that their Europol National Unit *are able to reply* to requests for information on bank accounts by Europol. Requests made by Europol have to be duly justified. They have to be made on a case-by case basis,

limits of Europol's responsibilities and for the performance of its tasks.

within the limits of Europol's responsibilities and for the performance of its tasks.

Or. en

Amendment 38
Jeppe Kofod

Proposal for a directive
Recital 20 a (new)

Text proposed by the Commission

Amendment

(20a) In order to enhance cross-border cooperation, Europol should create a specific unit to support and coordinate cooperation and exchange of information between Financial Intelligence Units. This unit should be empowered to assist Financial Intelligence Units in joint analysis of cross-border cases, produce its own analysis and coordinate the work of Financial Intelligence Units in Member States for cross-border cases, whenever necessary for the prevention and combating of money laundering, associate predicate offences and terrorist financing.

Or. en

Amendment 39
Eva Joly
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 22

Text proposed by the Commission

Amendment

(22) To achieve ***the appropriate balance between efficiency and*** a high level of data protection, Member States should be required to ensure that the processing of

(22) To achieve a high level of data protection, Member States should be required to ensure that the processing of sensitive financial information that could

sensitive financial information that could reveal a person's race or ethnic origin, political opinions, religion or philosophical beliefs, trade union membership, health, sexual life or sexual orientation should be allowed only to the extent that it is strictly necessary and relevant to a specific investigation.

reveal a person's race or ethnic origin, political opinions, religion or philosophical beliefs, trade union membership, health, sexual life or sexual orientation should be allowed only to the extent that it is strictly necessary and relevant to a specific investigation, *and in accordance with Directive (EU) 2016/680*.

Or. en

Amendment 40
Pirkko Ruohonen-Lerner

Proposal for a directive
Recital 22

Text proposed by the Commission

(22) To achieve the appropriate balance between efficiency and a high level of data protection, Member States should be required to ensure that the processing of sensitive financial information that could reveal a person's race or ethnic origin, political opinions, religion or philosophical beliefs, trade union membership, health, sexual life or sexual orientation should be allowed only to the extent that it is *strictly* necessary and relevant to a specific investigation.

Amendment

(22) To achieve the appropriate balance between efficiency and a high level of data protection, Member States should be required to ensure that the processing of sensitive financial information that could reveal a person's race or ethnic origin, political opinions, religion or philosophical beliefs, trade union membership, health, sexual life or sexual orientation should be allowed only to the extent that it is necessary and relevant to a specific investigation.

Or. fi

Amendment 41
Eva Joly
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 25

Text proposed by the Commission

Amendment

(25) Personal data obtained under this Directive should only be processed by competent authorities where it is necessary and proportionate for the purposes of prevention, detection, investigation or prosecution of serious crime.

(25) Personal data obtained under this Directive should only be processed by competent authorities where it is necessary and proportionate for the purposes of prevention, detection, investigation or prosecution of serious crime **and in accordance with Directive (EU) 2016/680**.

Or. en

Amendment 42

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 27 a (new)

Text proposed by the Commission

Amendment

(27a) In order to overcome the current cooperation difficulties which exist between national FIUs, a European FIU should be set up in order to coordinate, assist and support Member States FIUs in cross-border cases. It would also be particularly suited to an integrated EU financial market and effective in combating money laundering and terrorist financing in the internal market. The Member States FIU would still be primarily responsible for receiving suspicious transaction reports, analysing them and disseminate them to the national competent authority. The EU FIU would lend support to those Member States especially in maintaining and developing the technical infrastructure for ensuring the exchange of information, assisting them in joint analysis of cross-border cases and strategic analysis, and coordinate the work of Member States FIUs for cross-border cases.

Or. en

Amendment 43
Jeppe Kofod

Proposal for a directive
Recital 28

Text proposed by the Commission

(28) The Commission should report on the implementation of this Directive three years after its date of transposition, and every three years thereafter. In accordance with paragraphs 22 and 23 of the Interinstitutional Agreement on Better Law-Making¹⁹ the Commission should also carry out an evaluation of this Directive on the basis of information collected through specific monitoring arrangements in order to assess the actual effects of the Directive and the need for any further action.

¹⁹ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1–14.

