

***Special Committee on Financial Crimes, Tax Evasion and Tax Avoidance
(TAX3)***

Delegation to Estonia and Denmark 6 - 8 February 2019



MISSION REPORT



**Special Committee on Financial Crimes, Tax Evasion and Tax Avoidance
(TAX3)**

1. PROGRAMME

Wednesday, 6 February 2019 - Tallinn, Estonia

Time	Institution/Host	Subject
13:45 - 15:00	Meeting with: Mr Sulev Vedler, Journalist at Ekspress Mr Harry Tuul, Journalist at EESTI Meedia	Fight against money laundering and terrorism financing in Estonia Money laundering through financial institutions in Estonia, with particular attention to the Danske Bank case Protection of journalists and whistle-blowers in Estonia Tax evasion and tax avoidance in Estonia
15:00 - 16:15	Meeting with Mr Frederik Bjørn, Head of the Baltics and Russia, Danske Bank Mr Ramūnas Bičiulaitis, Head of Danske Bank Baltic branches Mr Darius Jasinskis Head of the Estonian branch, and Mr Kim Larsen, Head of Communication and Relations	Danske Bank case and measures put in place in its Estonian branch to prevent money laundering
<i>Transfer to Estonian Financial Supervisory Authority</i>		
16:30 - 17:45	Meeting with Mr Kilvar Kessler, Chair of the board of Finantsinspektsioon (Estonian Supervisory Authority) Mr Andre Nõmm, Member of the Management Board, Mr Matis Mäeker, Head of AML/CFT and PSP Supervision Department, and Ms Livia Vosman, Head of Communication	Role of the Estonian Supervisory Authority in the fight against money laundering, with particular attention to the Danske Bank case and cooperation with the Danish Supervisory Authority Cooperation with other stakeholders, particularly enforcement authorities and Estonian FIU
<i>Transfer to Office of Estonia Prosecutor General</i>		

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Time	Institution/Host	Subject
18:00-19:15	Meeting with: Ms Lavly Perling, Estonia Prosecutor General, and Mr Marek Vahing, State Prosecutor Mr Madis Reimand, Head of the Estonian Financial Intelligence Unit Mr Aivar Alavere, Head of Central Criminal Police	Role of the Prosecutor General's Office, Estonian FIU and Criminal Police in the fight against money laundering in Estonia, with particular attention to the Danske Bank case Cooperation with the Estonian Financial Supervisory Authority and with other Member States' FIUs and police forces State of play of Estonian AML/CTF legislation
<i>Transfer to hotel</i>		

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Thursday, 7 February 2019 - - Tallinn, Estonia

Time	Institution/Host	Subject
8:15	Transfer to Estonian Parliament	
8:30 - 9:30	Meeting with:	
	Mr Toomas Tõniste, Estonia Minister of Finance, and	Fight against money laundering in Estonia
	Mr Märten Ross, Deputy Secretary General on Financial Services	
	Mr Dmitri Jegorov, Deputy Secretary General on Taxation	State of play of transposition of 4AMLD and plans for transposition of 5AMLD
	Mr Toomas Vapper	
	Mr Andres Kuningas, Head of EU and International Affairs Dept.	CumEx and administrative cooperation with other Member States
	Mrs Ivi Heldna, Head of the Public Relations Department	
	Ms Ülle Eelmaa, lawyer involved in AMLD4-5 transposition	Fight against tax fraud and tax avoidance in Estonia
9:30 - 10:00	Press conference (Minister with Chair and Co-rapporteurs)	
Transfer to Tallinn Airport		

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Thursday, 7 February 2019 - Copenhagen, Denmark

17:30 - 18:15	Meeting with Mr Morten Niels Jakobsen, State Prosecutor for Serious Economic and International Crime	State of play of the Danske Bank case State of play of Danish AML/CTF legislation CumEx Cooperation with authorities of other Member States and third countries
<i>Transfer to hotel</i>		

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Friday, 8 February 2019 - Copenhagen, Denmark

Time	Institution/Host	Subject
8:00	<i>Walking from hotel to EPLO</i>	
8:30 - 9:45	Meeting with: Mr Niels Fastrup, journalist at DR (Danish public television), Ms Natascha Linn Felix , Chair of the board Transparency International Denmark Mr Christian Ougaard, Board Member, Transparency International Denmark Ms Helle Munk Ravnborg, Chairwoman, Action Aid Denmark Mr Lars Koch, Policy Director, Action Aid Denmark	Fight against money laundering and terrorism financing in Denmark, with particular attention to the Danske Bank case CumEx Protection of journalists and whistle-blowers in Denmark Tax evasion and tax avoidance in Estonia
09:45-10:45	Meeting with Mr Michael Rasmussen, Chairman of the Danish Bankers' Association (FIDA), Group Managing Director of Nykredit Realkredit A/S, and Mr Ulrik Nødgaard, CEO of Finance	Role of the Danish Bankers' Association (FIDA) in the fight against money laundering and terrorism financing State of play of the Danish AML/CTF legislation

