

**SPECIAL COMMITTEE ON FINANCIAL CRIMES,
TAX EVASION AND TAX AVOIDANCE (TAX3)**

MONDAY 10 DECEMBER 2018

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**“EXCHANGE OF VIEWS WITH COMMISSIONER VĚRA JOUROVÁ, MEMBER
OF THE EUROPEAN COMMISSION RESPONSIBLE FOR JUSTICE, CONSUMERS
AND GENDER EQUALITY”**

1-002-0000

IN THE CHAIR: PETR JEŽEK
*Chair of the Special Committee on Financial Crimes,
Tax Evasion and Tax Avoidance*

(The meeting opened at 19.32)

1-003-0000

Chair. – Welcome to this meeting of the TAX3 Committee. The agenda was e-mailed to members on 3 December, and it's adopted. I have an announcement to make: the deadline for the tabling of amendments to our report is set for Monday 17 December at 5 p.m. Access for tabling the amendments in the AT4AM application was opened on Friday 7 December.

So let us now get to the main point of today's hearing and that is an exchange of views with Commissioner Jourová. Welcome Commissioner, thank you very much for coming again to this committee. As you know, our two co-rapporteurs have now tabled their draft report and therefore it's a good time to have an exchange of views with you on some issues of common interest before we table amendments to the draft report. We are also interested in the implementation of the recommendations made by three previous EP committees and more specifically on topical issues like golden visas, banking supervision and the list of high-risk countries in the area of money-laundering.

So I'd like to ask you, Commissioner, for an introduction of some 10-15 minutes and then we will open the discussion. The floor is yours.

1-004-0000

Věra Jourová, Member of the Commission. – Chair, honourable Members, thank you very much for the invitation to have this exchange of views on the areas of work of your committee, which is very important for the trust that citizens place in democratic institutions and the European Union as a whole, in particular ahead of the European elections.

These areas that you have mentioned in your introductory comments are a priority for the European Commission as well. We have worked together to adopt a strong anti-money laundering framework and we have continued our work since I last appeared before this committee in June this year.

Indeed, money laundering and terrorist financing has continued to make headlines in the EU. In the last year alone we have witnessed the withdrawal of the authorisation of the Pilatus bank as a credit institution in Malta; the forced liquidation of ABLV, Latvia's third biggest bank; the Danske Bank case; and the investigations by prosecutors in relation to ING and Deutsche Bank. All these cases highlight the need to strengthen at EU level the supervision of banks with regard to money laundering, and its coordination with prudential supervision.

The Commission has been active in this area. We asked the European Banking Authority to investigate possible breaches of Union law in the relevant Member States. For the first time we invoked Article 17 with the European Banking Authority (I will from now on use the acronym EBA), and issued a formal Commission opinion addressed to the Maltese anti-money laundering supervisor. We requested that they take concrete steps to comply with their obligations under the anti-money laundering directive, notably by revising their internal procedures, and to take appropriate administrative measures to ensure an effective supervision of financial institutions.

Other EBA investigations on potential breaches of Union law in Latvia, Denmark and Estonia are still ongoing and we will follow them closely.

As you know, the Commission also brought together the relevant financial supervisory authorities in a working group that issued a reflection paper which is duly acknowledged in your draft report. The Commission built on this reflection paper and presented a legislative proposal and policy communication on 12 September. The main message of our communication is that the EU has state-of-the-art anti-money laundering rules, but they need to be better enforced, including through better cross-border coordination.

I am therefore pleased that the European Parliament has moved quickly on our targeted amendments to the founding regulations of the European supervisory authorities, the EBA in particular, so that the EBA has the ability to act effectively on money laundering supervision across the financial sector.

I hope the ECON Committee will vote soon on a mandate for negotiations and we can be confident that an agreement is reached before the European elections.

In the longer term, it is clear that there is a need for reflection on further reform along the lines of our 12 September communication. Until the end of the Commission term, we will continue our reflection and assessment of what needs to be done. The Commission will assess by June 2019 the functioning of the exchange of information between financial intelligence units (FIUs) and third countries, and ways to strengthen intra-EU cooperation, including by setting up a centralised body.

We have launched a broad consultation reaching out to all relevant stakeholders, FIUs, governments and the private sector. The view of this committee will of course be taken fully into account.

But in the meantime we have a legislative proposal on the table on exchange of information between the FIUs and law enforcement authorities. This proposal should substantially improve the capacity to address serious crimes and terrorism. Facilitating the use of financial information for law enforcement authorities will reduce the space in which terrorists act and make it more difficult for them to acquire the means necessary to carry out attacks.