Amendment

(28) The Commission should report on the implementation of this Directive three years after its date of transposition, and every three years thereafter. ***This report shall also include an assessment of the need to ensure diagonal cooperation between Financial Intelligence Units and competent authorities in different Member States, and on the need to harmonise the organisation status and role of Financial Intelligence Unites in national law.*** In accordance with paragraphs 22 and 23 of the Interinstitutional Agreement on Better Law-Making¹⁹ the Commission should also carry out an evaluation of this Directive on the basis of information collected through specific monitoring arrangements in order to assess the actual effects of the Directive and the need for any further action.

¹⁹ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1–14.

Or. en

Amendment 44
Tom Vandenkendelaere

Proposal for a directive
Article 1 – paragraph 1

Text proposed by the Commission

Amendment

1. This Directive lays down measures to facilitate access by competent authorities to financial information and bank account information 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 and to facilitate the cooperation between Financial Intelligence Units.

1. This Directive lays down measures to facilitate access by competent authorities to financial information and bank account information 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 and to facilitate the cooperation between Financial Intelligence Units *where such information is necessary for the prevention, detection and combatting of money laundering, associate predicate offences and terrorist financing.*

Or. en

Amendment 45
Tom Vandenkendelaere

Proposal for a directive
Article 2 – paragraph 1 – point 1 a (new)

Text proposed by the Commission

Amendment

(1a) 'competent authority' means (a) any public authority competent for the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security or (b) any other body or entity entrusted by Member State law to exercise public authority and public powers for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security.

Or. en

Amendment 46
Jeppe Kofod

Proposal for a directive
Article 3 – paragraph 3

Text proposed by the Commission

3. Each Member State shall notify the Commission its designated competent authorities in accordance with paragraphs (1) and (2) by [6 months from transposition date] at the latest, and shall notify the Commission of any amendment thereto. The Commission shall publish the notifications and any amendment thereto in the Official Journal of the European Union.

Amendment

3. Each Member State shall notify the Commission its designated competent authorities in accordance with paragraphs (1) and (2) by [6 months from transposition date] at the latest, and shall notify the Commission of any amendment thereto. The Commission shall publish the notifications and any amendment thereto in the Official Journal of the European Union, ***as well as communicating this directly to Member States' designated competent authorities.***

Or. en

Amendment 47
Markus Ferber

Proposal for a directive
Article 4 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that the competent authorities designated pursuant to Article 3(1) 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.

Amendment

1. Member States shall ensure that the competent authorities designated pursuant to Article 3(1) 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 may interfere with the requested data or the information to be provided.

Or. en

Justification

The amendment is intended to ensure that existing and AMLD V compliant databases can be used to fulfil the requirements of this directive.

Amendment 48
Tom Vandenkendelaere

Proposal for a directive
Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall ensure that staff of the national designated competent authorities maintains high professional standards of confidentiality and data protection.

Or. en

Amendment 49
Tom Vandenkendelaere

Proposal for a directive
Article 7 – paragraph 1

Text proposed by the Commission

Amendment

1. Subject to national procedural safeguards, each Member State shall ensure that its national Financial Intelligence Unit is required to reply to requests for financial information or

1. Subject to national procedural safeguards, each Member State shall ensure that its national Financial Intelligence Unit is required to reply to requests for financial information or

financial analysis by *its* designated competent authorities referred to in Article 3(2), where that financial information or financial analysis is necessary, on a case-by-case basis, for the prevention, detection, investigation or prosecution of serious criminal offences.

financial analysis by designated competent authorities referred to in Article 3(2), where that financial information or financial analysis is necessary, on a case-by-case basis, for the prevention, detection, investigation or prosecution of serious criminal offences.

Or. en

Amendment 50

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 7 – paragraph 1

Text proposed by the Commission

1. Subject to national procedural safeguards, each Member State shall ensure that its national Financial Intelligence Unit is **required** to reply to requests for financial information or financial analysis by its designated competent authorities referred to in Article 3(2), where that financial information or financial analysis is necessary, on a case-by-case basis, for the prevention, detection, investigation or prosecution of serious criminal offences.