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	Denmark, Ms Sinne Backs Conan, Executive Director European Affairs, Finance Denmark	CumEx
10:45-11:45	Meeting with Mr Jesper Nielsen, Interim CEO Danske Bank Mr Ronan Peter Coyle, Head of Business Unit Compliance, and Mr Kim Larsen, Head of Communication and Relations	State of play of the Danske Bank ML case and measures adopted by the bank to prevent ML cases in the future CumEx
<i>Walking from EPLO to Danish Parliament</i>		
12:00 - 13:30 (Chairs of committees available until 13:00) (Working Lunch)	Meeting with Mr Morten Bødskov, The Social Democratic Party , Chairman of The Business, Growth and Export Committee, firmer Minister for Justice, Ms Lea Wermelin, The Social Democratic Party , Chairwoman of The Fiscal Affairs Committee, Mr Rune Lund, The Red-Green Allianc , Member of The Business, Growth and Export Committee and The Fiscal Affairs Committee.	Danske Bank case State of play of transposition of 4AMLD and plans for transposition of 5AMLD CumEx
<i>13:30 Walking from Danish Parliament to EPLO</i>		
13:45 - 14:45	Meeting with Mr Jesper Berg, Director General, Danish Financial Supervisory Authority, and Mr Kristian Vie Madsen, Deputy Director General, and Mr Stig Nielsen, Director, Division for Anti Money Laundering and Counter Financing of Terrorism	Role of the Danish Supervisory Authority in the fight against money laundering, with particular attention to the Danske Bank case and cooperation with the Estonian Supervisory Authority Cooperation with other stakeholders, particularly enforcement authorities and Danish FIU
<i>14:45 Walking from EPLO to Ministry of Industry, Business and Financial Affairs</i>		

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15:00 - 16:00	Meeting with Mr Rasmus Jarlov, Minister of Industry, Business and Financial Affairs	Danske Bank case State of play of transposition of 4AMLD and plans for transposition of 5AMLD CumEx
16:00 Walking from Ministry to EPLO (Members can decide to leave already, except Chair and Co-rapporteurs)		
16:15 - 16:45	Press Conference (only Chair and Co-rapporteurs)	
End of mission		

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2. LIST OF PARTICIPANTS

Members	Language	Group
Petr JEZEK, Chair	CS	ALDE
Ana GOMES, Fourth Vice-Chair	PT	S&D
Jeppe KOFOD, Co-Rapporteur	DA	S&D
Dariusz ROSATI, Coordinator	PL	EPP
Wolf KLINZ, Shadow Rapporteur	DE	ALDE
Tunne KELAM	ET	EPP

TAX3 Secretariat	Mobile phone
Benoit WETS	
Francisco RUIZ-RISUEÑO	

Political advisers	Group
Jan WISSWAESSER	EPP
Miguel CARAPETO	S&D
Petra SOLLI	ALDE

European Parliament Office in Denmark (Copenhagen)
Sammy LAURITSEN
Jacob LOLCK

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3.1. Meeting with Mr Sulev Vedler, journalist at Ekspress, and with Mr Harry Tuul, Journalist at EESTI Meedia.

Both journalists were surprised by the level of attention attracted by the Danske Bank case. In fact, the Danske Bank scandal was not a big issue in the Estonian press. Danske Bank was the fourth bank in importance in Estonia.

There is no certainty about the money laundered through Danske Bank Estonia. In principle, the figure of EUR 200 billion refers to operations deemed suspicious, but the amount laundered could be bigger or smaller, although this is impossible to determine with full certainty. Mr Vedler suggested that the amount laundered could be smaller.

It was also suggested during the meeting that the problem resided with the Estonian FIU. The bank reported to FIU, but the latter had failed to duly examine the reports and act upon them. It was stated that it is difficult for employees to make a distinction between normal legal business and dirty money.

Danske Bank (DB) had a connection with Russia via Sampo Bank, which was acquired by the former in 2007.

It was suggested that the money coming from Russia and from other countries under its influence was not considered suspicious in the past, but that with time and with public and political pressure awareness has been raised in the financial sector of the risks and threats posed by those flows.