I welcome Mr Radev's report voted by the Committee on Civil Liberties, Justice and Home Affairs (LIBE) last Monday and I count on a firm position of the European Parliament during trilogues, since the Council position lacks ambition in this area.

We must enhance the current level of the exchange of financial information between national FIUs and law enforcement authorities. In some Member States it takes too long for FIUs to share information with their national law enforcement authorities, or in some cases they do not respond.

The Commission offers its full assistance in order to reach agreement on this file before the end of the mandate.

Honourable Members, for the Commission, the implementation of the anti-money laundering directive is of course our everyday business and we are closely monitoring Member States in this regard. The picture is not very positive, I'm afraid. There are currently open infringement procedures against 21 Member States in the relation to their non-transposition or incomplete transposition of the fourth Anti-Money Laundering Directive.

Eight Member States are at the stage of a letter of formal notice while nine Member States have already received a reasoned opinion. Moreover, the Commission has decided to refer three Member States to the Court for incomplete transposition: here I speak about Ireland, Romania and Luxembourg. The referral against Greece was put on hold as it notified a complete

transposition in July 2018. If you're interested, I can be more specific about the other infringement cases, I have just mentioned the States that have already been referred to the Court.

We will not stop here with our analysis. We are going to look very closely at the conformity of the notified legislation and not only its completeness. In spring 2019 we should have a clearer picture in this regard.

It is clear that Member States also have a challenging task in transposing the fifth Anti-Money Laundering Directive by 10 January 2020. The Commission is encouraging them to make sure both the left-overs from the transposition of the fourth Anti-Money Laundering Directive are completed so that in January 2020 the legislation in Member States is fully implemented. This will be important, especially to ensure more transparency of beneficial ownership and to tackle the money laundering and terrorist financing risks of virtual currencies.

Without a complete and timely transposition and implementation we cannot prevent further money laundering scandals or, even worse, terrorist attacks from occurring. So this is very serious issue. The fifth Anti-Money Laundering Directive also includes important provisions on due diligence in the area of investor citizenship applications.

This brings me to the practice of citizenship by investment, which is also addressed by your committee's draft report.

The Commission gave a commitment in the 2017 EU Citizenship Report to produce a report on national schemes granting EU citizenship to investors, describing the Commission's action in this area, current national law and practice, and providing some guidance for Member States. This report will be based on a fact-finding study, detailed work for which is now complete.

The study looks at both investor citizenship and investor residence, so-called golden visa schemes. The study also covers the legislative framework of the schemes, and their governance and implementation in practice. It also looks at the question of security checks, including through relevant EU databases and due diligence checks, including in relation to money laundering risks. Publication of the Commission's report is now foreseen for January 2019 and I look forward to discussing it with you.

Before closing let me give you an update on where we are on the application of Article 9 of the directive on the list of third countries with strategic deficiencies in their anti-money laundering frameworks.

As you know, the methodology was made public in June. This was followed by the publication in November of the list of 132 third countries falling within the scope of the EU autonomous assessment, and the list of the 54 priority one countries which are being assessed first.

In line with the methodology, the assessment is being carried out in close consultation with the expert group on preventive money laundering and terrorist financing which includes representatives of the European Parliament. Adoption of the first EU list based on the new methodology is a priority for the Commission. We expect our first own list to be adopted by the Commission in mid-January and I look forward to presenting it then to the responsible committees.

Let me reiterate that the process of assessing high-risk third countries is a transparent and objective one, based on clear requirements and aimed at protecting the financial system of the Union.

In conclusion, I would like to reassure you of the Commission's determination to continue delivering on its ambitious anti-money laundering agenda. What is of utmost importance at this stage is that Member States first implement the agreed directive. We do not exclude in the future to consider new updates of the Union's anti-money laundering framework.

The work of your committee is very important in this regard and is duly taken into account.

1-005-0000

Chair. – Thank you very much, Commissioner, for the outline of the situation from the perspective of the Commission, and for the information on the steps taken by the Commission. Now we will open the discussion with the Members. There will be five-minute slots: one minute for the question, the remaining time for the answer. We'll start with the co-rapporteur from the PPE, Luděk Niedermayer.

1-006-0000

Luděk Niedermayer (PPE), Co-rapporteur. – Chair, I really appreciate the Commissioner's speech and I am still digesting it because it was rich in information and it was a very frank description of the situation – but by rich and frank I mean it was very, very negative.