Amendment

1. Subject to national procedural safeguards, each Member State shall ensure that its national Financial Intelligence Unit is **able** to reply to requests for financial information or financial analysis by its designated competent authorities referred to in Article 3(2), where that financial information or financial analysis is necessary, on a case-by-case basis, for the prevention, detection, investigation or prosecution of serious criminal offences.

Or. en

Amendment 51

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 7 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Where there are objective grounds for assuming that the provision of such information would have a negative impact on ongoing investigations or analyses, or, in exceptional circumstances, where disclosure of the information would be clearly disproportionate to the legitimate interests of a natural or legal person or irrelevant with regard to the purposes for which it has been requested, the FIU shall be under no obligation to comply with the request for information. Any refusal shall be appropriately explained.

Or. en

Amendment 52
Jeppe Kofod

Proposal for a directive
Article 7 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Where there are objective grounds for assuming that the provision of such information would clearly have a negative impact on ongoing investigations or analyses, or, in exceptional circumstances, where disclosure of the information would be clearly disproportionate to the legitimate interests of a natural or legal person or clearly irrelevant with regard to the purposes for which it has been requested, the Financial Intelligence Unit shall not be under obligation to comply with the request for information, and shall duly reply stating the reasons for such a refusal. In these cases, the Analysis, Support and Coordination Unit within Europol referred to in Article 10a shall be informed.

Or. en

Amendment 53

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 7 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall require that competent authorities referred to in Article 3(2) provide regular feedback to the Financial Intelligence Unit on the use made of the financial information provided in accordance with this Article and about the outcome of the investigation or prosecution relating to such information. Member States shall put in place appropriate mechanisms to allow for swift and secure exchanges of information and follow-ups on investigations and prosecutions between Financial Investigation Units and competent authorities referred to in Article 3(2).

Or. en

Amendment 54

Tom Vandenkendelaere

Proposal for a directive

Article 7 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall require competent authorities to provide feedback to the Financial Intelligence Unit about the use made of the financial information or financial analysis provided in accordance with this Article and about the outcome of the investigations or

inspections performed on the basis of that information or analysis.

Or. en

Amendment 55

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 8 – paragraph 1

Text proposed by the Commission

Subject to national procedural safeguards, each Member State shall ensure that its designated national competent authorities are required to reply to requests for law enforcement information by the national Financial Intelligence Unit, on a case-by-case basis, where the information is necessary for the prevention and combating of money laundering, associate predicate offences and terrorist financing.

Amendment

Subject to national procedural safeguards, each Member State shall ensure that its designated national competent authorities are required to reply *in a timely manner* to requests for law enforcement information by the national Financial Intelligence Unit, on a case-by-case basis, where the information is necessary for the prevention and combating of money laundering, associate predicate offences and terrorist financing.

Or. en

Amendment 56

Tom Vandenkendelaere

Proposal for a directive

Article 8 – paragraph 1

Text proposed by the Commission

Subject to national procedural safeguards, each Member State shall ensure that its designated national competent authorities are required to reply to requests for law enforcement information by the national Financial Intelligence Unit, on a case-by-case basis, where the information is necessary for the prevention *and*

Amendment

Subject to national procedural safeguards, each Member State shall ensure that its designated national competent authorities are required to reply to requests for law enforcement information by the national Financial Intelligence Unit, on a case-by-case basis, where the information is necessary for the prevention, *detection and*

combating of money laundering, associate predicate offences and terrorist financing.

combatting of money laundering, associate predicate offences and terrorist financing.

Or. en

Amendment 57

Tom Vandenkendelaere

Proposal for a directive

Article 9 – paragraph 1

Text proposed by the Commission

1. Each Member State shall ensure that its Financial Intelligence Unit is enabled to exchange financial information or financial analysis with any Financial Intelligence Unit in the Union where that financial information or financial analysis is necessary for the prevention and combating of money laundering, associate predicate offences and terrorist financing.

Amendment

1. Each Member State shall ensure that its Financial Intelligence Unit is enabled to exchange financial information or financial analysis **free of charge** with any Financial Intelligence Unit 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.

Or. en

Amendment 58

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 9 – paragraph 1

Text proposed by the Commission

1. Each Member State shall ensure that its Financial Intelligence Unit is **enabled** to exchange financial information or financial analysis with any Financial Intelligence Unit in the Union where that financial information or financial analysis is necessary for the prevention and combating of money laundering, associate predicate offences and terrorist financing.