Money laundering from Russia through Estonia started around 10 years ago, subsequently to the accession of Estonia to the EU in 2004. Banks in the Baltic countries, including Estonia, have Russian employees, which facilitates Russian citizens to open bank accounts and enter the EU via Estonia. Since the flows from Russia to Estonia did not cause any damage to the Estonian economy, nobody took them seriously, except for a reduced number of employees of the Estonian Financial Supervisory Authority (EFSA).

It was suggested that to launder money, Russian companies created shell companies.

It was suggested that there was no clarity in the distribution of competences between the Estonian and Danish authorities and even internally between the institutions within the Member States.

Regarding the disclosure by the Estonian press of the name of Mr Howard Wilkinson as internal whistle-blower in Danske Bank, Mr Vedler stated that the

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name and situation of Mr Wilkinson was already known within the banking sector and that, according to him, the publication of his name did not create any additional risk for the whistle-blower. However, he regretted to have made his name public.

They indicated that “golden visas” was not an issue in Estonia and that only seven had been issued.

The rapid development of cryptocurrencies with 900 licenses pose a threat in money laundering terms.

3.2. Meeting with a delegation of Danske Bank in Estonia.

The meeting took place with the following persons:

- Mr Frederik Bjørn, Head of the Baltics and Russia, Danske Bank
- Mr Ramūnas Bičiulaitis, Head of Danske Bank Baltic branches
- Mr Darius Jasinskis Head of the Estonian branch,
- Mr Kim Larsen, Head of Communication and Relations

After the scandal, former responsible of the Estonian DB branch were dismissed and the team changed. On the issue of a possible collusion of DB employees with Russian clients, it was premature to make individual accusations, although a number of employees had been reported to the authorities on those grounds and investigations had taken place.

DB has taken initiatives since 2015 to prevent new episodes of ML taking place:

- DB focus on clients they actually know;
- A new Baltic management board was set up;
- A new IT platform enabling transparency and oversight was established;
- AML governance has been strengthened;
- The number of employees working on AML has been increased to 1200 and receive specific training

The estimate of EUR 200 Billion laundered through the DB Estonian branch corresponds to suspicious transactions, which have been identified using a risk analysis (origin of flows, amount, citizenship, etc.). To determine which percentage of this amount corresponds to laundered money is a difficult operation

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because of the number of operations and of years. DB reported to the authorities around 15 000 suspicious clients.

DB business in Estonia was only 2 per cent of DB profits in ten years, which corresponded to EUR 1.5 Billion profit. It was not that big for a bank like DB, which might explain their lack of awareness and action. They however admitted that this amount was quite big for the branch and its employees. DB stated that they have sensibly improved their AML policy to mitigate risks: less bonuses, better internal control rules, etc., but also the development of a new culture within the bank.

In any case, DB takes full responsibility of what happened in its branch in Estonia and is committed to putting in place measures to prevent it from happening again. There was lack of sufficient supervision by the DB headquarters over the Estonian branch, which functioned too independently. In fact, the Estonian branch was not using the same IT system than DB headquarter, and could therefore easily hide transactions.

Regarding correspondent banks, such as Deutsche Bank and JP Morgan, they are not in a position to comment for legal reasons.

DB complained that they report to FIUs but do not receive feedback such as aggregated information which would help them to determine criteria and improve the reports they deliver.

In view of DB, cross-border cooperation in the fight against ML is crucial. Whether this means more centralisation or other form of improvement in cooperation is a political decision. A standardised approach to RST is vital.

3.3. Meeting with Estonian Supervisory Authority.

Meeting with:

- Mr Kilvar Kessler, Chair of the board of Finantsinspektsioon (Estonian Supervisory Authority)
- Mr Andre Nõmm, Member of the Management Board,
- Mr Matis Mäeker, Head of AML/CFT and PSP Supervision Department, and
- Ms Livia Vosman, Head of Communication

The role of the EFSA (Finantsinspektsioon) in the field of AML/CFT is to ensure that the AML/CFT organization and risk management of banks and other financial

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intermediaries employ processes and systems that conform to the businesses strategy and ML/TF risks.

AML is a strategic priority of the EFSA since 2014. Their message to CEOs is that they should fix their risk controls or exist risky non-resident business. The non-residents deposits have decreased from 19 per cent in 2014 to 8 per cent in 2018. The offshore customers have decreased from 8.5 per cent in 2014 to almost nil.

DB group is 225 times larger (by assets) than the largest Estonian banking group. DB operated in Estonia with a branch not with a subsidiary. By the end of 2013, DB was the fourth largest bank in terms of assets (EUR 2 Billion), with 10 per cent of the market share; it was the largest bank in terms of volume of cross-border payments with 40 per cent of the market share. DB made stellar earnings from non-residents payment services relative to size of the branch in Estonia.