You said that we have very big problems, actually huge problems as we see with Danske Bank, Deutsche Bank and others. We have a problem with transposition but, even more than that, we have a problem with implementation. So I just basically want to follow up on your last sentence and ask this: if the Commission pushes for more transposition, if it does further fine-tuning of anti-money laundering, would it be really enough, given all our experience from current and past years? Or do we need to do something more? Ideas like EU FIUs, strengthening significantly the role of EBA or – and for me it would be natural, if you have such a big issue with transposition – to move from directive to regulation, and avoid this problem? So do you think that evolution, dealing with more infringements step by step, is really enough? The real problem in money laundering is that the overall system is only as strong as its weakest point, and it seems that our weak points are really, really weak.

1-007-0000

Věra Jourová, Member of the Commission. – Yes, and the weakest point is inevitably used by the criminals and by those who want to launder the money in Europe because it is absolutely clear – and we see it – that where the gaps remain, they are used in full. That's why we need to do everything on all levels not to leave any gaps.

So of course it's not enough to push for the transposition of the legislation, but it's the *conditio sine qua non*. We have to do it. That's why we are pushing so hard. We have a long list of infringements. We have very intensive dialogue with all Member States to be clear about what we want them to do. We are learning lessons from all the cases – from Pilatus bank, from Danske Bank, from the Estonian branch – and we need to understand at what level the mistake occurred and whether it is just an ad hoc thing or a systemic problem, because if it is a systemic problem then the problem is also ours.

We learned a lesson from the Danske case which is already reflected in the legislation: we are proposing to strengthen the competences of the European Banking Authority, because, while the investigations into the Danske Bank case are not finished, already now we can see that if there had been stronger supervision from the central body then probably already in 2013, two years before the money laundering ended, the central body would have known that something was wrong and action could have been taken. So theoretically we would not have had EUR 200 billion being laundered through a small branch in Estonia. So this is the reaction on legislative side.

Another legislative reaction is strengthening or improving coordination and information sharing between FIUs and the law enforcement authorities. I could go further, this is what Europe can

do, but then the big task remains for the Member States' authorities. In the current cases we see that there was either a failure at the level of the bank or bank group itself, or by specific individuals working in the bank – and that's why a criminal investigation is ongoing in some cases – or there is a problem in the network of bodies which should be dealing with anti-money laundering at Member State level, and here we see the gaps and the wrong implementation of the legislation.

So we have to continue doing everything: capture the needs to be covered by the legislation and react to them, but also push for proper implementation combined with investigation into actual cases, because we also need to show that this is a serious crime which will be punished in the EU, and this is still ongoing.

1-008-0000

Chair. – As you know, Commissioner, we have already had our second hearing related to money laundering in the banking sector, including the case of Danske Bank, and this committee will send a fact-finding mission to Denmark and Estonia in February. Perhaps it would be good if, at the working level before that, we could get in touch to update each other before that mission takes place. And now Jeppe Kofod, S&D rapporteur.

1-009-0000

Jeppe Kofod (S&D), Co-rapporteur. – Chair, I'd like to thank the Commissioner for coming to the committee again with all of this very important work. As my colleague said, we have not in any way, not in a satisfactory way, implemented the anti-money laundering directives in Europe, and this is a big problem. If you could, as Commissioner, elaborate on the fact that we have a single market, with the free flow of capital, services and so on, but we have 28 different ways of dealing with financial crimes and money laundering, and this gap in how our market works. So the weakest country, the weakest institution, is actually weakening the whole fight. So I would ask you to elaborate on this.

You mentioned three countries – Ireland, Romania, Luxembourg – with infringement proceedings against them. But for these countries, is it due to a lack of capacity to implement legislation, or a lack of political will, or a combination of the two? That would be interesting to know. Have you looked deeper into why we're so poor in implementing the directives?

I also saw in the conclusions of the Ecofin meeting of 4 December, in item 10, they invite the Commission to propose further improvements in prevention and anti-money laundering frameworks and to present an annual report by, I think, the third quarter of 2019. Would you say that this could also be an assessment of whether we should do more, for example establishing a financial Europol, and do something that really centralises the process more than we have now? I think this is needed. So could you comment on how you would deliver in response to the request of Council and Parliament to do more in this respect?

1-010-0000

Věra Jourová, Member of the Commission. – I will start with your last point. Yes, this this will be at the centre of our attention because of course we cannot simply say it's a lack of capacity or lack of interest or simply an under-estimation of the problem at Member State level. We have to look into how to improve and strengthen the system at the European level because we have a problem here. The financial sector is so interconnected that indeed –you said it and Luděk Niedermayer said it – the weakest part will cause serious damage to the rest. So this is clearly a task for the centre. We will elaborate more and we will have the study and all the analysis done by mid-2019 to prepare everything for the new Commission to take a decision based on the data and facts collected in order to address this issue properly. But this Commission will not come with the legislative proposals, as you know.