Amendment

1. Each Member State shall ensure that its Financial Intelligence Unit is **able** to exchange financial information or financial analysis with any Financial Intelligence Unit in the Union where that financial information or financial analysis is necessary for the prevention and combating of money laundering, associate predicate offences and terrorist financing.

Amendment 59

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 9 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. 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.

Or. en

Amendment 60

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 9 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States shall ensure that where a Financial Intelligence Unit is requested pursuant to paragraph 1 to exchange financial information or financial analysis, it shall do so as soon as possible and in any case no later than three days after the receipt of the request. In exceptional, duly justified cases, this time limit may be extended by a maximum of 10 days.

2. Member States shall ensure that where a Financial Intelligence Unit is requested pursuant to paragraph 1 to exchange financial information or financial analysis, it shall do so as soon as possible and in any case no later than three days after the receipt of the request. In exceptional, duly justified cases, this time limit may be extended by a maximum of 10 days. ***The same time limits apply for***

sending an appropriate explanation in case of refusals based on Article 9(1a).

Or. en

Amendment 61
Tom Vandenkendelaere

Proposal for a directive
Article 9 – paragraph 4

Text proposed by the Commission

4. Member States shall ensure that a request issued pursuant to this Article and its response shall be transmitted by using the dedicated secure electronic communications network FIU.net or its successor. That network shall ensure the secure communication and shall be capable of producing a written record under conditions that allow ascertaining authenticity. In the event of technical failure of the FIU.net, the financial information or financial analysis shall be transmitted by any other appropriate means ensuring *a* high level of data security.

Amendment

4. Member States shall ensure that a request issued pursuant to this Article and its response shall be transmitted by using the dedicated secure electronic communications network FIU.net or its successor. That network shall ensure the secure communication and shall be capable of producing a written record under conditions that allow ascertaining authenticity. In the event of technical failure of the FIU.net, the financial information or financial analysis shall be transmitted by any other appropriate means ensuring *an equally* high level of data security, *also capable of producing a written record under conditions that allow ascertaining authenticity.*

Or. en

Amendment 62
Jeppe Kofod

Proposal for a directive
Article 9 a (new)

Text proposed by the Commission

Amendment

Article 9a

*Exchange of information between
competent authorities in different
Member States*

1. Subject to national procedural safeguards, each Member State shall ensure that its designated competent authorities under Article 3 (1) are enabled to exchange information obtained from the access to the national centralised bank account registries set up by the Member States in accordance with Article 32a of Directive (EU)2015/849, upon request, and on a case-by-case basis, where that bank account information is necessary for the prevention and combating of money laundering, associate predicate offences and terrorist financing.

2. Subject to national procedural safeguards, each Member State shall ensure that its designated competent authorities under Article 3 (2) are enabled to exchange financial information or financial analysis requested from the Financial Intelligence Unit from that Member State, upon request and on a case-by-case basis from a designated competent authority in another Member State, where that financial information or financial analysis is necessary for the prevention and combating of money laundering, associate predicate offences and terrorist financing.

3. Member States shall ensure that a request issued pursuant to this Article and its response shall be transmitted using dedicated secure electronic communications ensuring a high level of data security. That network shall ensure the secure communication and shall be capable of producing a written record under conditions that allow for ascertaining of authenticity.

Or. en

Amendment 63

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 10 – paragraph 1

Text proposed by the Commission

1. Each Member State shall ensure that its Europol National Unit **replies** to duly justified requests related to bank account information made by the Agency for Law Enforcement Cooperation established by Regulation (EU) 2016/794 of the European Parliament and of the Council ('Europol') on a case-by-case basis within the limits of its responsibilities and for the performance of its tasks.

Amendment

1. Each Member State shall ensure that its Europol National Unit **is able to reply** to duly justified requests related to bank account information made by the Agency for Law Enforcement Cooperation established by Regulation (EU) 2016/794 of the European Parliament and of the Council ('Europol') on a case-by-case basis within the limits of its responsibilities and for the performance of its tasks.