Since 2007 there had been supervision of DB Estonia without major problems being detected. In 2007 warnings were received from the Russian central bank about ML risks in the Estonian branch of DB, with the EFSA carrying out AML inspections and issuing orders concerning deficiencies, inter alia, in AML procedures. In 2009 EFSA carried out AML inspections in the branch and found that it had generally complied with the 2007 orders. The EFSA saw an increase in risks in 2012 with the EFSA establishing a dialogue with the Danish FSA (DFSA) in 2012 and 2013 stating that measures should be taken. DFSA and DB stated that they could handle non-resident risks and that improvements to governance were going to be introduced.

In 2014-2015 EFSA took decisive steps to tone down DB risks: there were on-site inspections and they issued a long 340-page report with evidence of flaws in DB risk-controls. After a dialogue with DB on its non-resident portfolio and inaction on the part of the bank, the latter was forced by the EFSA to close its non-resident portfolio.

During the discussion, it was suggested that cooperation at the time with the DFSA could have been better. The EFSA relied on the reassuring information provided by the DFSA who, in their view and the benefit of the insight, was relying too much on the information provided by DB.

They stated that until June 2015 the situation was governed by AMLD3 in which there was not a clear distribution of competences and responsibilities between supervisory authorities of home and host Member States. The Capital Requirements Directive and the Capital Requirement Regulation was the basis and therefore the idea was, in principle, that the home Member State, in this case Denmark, was also responsible for the supervision of the branches of DB abroad. This having been said, the EFSA took action to ensure that the Estonian branch of

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DB was respecting Estonian law. Estonia as the host country initiated in 2014 a series of on-site inspections in DB, in which long-lasting systemic violations of AML/CFT rules were found. The EFSA found that customers were opaque and their transactions dubious, unusual and had no reasonable or apparent economic purpose, the source of funds was unknown.

In 2015, the EFSA required through a precept addressed to DB that DB should address these violations more effectively. As a result, the bank exited this line of business and closed down its non-resident portfolio. The DFSA was informed about the steps taken.

During discussion with Members, the EFSA suggested that more intelligence exchange is needed and expressed a favorable view toward the creation of an EU FIU. They also supported the enhancing of EBA for improving the fight against ML. ESFA was also supportive of a European agency for financial supervision, and also for better cooperation between FSAs and FIUs.

AML supervision is about ensuring that governance within the financial institutions have the structure and the instruments necessary to prevent these activities from happening.

Regarding the dissuasiveness of sanctions, the EFSA was sceptic about the impact of pecuniary penalties because they are not sufficiently high and they can be paid and continue business.

Regarding staff, the EFSA has 80 employees, 7 of whom deal with AML/CFT. They consider this number sufficient having regard to the reduced size of the financial market in Estonia.

3.4. Meeting with the Estonian Prosecutor General Office.

Meeting with:

- Ms Lavly Perling, Estonia Prosecutor General, and
- Mr Marek Vahing, State Prosecutor
- Mr Madis Reimand, Head of the Estonian Financial Intelligence Unit
- Mr Aivar Alavere, Head of Central Criminal Police

Regarding DB case, the prosecutor office started to look into it in July 2017 and in November 2017 criminal proceedings were brought in order to determine how ML had taken place and identify the responsible individuals. In July 2018 the prosecutor received additional information on the schemes from Bill Browder and a new legal action was taken on this information on the basis of which eight

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people from DB have been brought to the courts. The proceedings are still ongoing.

There had been attempts to do cross-monitoring with Russian authorities, but over the years cooperation with Russia has not achieved clear results.

They praised their cooperation with their Danish counterparts.

Regarding whether the Estonian FIU has sufficient staff, it was suggested that the number of staff should be additionally increased if more STRs are to be analysed. Currently, only 20 per cent of the STRs are analysed further and, on average, 200 to 300 STRs are disseminated to law enforcement agencies (LEAs) each year.

It was stressed that the burden of proof to prove predicate offences makes convictions very difficult, particularly when the origin of the proceeds is Eastern countries.

As to whether the creation of an EU FIU would solve the problems faced for the analysis and information sharing of STRs, there was certain level of scepticism as there will still be problems with third countries. The priority should be to improve and make better use of IT systems already existing, such as the unified platform for FIUs or the automatic exchange of information between FIUs. When asked about more harmonisation by way of a Regulation, it was stated that the potential of the tools and the legislation in force or to be shortly implemented should be tested before moving forward.

The need for convictions was stressed, and for this to happen the exchange of evidence and information should be made faster and easier to be effective in prosecution. The difficulties inherent to proving the preliminary crime in ML cases was stressed.