Where are the problems at Member State level? I cannot tell you what is the problem in those three countries which have been referred to the Court, but I think it's a combination of under-

estimating domestic issues because we want them to guarantee very serious things through their institutional set-up, but these institutions cannot be ‘copy-pasted’, they have different systems and different traditions, and that’s why we see slightly, or to a large extent in some cases, different reactions. But I am not happy about that. I didn’t expect this anti-money laundering legislation to lead such a difficult life. When we were adopting it I heard from all the Member States, from everybody, especially when we came with the fifth Anti-Money Laundering Directive in reaction to the Panama papers and terrorist attacks, that clearly we must do much better and do everything to have a system in the EU with no gaps – but we can see what’s happening now.

We still have a lot of infringement cases: on the first Anti-Money Laundering Directive we have a letter of formal notice sent to Germany; there is a recent opinion related to Belgium, France, Latvia, Portugal and Finland; and we have additional reasoned opinions for Bulgaria, Cyprus, Poland and Slovakia; then we have the additional infringement round from July related to Malta and Latvia; we have a letter of formal notice and reasoned opinion for Denmark and Estonia; and we have those three referred to the Court which I mentioned, plus Greece which has notified. So I cannot say what the problem is in these countries, and it’s not the end of the story from the Commission side because this is just the result of the completeness check and notification. Now we will look into whether the fourth Anti-Money Laundering Directive has been implemented in full: we will look into the content, we will look into the wider legal framework in the country, and see whether there are all the elements which the directive foresees. And then of course the logical question is why, or if, it would not be better to simply have a regulation which would apply directly.

So this is what I was saying before: we will look into how to strengthen the legislation, and maybe this could be the way, because by trying to achieve the magic of a perfect financial sector in the EU by means of directives, respecting the differences of the systems, this is a political solution, because we need to come with political and practical feasible solutions. But I think that if we continue like this, with more scandals, more gaps and more security risks – because now money laundering is the direct link to security risks in the EU – we will have to be tougher in the future and come with the proposal of having a regulation. But that’s not for me to promise, we will prepare everything for serious consideration in the future.

1-011-0000

Chair. – Members of this committee have also met a number of Ecofin Council members who are supportive of the idea of turning the directive into a regulation when it comes to anti-money laundering, and also the business community which would like to see the same application throughout the EU. Now for the PPE, Luděk Niedermayer.

1-012-0000

Luděk Niedermayer (PPE). – Chair, I appreciate it that my colleagues have given me a chance to ask a second question that will be different from the first one.

This is going a little bit outside of your expertise, Commissioner, but I still have to ask. In the case of Danske we found out that most likely around EUR 200-250 billion of dirty money has got into our system. I wonder who in the Commission and in the national authorities is looking at this carefully to understand the origin of this money and what kind of entities were used at the beginning when the money was not laundered, and more importantly, what happened afterwards to this money? Because it is my hypothesis – and I could be wrong or right – is that this is illegal money that was actually produced by corruption or even crime, and then most likely at least part of it was used for illegal purposes. So I wonder who is doing that and if there are results that are being shared among the police authorities and secret services, and to what extent the information is shared publicly, because I am quite convinced that a lot of tax fraud occurs with this kind of money.

1-013-0000

Věra Jourová, Member of the Commission. – It's not that much outside my expertise because here we remain in the field of criminal justice and criminal activities.

In my view, from what I know about these cases, it will be more difficult to investigate the origin of the money when it comes from outside the EU. I had many questions when I spoke to the law enforcement authorities and the relevant bodies, asking how we can – especially with the citizenship schemes – check the origin of the money, because I don't want the money of corrupt people from countries outside the EU buying them citizenship and allowing them to operate in the whole of Europe as fully-fledged European citizens. This is unfair and dangerous. But the experts told me it's very difficult to follow the money to sources outside the EU.

More feasible is to follow the money and how it was used inside the EU, because our systems are interconnected and the supervision and due diligence related to suspicious transactions is rather strict and can deliver results. To what extent the findings will be published, well it will be up to the Member States' authorities to investigate and they will discover the purpose of the money and the destination of the money on European territory, but here I expect that we will know more once the investigations into the Danske Bank case is finished because they are also looking into where the money travelled to from Estonia. We already have some indications but of course this is a live case so I don't have any precise, concrete information on this at this moment.