Or. en

Amendment 64

Tom Vandenkendelaere

Proposal for a directive

Article 10 – paragraph 1

Text proposed by the Commission

1. Each Member State shall ensure that its Europol National Unit replies to duly justified requests related to bank account information made by the Agency for Law Enforcement Cooperation established by Regulation (EU) 2016/794 of the European Parliament and of the Council ('Europol') on a case-by-case basis within the limits of its **responsibilities** and for the performance of its tasks.

Amendment

1. Each Member State shall ensure that its Europol National Unit replies to duly justified requests related to bank account information made by the Agency for Law Enforcement Cooperation established by Regulation (EU) 2016/794 of the European Parliament and of the Council ('Europol') on a case-by-case basis within the limits of its **investigative powers** and for the performance of its tasks.

Or. en

Amendment 65

Eva Joly
on behalf of the Verts/ALE Group

Proposal for a directive
Article 10 – paragraph 2

Text proposed by the Commission

2. Each Member State shall ensure that its Financial Intelligence Unit **replies** to duly justified requests related to financial information and financial analysis made by Europol through the Europol National Unit within the limits of its responsibilities and for the performance of its tasks.

Amendment

2. Each Member State shall ensure that its Financial Intelligence Unit **is able to reply** to duly justified requests related to financial information and financial analysis made by Europol through the Europol National Unit within the limits of its responsibilities and for the performance of its tasks.

Or. en

Amendment 66
Tom Vandenkendelaere

Proposal for a directive
Article 10 – paragraph 2

Text proposed by the Commission

2. Each Member State shall ensure that its Financial Intelligence Unit replies to duly justified requests related to financial information and financial analysis made by Europol through the Europol National Unit within the limits of its **responsibilities** and for the performance of its tasks.

Amendment

2. Each Member State shall ensure that its Financial Intelligence Unit replies to duly justified requests related to financial information and financial analysis made by Europol through the Europol National Unit within the limits of its **investigative powers** and for the performance of its tasks.

Or. en

Amendment 67
Eva Joly
on behalf of the Verts/ALE Group

Proposal for a directive
Article 10 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. *Where there are objective grounds for assuming that the provision of such information would have a negative impact on ongoing investigations or analyses, or, in exceptional circumstances, where disclosure of the information would be clearly disproportionate to the legitimate interests of a natural or legal person or irrelevant with regard to the purposes for which it has been requested, the FIU shall be under no obligation to comply with the request for information. Any refusal shall be appropriately explained.*

Or. en

Amendment 68
Tom Vandenkendelaere

Proposal for a directive
Article 10 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. *Europol shall provide feedback to the Financial Intelligence Unit about the use made of the financial information or financial analysis provided in accordance with this Article and about the outcome of the investigations or inspections performed on the basis of that information or analysis.*

Or. en

Amendment 69
Jeppe Kofod

Proposal for a directive
Article 10 a (new)

Article 10a

***Analysis, Support and Coordination Unit
within EUROPOL***

- 1. Europol shall establish a specific unit to support and coordinate cooperation and exchange of information between Financial Intelligence Units.***
- 2. The unit referred to in paragraph 1 shall be able to assist Financial Intelligence Units in joint analysis of cross-border cases, produce its own analysis and coordinate the work of Financial Intelligence Units in Member States for cross-border cases, whenever necessary for the prevention and combating of money laundering, associate predicate offences and terrorist financing.***

Or. en

Amendment 70

Tom Vandenkendelaere

Proposal for a directive

Article 11 – paragraph 1

Text proposed by the Commission

1. The processing of personal data related to bank account information, financial information and financial analysis referred to in Article 10(1) and (2) shall be performed only by the persons within Europol who have been specifically designated and authorised to perform those tasks.