Regarding cryptocurrencies, the delegation highlighted the extraordinary increase in licenses granted by the Estonian FIU, with 600 licences having been granted in 2018 and the ML risks linked to them. The risks was acknowledged and it appears that a bill is being discussed in parliament to enhance cryptocurrency supervision.

There was awareness of the AML and security risks posed by citizen-by-investment schemes.

3.5. Meeting with the Minister of Finance

Meeting with:

- Mr Toomas Tõniste, Estonia Minister of Finance
- Mr Märten Ross, Deputy Secretary General on Financial Services

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- Mr Dmitri Jegorov, Deputy Secretary General on Taxation
- Mr Toomas Vapper
- Mr Andres Kuningas, Head of EU and International Affairs Department
- Mrs Ivi Heldna, Head of the Public Relations Department
- Ms Ülle Eelmaa, lawyer involved in AMLD4-5 transposition

In 2017, the AML sanctions were made stricter. Previously, the maximum fine was EUR 32 000 and the maximum penalty payment EUR 6 000. The new rates are EUR 400 000 and EUR 5 Million accordingly. In 2018, the Government approved a draft law presenting stricter AML sanctions and submitted it for deliberation to the Parliament: the maximum fine will increase from EUR 400 000 euros to EUR 5 Million, in case of legal person also to up to 10 per cent of its annual turnover. Also, it would be possible to take up to double the profits or damage prevented as the basis for determining the fine.

Also in 2018, the Estonian Parliament's Legal Commission started analysing the possibility of introducing reverse burden of proof, which would enable the Estonian investigation agency to confiscate the money in case of a suspicious transaction and require proof from the person behind the transaction that the money has been obtained legally. If the person cannot prove the legal source of the money, they will lose it. Today, the investigation agency must prove that the money is illegal and only then the assets can be confiscated.

The Government's AML commission presented its proposals on how to further strengthen the fight against money laundering in November. The proposals include introduction of reversed burden of proof enabling to dispose those who use Estonian financial institutions for money laundering of their assets. It is designed to be an administrative measure, whereupon it is the administrative court that will decide whether this measure is necessary and sufficiently justified in the so-called pre-conviction stage. Restrictions may be placed on disposal of assets already before criminal proceedings in case of suspicion of money laundering, with the aim of preventing money laundering or at the request of FIU of another country.

Estonia supports the European Commission's initiative to make AML supervision more efficient. Estonia stresses the importance of closer co-operation between FSAs of different countries and having a uniform mapping of the risks, carrying out of supervision and application of sanctions. Regarding a centralised EU FIU, they are supportive provided it has enforcement powers.

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On 18 and 19 December, the Estonian Police detained 10 former employees of Danske Bank's Estonian branch. The former account managers and a division leader are suspected of having assisted clients transfer suspicious money through the bank in a systematic and coordinated manner. The number of suspected persons may increase. The information provided by William Browder is included in the materials of the criminal matter in question. It is clear that these former employees were not the main beneficiaries of money laundering. In order to get to the main beneficiaries and the deposits of laundered money, Estonia is working closely with other countries. Estonia has received a number of requests for legal assistance, through which we are looking for links to potential initial criminal offences that the money originated from.

On cryptocurrencies, the Minister acknowledged the risks and committed to keep an eye and to introduce a legislative proposal in case problems are detected with a view to imposing stricter conditions to obtain a licence, including fit and proper rules for holders.

Regarding worries expressed about how it could be possible that the DB case remained unnoticed for such a long time, it was suggested that the perception at the time was that the Russian money was not suspicious and this was linked to the fact that there was not awareness of the importance of the issue of ML.

According to the Government, the Danske Bank scandal provoked a reputational damage to the country, and banks are worried of the adverse impact this damage could have on them. It has become more difficult for companies to open accounts and do business normally in Estonia. On the positive side, it was stated that, since the scandal, there is much more awareness about money laundering and it is easier for the government to make progress at policy level.

3.6. Meeting with Mr Morten Niels Jakobsen, State Prosecutor for Serious Economic and International Crime

The Prosecutor indicated that he had initiated investigations regarding DB on his own motion in 2018, without prior request from the DFSA, which is already an evidence of the importance given by the prosecutor office to the case. It is only the second time during his mandate that an investigation is launched on the prosecutor's own motion.

He is very satisfied with the cooperation provided by his Estonian counterparts. It is however premature to say whether there will be detentions in Denmark and

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subsequent criminal proceedings in the case, but his office is committed to investigating the case in all detail. In any case, he will only bring a case before the courts if he is fully convinced that it is possible to obtain convictions, because a failure on his part will have reputational costs for the institution he represents. He expects to have some results in the case, at least concerning DB as a legal entity, for August/September. The preliminary charges against DB concern lagging regarding internal guidelines for KYC and appropriate procedures for screening PEPs.