One thing I must add – sorry, it's not so relevant to your question –immediately such a case arises we ask the European Banking Authority to start an investigation in parallel to the investigations ongoing in the Member States. This was the case of Pilatus Bank and this is now the case of Estonia and Danske Bank as well.

1-014-0000

Evelyn Regner (S&D). – Chair, I'd like to continue on the issue of weak points. I am referring to artificial arrangements, because as we know in many cases cross-border operations and artificial arrangements are used in order to circumvent paying taxes, engaging in tax fraud, and so on. So last week in the Committee on Legal Affairs (JURI) we voted on my report on conversions, mergers and divisions, and there we introduced an 'artificial arrangement check' which refers to a genuine economic activity in the destination Member State: in order to be more secure, how do we deal with the whole thing?

The Commission's proposal didn't do that and therefore my question to you is as follows: with the second part of the company law package, the directive on the digital tool, companies can go, via online registration, quite quickly from one country to another. What does it mean if we have on the one hand this quick option to create a company, which is a good thing, but on the other hand we don't have such an artificial arrangement check? What we decided last week in the JURI Committee is a great thing, we can go for that, but my question to you is, if we don't have this combination then don't we move to a kind of Delaware effect within the EU Member States, making it easier to go from anti-money laundering? Isn't then the effect just the opposite of what the Commission is aiming at?

1-015-0000

Věra Jourová, Member of the Commission. – Yes of course, this was a very widely discussed topic when we worked on the company law package. We wanted to come up with legislation that would enable the mobility of companies across Europe. The more we are looked into the widening of those possibilities, the more we heard from various places – including from you and from the Parliament, as well as from the trade unions – that it could be easily abused. The fact that letterbox companies are artificial arrangements is of course coming into light in these discussions.

We didn't address it fully in this package, but we are not preventing the Member States from introducing such checks or arrangements to limit these artificial arrangements on their territory. At the same time, by working on this company law package and dealing with this issue of possible abusive behaviour, we decided to launch a study to analyse these problems across Europe: What are the problems in the different Member States? Where are these frequent cases of abusive arrangements or letterbox companies? Would it be possible in the future to come up with a common definition of letterbox companies and these abusive arrangements and address it or to cover it in EU legislation?

So this is again something where we will have the data over the next year and it will be prepared for the next Commission to address it in case of need. When we will see that the problem is in a minority of Member States then we could address it by means of the country specific recommendations, it is another way of doing the same thing, but we are aware of that.

1-016-0000

Pirkko Ruohonen-Lerner (ECR). – Thank you, Chair, thank you, Commissioner, for being here. In Finland, as in some other EU Member States, a particular Russian man is active who possesses several nationalities, including Maltese. For some reason, he has acquired some large properties, worth millions of euros, on coasts. The properties are guarded very carefully. They have helipads, they are lit at night, no comments are made concerning them, their managers say nothing and ask people to go away. It does not appear as if the properties are being used for any economic purpose, such as tourism. It looks as if they are unoccupied and are merely awaiting future use.

What could that future use be? Many people in Finland as well as elsewhere are puzzled and concerned about this. Might you, Commissioner, have any theory as to why these large properties, measuring thousands of square metres, are being built and acquired? What might that purpose be?

1-017-0000

Věra Jourová, Member of the Commission. – I'm afraid I don't have any insight on this. As far as I know, this case is being investigated by the Finnish authorities, so I cannot tell you more because I don't know more. It could be a typical case of money being laundered through the purchasing of buildings for some future use, but it should be under the control of the national authorities, including as regards the construction and property handling. I don't know any more about this case.

Of course, this is connected with the phenomenon of citizenship for sale, which the Commission said many times is something that we don't want to see in Europe, but this is the remit of the Member States. I was dealing with this issue when I was in Malta and Cyprus; we were discussing this issue with the national authorities, and I had to recognise that this is the Member State's legal competence. However, they should grant citizenship in line with European rules and with regard to other Member States. I have thought a lot about the elementary unfairness in it: not only the fact that the people who do not have EUR 2 million cannot buy European citizenship, but also there is something very elementary wrong in this.

Just imagine if one country should sell citizenship for one country – it would probably cost less. So the countries are selling something that they do not own, because they are selling European citizenship, and this is the issue. This is the problem that we have to look into, but I have to recognise at this moment that the EU is lacking the competence to ban such a practice. I have already asked our legal experts to look into the wider system and see whether we can do more on European level.

At this moment, we are finalising a report on citizenship schemes and investor's resident schemes, and we will come up with proposals for improvements of the due diligence check and for strengthening the demand for a genuine link, which the people applying for citizenship or

residence should have. This also stems from other case law in the EU, which states that there should be a proven genuine link. It stems from a famous case from 1955.