Amendment

1. The processing of personal data related to bank account information, financial information and financial analysis referred to in Article 10(1) and (2) shall be performed only by the persons within Europol who have been specifically designated and authorised to perform those tasks. ***The processing of personal data shall be carried out in compliance with the data protection safeguards provided for in Regulation (EU) 2016/794. Europol shall duly document those processing operations.***

Or. en

Amendment 71
Tom Vandenkendelaere

Proposal for a directive
Article 13 – paragraph 1

Text proposed by the Commission

1. The processing of *information* revealing a person's race or ethnic origin, political opinions, *religion* or philosophical beliefs, trade union membership, health, *sexual* life or sexual orientation *may* only be allowed to the extent that it is strictly necessary and relevant in a specific case

Amendment

1. The processing of *personal data* revealing a person's race or ethnic origin, political opinions, *religious* or philosophical beliefs, *or* trade union membership, *and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex* life or sexual orientation *shall* only be allowed to the extent that it is strictly necessary and relevant in a specific case, *in accordance with Article 10 of Directive (EU) 2016/680.*

Or. en

Amendment 72
Eva Joly
on behalf of the Verts/ALE Group

Proposal for a directive
Article 13 – paragraph 1

Text proposed by the Commission

1. The processing of information revealing a person's race or ethnic origin, political opinions, religion or philosophical beliefs, trade union membership, health, sexual life or sexual orientation may only be allowed to the extent that it is strictly necessary and relevant in a specific case

Amendment

1. The processing of information revealing a person's race or ethnic origin, political opinions, religion or philosophical beliefs, trade union membership, health, sexual life or sexual orientation may only be allowed to the extent that it is strictly necessary and relevant in a specific case *and in accordance with Article 10 of Directive (EU)2016/680.*

Amendment 73
Tom Vandenkendelaere

Proposal for a directive
Article 15 – paragraph 1 – introductory part

Text proposed by the Commission

Member States shall adopt legislative measures restricting, in whole or in part, the data subject's right of access to personal data relating to him or her processed under this Directive in order to:

Amendment

Member States shall adopt legislative measures restricting, in whole or in part, the data subject's right of access to personal data relating to him or her processed under this Directive, ***for as long as such a partial or complete restriction constitutes a necessary and proportionate measure in a democratic society with due regard for the fundamental rights and legitimate interests of the natural person concerned,*** in order to:

Amendment 74
Eva Joly
on behalf of the Verts/ALE Group

Proposal for a directive
Article 15 – paragraph 1 – introductory part

Text proposed by the Commission

Member States shall adopt legislative measures restricting, in whole or in part, the data subject's right of access to personal data relating to him or her processed under this Directive in order to:

Amendment

Member States shall adopt legislative measures restricting, in whole or in part, the data subject's right of access to personal data relating to him or her processed under this Directive in ***accordance with Article 15(1) of Directive (EU) 2016/680 and in*** order to:

Amendment 75

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15a

European Financial Intelligence Unit

The Commission shall set up a European Financial Intelligence Unit (EFIU) to facilitate coordination, including the exchange of information between FIUs within the Union. The EFIU shall coordinate, assist and support Member States FIUs in cross-border cases. The EFIU shall lend support to those Member States especially in maintaining and developing the technical infrastructure for ensuring the exchange of information, assisting them in joint analysis of cross border cases and strategic analysis, and coordinate the work of Member States FIUs for cross-border cases. The Commission shall provide the EFIU with adequate financial, human and technical resources in order to fulfil its tasks.

Or. en

Amendment 76

Tom Vandenkendelaere

Proposal for a directive

Article 16 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall review the effectiveness of their systems ***to combat serious*** criminal offences by maintaining comprehensive statistics.

1. 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***

criminal offences by maintaining comprehensive statistics.

Or. en

Amendment 77

Jeppe Kofod

Proposal for a directive

Article 19 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. By [OJ please insert date: three years after the date of transposition of this Directive] at the latest, the Commission shall draw up a report assessing the necessity of specific measures to ensure diagonal cooperation, i.e. cooperation between Financial Intelligence Units in one Member States with competent authorities in another Member State. The report shall be submitted to the European Parliament and to the Council, and be accompanied by a legislative proposal, if considered necessary.

Or. en

Amendment 78

Jeppe Kofod

Proposal for a directive

Article 19 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. By [OJ please insert date: three years after the date of transposition of this Directive] at the latest, the Commission shall draw up a report assessing the necessity of specific measures to ensure uniformisation of the organisational status and role conferred to Financial

Intelligence Units under the national law of Member States, to ensure efficient cooperation and exchange of information. The report shall be submitted to the European Parliament and to the Council, and be accompanied by a legislative proposal, if considered necessary.

Or. en