The capacity of the Danish FIU has been strengthened. They currently have 22 officials in the FIU but the number will increase to 30 officials in May 2019. The prosecutor will also have a new law enforcement division within his office, which will keep and analyse most of the STRs in-house.

The prosecutor favours strong PPP with banks grounded in good legislation to win the battle against ML in the banking sector.

Concerning the adequacy of national sanctions, the prosecutor considered them sufficiently strong and dissuasive, with cases in which the sanctions imposed exceeded DKK 11 Million.

Concerning burden of proof in ML cases, he referred to the principles of the rule of law and to the due respect to fundamental principles. He acknowledged that it is very difficult to prove white-collar crimes in general but that they had obtained good results in other cases. Anyhow, this is for parliament to decide.

When it comes to international cooperation, the prosecutor considered that it is extremely important and should be always improved for it to take less time and energy. Mutual legal assistance is very important, but it requires patience. When it comes to certain countries, i.e. Russia, China and Turkey, it is very difficult to get a good answer in ML cases.

When asked about his views on an EU FIU, the prosecutor considers that the important issue is to establish a set up capable of building trust cross-border in order to make information exchange effective. Europol is a good example of PPP in which good cooperation has been achieved.

Regarding allocation of supervision responsibilities in cross-border cases a Eurojust solution might be the way forward.

On cryptocurrencies, the prosecutor sees inspiration in what the Americans and Finnish are doing from a technical perspective to prevent that this new technology is used for ML/TF.

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Nordea and DB case share one important feature: they show that there is a security threat coming from the East.

3.7. Meeting with the Stakeholders

Meetings with:

- Mr Niels Fastrup, journalist at DR (Danish public television)
- Ms Natascha Linn Felix, Chair of the board Transparency International Denmark
- Mr Christian Ougaard, Board Member, Transparency International Denmark
- Ms Helle Munk Ravnborg, Chairwoman, Action Aid Denmark
- Mr Lars Koch, Policy Director, Action Aid Denmark

They underline the importance of civil society in revealing scandals and make the public aware of the problems with which TAX3 and previous EP special and enquiry committees have dealt. This, in turn, has helped politicians put pressure on business. In any case, civil society raising its voice is usually threatened with legal actions by those who are criticized and therefore it is important that they are supported and protected against abusive actions.

The role of the financial industry in the CumEx scandal, which had caused a loss of EUR 55 Billion for the Treasury of some Member States, particularly Germany, Belgium and Denmark, was stressed in the meeting.

Participants stressed the importance of transparency of ultimate beneficial owners of companies not just in the EU but throughout the World. In particular, it is crucial that availability of BO registers becomes integrated as a criteria to assess countries for the list of non-cooperative jurisdictions, since this would move many jurisdictions to adopt public registers.

“Protectionist nationalism” was evoked as a risk when the moment of fixing sanctions against DB will come. If the fines are too high there is a risk of damage for the Danish economy. In this regard, it was mentioned that supervision of the financial sector should not be at the national level only.

It was also suggested that the DB case demonstrates that supervision by coordination does not work. It is essential to regulate the distribution of competences and responsibilities between Member States and institutions.

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Another element of astonishment concerned how the DFSA could conclude in a report that DB had deliberately misled it, without imposing high sanctions on DB. Misleading the supervisory authority should be considered and provide for a legal basis for criminal prosecution. It was regrettable that the DFSA tried to protect DB's credibility vis-a-vis the US authorities. The protection of DB was motivated for a fear to seriously endanger the Danish economy. There has been a clear conflict of interests here. But conflicts of interests are everyday life in the financial sector.

The delegation evoked the risk of "revolving doors" between financial institutions and regulators/supervisors. In Denmark there seems to be a high level of concern for "conflicts of interest", but the same level of concern does not seem to apply to the financial sector.

The risk of being imposed high penalties, including disqualification to continue in the business, if caught in ML business, should be certain and real. The case of Thomas Borgen, former DB CEO, who was forced to resign from DB after the scandal came out to the public, is an example of how high-rank managers who should be held responsible for misbehaviour taking place under their mandate can leave a company without any consequence being taken against them. It was reported indeed that Mr Borgen had negotiated his resignation and had been paid EUR 2.5 Million in bonuses.

Cryptocurrencies should be regulated as they pose serious ML/TF risks since make traceability of payments more difficult.

3.8. Meeting with the Danish Bankers' Association

Meeting with:

- Michael Rasmussen, Chairman of the Danish Bankers' Association (FIDA), Group Managing Director of Nykredit Realkredit A/S
- Mr Ulrik Nødgaard, CEO of Finance Denmark
- Ms Sinne Backs Conan, Executive Director European Affairs, Finance Denmark

One of the main tasks of the Danish Bankers' Association (DBA) has been to restore confidence in the financial sector after the DB scandal. Ethics must precede profits.