It is a very well-known principle in the EU and we will do our best to come up with guidelines, which will also propose much stricter due diligence checks, much greater responsibilities of the state without outsourcing the due diligence to others, and many other things. This will be in our report. But again, I find this unfair and I find this weak EU competence to be a systemic mistake.

1-018-0000

Chair. – Thank you, well representatives of ALDE, GUE, Greens who were to speak had to leave for the plenary or for trilogue, so they can speak when they come back, or if they come back. On the contrary, David Coburn is not on my list but he is here, so I ask him whether he wants to speak or not.

1-019-0000

David Coburn (EFDD). – Now you come to mention it, why not? Very nice to see you here. All I'd like to say about the obsession with money laundering that I hear of is that if you go too far with all this and you have too many rules and regulations that strangle business, for the amount of money you're going to be saving or you're going to be worrying about, it's just not worth the trouble. It also means that people are put off from putting their money into Europe, so they'll put it into other parts of the world.

Hopefully, once we get Brexit, Britain will be very careful about whether people are indulging in criminal activities, but we won't have this utter obsession that the European Union has about the possibility of anybody making a penny in any way whatsoever. The whole obsession of stopping people making money is very anti-financial markets; it's very anti-liberty of the individual and I find it all very disturbing. I've said this before, and I don't think there's much I can add to what I've said before about it. It's far too much regulation.

1-020-0000

Věra Jourová, Member of the Commission. – I will perhaps surprise you, but I agree.

1-021-0000

David Coburn (EFDD). – Good Lord!

1-022-0000

Věra Jourová, Member of the Commission. – It's not a matter of the quantity of rules and the quantity of the steps to be taken; it's about the quality of the supervision and common sense too. This is what I mentioned when I spoke with the experts, who better understood what happened in Danske Bank Estonian bank case. There were many people dealing with supervision, checking, due diligence and I don't know what else – both in Denmark and Estonia. By doing that and ticking the boxes, they forgot that it's probably not normal that a little branch in Estonia has such a large amount of money flowing through its pipes, if you understand.

Sometimes because of excessive and complicated rules, we forget to look normally at the thing and use common sense, but it's something that people can do in many other places in the EU, which I think failed in in this one case. Being better at fighting against money laundering – I don't agree with you that it's an obsession – is a necessary reaction to the current situation and the past scandals. It is also a reaction to something that has been proven in many cases: dirty money is used for committing major organised crime in the EU, including drug trafficking, trafficking in human beings and prostitution. All these things are also enabled by having the money available, and very often it is the money that was registered as being laundered.

I would not speak about 'obsession', but I would like to agree that to have better rules, it doesn't mean to have more complicated rules and more institutions involved in this and so on. That's why I think that we should do a revision next year, when we will be thinking about whether to introduce the centralised body or not. It will also provide an opportunity to look into the whole

system to see whether we should not simply it, but rather make it better. This will be the subject matter of the future work.

1-023-0000

David Coburn (EFDD). – Can I just say I’m a fan, it’s the first time I’ve ever heard anyone in the European Union use the word ‘common sense’.

1-024-0000

Věra Jourová, Member of the Commission. – I saw that it made you happy.

1-025-0000

David Coburn (EFDD). – It’s very refreshing and most unusual.

1-026-0000

Chair. – Okay, it’s beginning to look like Christmas almost.
ENF, Barbara Kappel.

1-027-0000

Barbara Kappel (ENF). – Thank you for coming, Madam Commissioner. You said something today that we probably all know, but it does no harm to hear it again. This was that the supervisory authorities’ working group has concluded that the EU has the most up-to-date rules for supervision but that these are not applied to the requisite extent, and that because of this insufficiency (or at times total absence) of application – as, for example, in anti-money laundering cases – abuses happen, leading to the launching of procedures under Article 17 (you mentioned a few of these) – against Malta, Latvia, Estonia and Denmark. So there are quite a few of these.

So it is clearly important to improve the transposition of the rules, and you made some suggestions in the course of the consultation. For example, the need to improve the automatic exchange of information between the FIUs and the law enforcement authorities. Perhaps you could give us a few more details, such as what precisely needs to be improved in this matter. I know that the consultation is not yet over. But what direction should it take? I would rather see more exchange among the Member States, which would probably be more effective than establishing a new central unit.

As you yourself said, there are many procedures taking place, and the same conclusion should be drawn: namely, that the 4th Anti-Money Laundering Directive has been applied insufficiently or in some cases (in three countries) not at all, and that the 5th Directive should therefore include a stipulation on better due diligence.

Which brings me to my next question. You said that a fact-finding study had been or was being drawn up in which you were calling for better due diligence – for investors, for example. I would be interested in knowing whether you have in mind with this study a specific instance, for example that in Lisbon (Ana Gomes will be pleased when I say this), 99% of golden visas have been acquired through property investment, and that property prices in Lisbon rose by nearly 20% in one year (2016-2017). Are you looking at specific cases like this (they might exist in other countries as well) in the fact-finding study?

And now a third and final question. You referred to the ‘Article 9 rule’: third countries and high risk. Could you give one or two examples of how you differentiate between high-risk countries and medium-risk countries?

1-028-0000

Věra Jourová, Member of the Commission. – I will not give you the answer on the second question, because I don’t understand the Lisbon case and the influence on the price of the properties.

1-029-0000

Barbara Kappel (ENF). – It was to ask if you do investigate such critical incidents – for example the impact on real estate prices in countries with an enormous or certain number or percentage of golden visas in real estate.

1-030-0000

Věra Jourová, Member of the Commission. – Neither at this moment in the study, nor in the report that we will publish, is there anything about such a wider economic impact. This is more of a description of the situation concerning the approach of the states that have schemes to grant citizenship or residence, and a recommendation as to what to do, namely not to continue with this practice that could pose a risk to other Member States. This is our point of view, but maybe this could be good inspiration for the fourth annual report, which we will start working on next year.

You wanted the example of financial intelligence units and the gap in cooperation?

1-031-0000

Barbara Kappel (ENF). – Maybe additional examples. I found that one very interesting and really helpful, but do you have more examples concerning potential better cooperation possibilities between the Member States?

1-032-0000

Věra Jourová, Member of the Commission. – We proposed, in the directive on financial intelligence units, better cooperation by using the already existing channels, but we also want better cooperation between the European Banking Authority and the national relevant bodies. This is at the core of our proposal: we want the EBA to be the body empowered to collect more data to do its own analyses about those weak points, which we don't want to have in Europe, and to request that the Member States take the necessary measures to fill in the gaps when they are discovered.

It is a very important element of coordination and cross-border coordination in particular, as I described what the Commission is doing in infringement procedures. We are looking into the legislation, but the EBA will have the ability to look into the application of the legislation, into the practical life of those measures whose success is dependent on good cooperation between the bodies within the country and with the centre. This is therefore a very important new element, and I hope that this legislation will be adopted under this mandate.

On the high-risk, low-risk and medium risk countries, you know that we have prepared the methodology, which we informed you about in June 2018. This is a rather complicated process. Complicated, but logical, and containing common sense.

We started by checking the 217 jurisdictions and we did the first filter. The countries identified by Europol or the European External Action Service as having a systemic impact on the integrity of the EU financial system, the jurisdictions assessed by the International Monetary Fund to be international offshore financial centres and to be economically relevant, considering the magnitude of the financial centres and the strength of their economic ties with the EU.

Out of these 217, using these three criteria, we selected 132 jurisdictions and 32 states where we discovered these things. These states will be assessed by the end of 2025. However, this process is continuing because we have selected those states which deserve special attention and which need to be assessed first, and we have priority-one countries. Here we speak about 54 countries as priority-one, and we again have countries exposed to a high level of threat identified by Europol and countries on the EU list of non-cooperative tax jurisdictions, and thus on Mr Moscovici's list. Can I use this term 'Mr Moscovici's list'? You know what I mean: countries that have been delisted by the Financial Action Task Force since July 2016 but are still listed on the former EU list.

If you remember, you criticised us for taking FATF and including the delisted countries, so we are looking at these delisted countries and countries relevant for the EU based on Europol nomination when mutual evaluation processes are available before the end of June 2018. Simply speaking, we work with Europol information.

These 54 countries are now under our very thorough assessment. We have done on-site visits in some of them; we have spoken to the experts, and we have done a lot of checking activities. After the New Year, we will come up with the first list, which will be the first European autonomous list of high-risk third countries where we will present the countries that fulfil all these criteria of increased risk.

Sorry to be so long, but it is good to understand this methodology. We lost on the way around half of those 217 countries, where a low risk was identified. Then, out of 132 states, we found 54 which pose a high risk, and the rest are medium-risk.

1-033-0000

Chair. – Thank you, it is an important clarification on the key instrument, but from now on we should really stick to the limit as there is a vote in the Committee on Economic and Monetary Affairs (ECON) at 21.00.

I can see some returnees, so GUE, Paloma Lopez Bermejogo.