Danish banks have improved their cooperation with the authorities. Danish banks have excellent cooperation with the DFSA and provide it with any information it requires. They are confident that this is sufficient to have effective controls over

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the financial sector. The DBA claims that the DB case is an exception in a sector which is solvent, clean and works fairly well.

The financial sector in Denmark is firm in their fight against money laundering, the DBA being supportive with actions in this direction. However, the final responsibility for AML lies with the management of every single bank. It was stated that all banks in Denmark are very focused on AML and that the issue is discussed at every board meeting and is kept in the top of the agenda.

It was stated that there is no provision in its statutes for the DBA to impose any case of sanction on its associates in case of an infringement of the law by the latter. It was stated that they are considering issuing a code of conduct with possible sanctions in case of misbehaviour.

They are in favour of harmonisation on AML, but at the same time assert that day-to-day supervision and cooperation should have a local flavour and that responsibilities should primarily lie with the national institutions. They support political initiatives to strengthen EBA and efforts to improve information exchange between supervisory and law enforcement authorities.

On the problem of over-reporting of suspicious transaction reports, it was stressed that banks are legally required to report on suspicious activity. It could be useful to allow banks to talk to each other, and have better joint IT solution across banks. There are personal data issues, which would have to be tackled, but it would be important for the banking sector to exchange more information on an IT based basis.

During the meeting, it was ascertained that Mr Nødgaard was the former chair of the Danish FSA.

3.9. Meeting with Danske Bank

Meetings with:

- Mr Jesper Nielsen, Interim CEO at Danske
- Mr Ronan Peter Coyle, Head of the Business Unit Compliance
- Ms Kim Larsen, Head of Communication and Relations

The Bank took all responsibility for what had happened in their Estonian branch.

Regarding the wrong information provided to the FSA, they stated that there was no excuse, but claimed in their defence that their intention was not to hide information but that they did not know better. When asked about JP Morgan's refusal to continue business with DB because they noticed suspicious clients and

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flows, DB recognised that they disregarded this signal and did not take it sufficiently into account.

DB has created a fund to fight ML, part of which would be devoted to digitalising compliance and invest in IT solutions to trace the flows of money. At the time of the facts, DB looked at compliance merely from a legal perspective but they now have a holistic perspective and it has been incorporated in the culture of the company. Now compliance is dealt at the executive board, which they consider to be a considerable improvement.

They acknowledge that they did not respect their obligation to apply KYC rules for PEPs but they have corrected that now and this element is included in every assessment of clients.

Regarding Non-Disclosure Agreements in contract of employees, DB claimed that there is nothing in their contracts preventing whistle-blowers from reporting to the police or authorities. Such an agreement would be illegal. The whistle-blower framework within the bank has been updated and the possibility of reporting directly to the board has been enhanced. There is the intention to promote across the company a culture of speaking up.

The industry can do better in cross-checking KYC information between banks, the main problem being to establish a safe channel to communicate that information. There are high rates of false positives and banks need to be careful when communicating information to third parties. The financial sector needs improved IT support and legislation facilitating information-sharing. This would make it possible to reduce false positives and increase efficiency.

In the Danish context, banks are working on having same KYC procedures and common registers. There is a discussion on how to provide information on a secure environment. When asked about CumEx, DB stated that they are not involved in any way in that scheme.

3.10. Meeting with Members of the Danish Parliament

- Meeting with:
- Mr Morten Bødskov, The Social Democratic Party, Chairman of The Business, Growth and Export Committee, former Minister for Justice,
- Ms Lea Wermelin, The Social Democratic Party, Chairwoman of The Fiscal Affairs Committee,
- Mr Rune Lund, The Red-Green Alliance , Member of The Business, Growth and Export Committee and The Fiscal Affairs Committee

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The Danish Parliament was stunned by the DB scandal since they basically trusted the Danish financial sector.

The Danish Parliament will in a few weeks adopt new legislation to better control the financial sector. It will be the third batch of legislation within 18 months.

There was an exchange of views on the possible role of EBA in the fight against ML, the possible set up of an EU FIU, the risks of ML in terms of security, the need for proper beneficial ownership registers. The need to move from directives to a regulation was also discussed as well as the issue of the revolving doors, notably having regard the fact that the former chair of the Danish FSA is now in the banking sector and is the CEO of Finance Denmark. It appears that the issue of revolving doors in the financial sector will be addressed by the Folketinget.

There was a call by the Members of the Danish Parliament for enhancing cooperation between Member States and institutions at a practical level. It would also be very positive to learn more about how different Member States transpose and implement the directives in force.

3.11. Meeting with the Danish Financial Supervisory Authority

Meeting with:

- Mr Jesper Berg, Director General, Danish Financial Supervisory Authority,
- Mr Kristian Vie Madsen, Deputy Director General,
- Mr Stig Nielsen, Director, Division for Anti Money Laundering and Counter Financing of Terrorism

In the DB Estonian branch significant violations of the EU and Estonian AML/CTF rules took place. The case has harmed the population's confidence in the financial system and Denmark's reputation. Money has flown into several countries in Europe, some of it through shell companies. It was criticised that when DB decided to shut down its Estonian branch, it had failed to report that decision immediately to the Estonian authorities, which prevented a more efficient response to the situation. With regard to distribution of responsibilities between Estonian and Danish authorities, it was claimed that already under AMLD3 the home-country FSA had supervision powers but AML supervision lied with the host country. AMLD4 added the Group-wide supervision by the home country. The DFSA claimed that there had not received any warnings from the Estonian authorities in 2009 after the latter had carried out an inspection. However, they acknowledged that the Estonian FSA had done the right thing in 2014 and 2015.

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Regarding the EUR 200 Billion reported to have been laundered through the Estonian branch of DB, it was said that they refer to transactions deemed to be suspicious. To know more it would be necessary to count on the cooperation of the Russian authorities, which is not to be expected.

There is a favourable position to enhance EBA, but it would be misleading to think that a central AML authority would work better than what we have now, since it would have to rely on highly divergent national procedures and laws. The same applies to turning the AMLD5 into a Regulation: prosecutorial powers and police investigations are exercised and conducted essentially pursuant to national customs, laws and procedures.

The need to invest in technology for KYC processes was highlighted as well as the importance to strike a proper balance between data protection and the need to identify and to keep records of clients.

When questioned about Mr Thomas Borgen, it was stated that the DFSA looked into him but that there was not sufficient legal evidence to bring a case and the reputational damage for the DFSA if the case were lost would be enormous. In the current state, one needs to prove very gross negligence to bring a case.

Regarding "fit and proper assessment", it was stated that they are conducted not to hammer individuals but to protect the institution and the financial system. What normally happens is that when you inform the person concerned of the intention to carry out an assessment of this kind, the person retires if he or she has something to hide and the assessment is then discontinued.

There had been several initiatives in response to the FATF-evaluation of Denmark. A bill implementing AMLD5 will be submitted to the Danish parliament in February 2019. In June 2017 a very ambitious political agreement between the DK Government and the parties in the Folketing was reached, including an increase of resources devoted to AML/CTF in the DFSA; significant increase in the possible sanctions; enhanced ability for the DFSA to revoke licenses from financial institutions if ML/TF violations are detected; independent provisions on ML in the criminal code, and requirement for currency exchange entities to have a licence to operate.

The DFSA now has a dedicated AML/CFT division of 15 officials, previously the staff was made up of 3-4 individuals. This division was established in June 2017 and is responsible for supervision, drafting legislation, information and internal cooperation on AML/CFT issues.

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3.12. Meeting with the Minister for Industry, Business and Financial Affairs

Meeting with:

- Mr Rasmus Jarlov, Minister for Industry, Business and Financial Affairs

There are three ongoing investigations, one carried out by the Danish FSA; a second carried out by the Danish Audit Authority, and a third one by the State Prosecutor. The latter will take longer, maybe until 2020.

The Ministry will provide resources to the authorities. They have increased the resources of the State Prosecutor and also those of the FSA.

The fines imposed for breaches of AML/FCT are very high in Denmark, reaching up to DKK 30 Billion.

The Minister acknowledges that the control over the financial sector was not good in Denmark. There was a defective management set-up in DB and not sufficient attention was paid to it. This said, it seems clear to him that there were also failures on the Estonian side, since it is clear that the Danish police cannot go onsite in Estonia. It is therefore a shared responsibility and there can be satisfaction that the Estonian authorities put an end to the situation.

A bill will be presented to parliament to introduce restrictions on movements between FSA and the financial industry in order to prevent the revolving doors issue.

The Government is positive on the Commission's proposal to improve cooperation between FSAs but they are not that favourable to centralised EU supervision. They support EBA enhancement to fight ML. They are currently analysing whether Denmark should join the Banking Union and there will be a report on the subject late in summer.

Transposition of AMLD4 is done and they are now in the process of transposing AMLD5.

The Government is going to act upon criticisms raised by FATF concerning their AML legislation, particularly the scope of administrative fines.