1-034-0000

Paloma López Bermejo (GUE/NGL). – Chair, I am sorry I was unable to be here from the start, but we all know what Strasbourg is like. Commissioner, we know the battle against money laundering is being waged from a variety of places, and are convinced that coordinated strategies are needed with independent jurisdictions, which are not always cooperative.

Despite over two decades of cooperation with the Swiss authorities on banking secrecy and money laundering, Switzerland continues to hold the worst record for certain indicators. The Tax Justice Network still views Switzerland as a flagship for banking secrecy and as the world's leading tax haven. It continues to be seen as a model for tax havens and offshore structures. The latest OECD report on this subject underscores some of those points and calls on Switzerland to offer better protection for whistle-blowers and in money-laundering matters.

I would like to ask you in this respect whether you consider that Switzerland is cooperating sufficiently in such matters – money-laundering, whistle-blower protection and banking secrecy? What is the real state of play in these fields? Do you not feel that at a certain point one has to draw the line – such as by placing Switzerland on the EU blacklist of non-cooperative jurisdictions?

1-035-0000

Věra Jourová, Member of the Commission. – I will be very brief. I hope that I will not reveal something that should not be revealed yet, namely that Switzerland falls under this number of assessed countries in this first assessment period. We are looking into the Swiss system; we are looking into the beneficial ownership schemes and whistleblower protection to some extent, and yes, we are assessing how serious a risk the Swiss system poses to our European system.

But as to whether Switzerland will be on the list in the first round, I will not tell you at this moment.

1-036-0000

Molly Scott Cato (Verts/ALE). – So according to written evidence submitted by Transparency International to the UK Government's Foreign Affairs Committee this year, the UK is a top destination for money laundering. Large sums that come into the UK are often linked to Russian nationals, including associates of Putin. The National Crime Agency estimates that the level of

illicit financial flows through the UK is well in excess of GBP 90 billion a year, and a study by Deutsche Bank, using figures from the Russian Central Bank and the Bank of England, indicates that around GBP 100 billion of Russian wealth secretly flowed into the UK between 2006 and 2015.

I represent South West England, and that includes Salisbury, so the four UK citizens who were poisoned with Novichok, one of whom has since died, were my constituents. The international community has held Putin's regime responsible for this attack, and my view is that we should now consider Russia to be a hostile foreign power. As part of the TAX3 mission to Latvia, we learned of USD 200 billion that had been laundered through a single bank branch there. They explained to us the difficulty they face as a small Member State monitoring these vast financial flows.

So my question is, given all this evidence about the way Russia behaves and the fact that it is hostile to our values, why do we allow Russian money to flow freely through the EU, especially when so much of it is associated with Putin, his cronies and the Russian mafia? We are increasing the problems for Europe and we are increasing the amount of effort we have to make in monitoring this finance and in trying to catch up afterwards, rather than stopping the money coming in in the first place. So shouldn't we check before the money comes into EU banks and EU countries, rather than having to chase down the dirty money after we've let it flow through our banks?

1-037-0000

Věra Jourová, Member of the Commission. – I am afraid that we cannot prohibit the flow of money, but we can impose very strict due diligence checks, and this is the purpose of this high-risk third country category, where we have increased vigilance that our banking system should apply.

Again, I would give a very similar answer to the one given regarding Switzerland. Russia is among the countries where we are assessing the level of risk, and we will consider all those things that you mentioned, which are creating a wider picture of the threats we see coming to Europe from Russia.

The EU is not underestimating all the threats and the risks we now see in many different areas. I, for instance, deal with the issue of disinformation and hybrid war, and this is always the same story: we should not be naive and we should be much more resilient when it comes to Russia. We will also reflect it in our work on listing high-risk third countries, but I will not tell you now if Russia will be in this first round.

1-038-0000

Molly Scott Cato (Verts/ALE). – Can I come back on that? I do not think it makes sense to compare Russia and Switzerland. I have worked on the tax committees and I'm very irritated about the way Switzerland behaves, but I haven't found my own constituents being murdered by agents of the Swiss Secret Services. So we're not really comparing like with like here. I know you cover disinformation, and I really appreciate your work there, but I'm also very concerned that we let Russian lies flow freely through our media. You know we have Russia Today with a license to broadcast in the UK. It is broadcasting lies. It's undermining our democracies, and similarly Russian money is undermining our tax systems and our economic systems in my view.

You say we can't stop Russian money, but we could just ban Russian banks from exchanging with the European banks, and my own view is we just need to take much stronger action. I mean if it's Switzerland – if it's money laundering – it's bad, but we can chase it down, we can exchange information, we can have financial investigation units and so on. But we're talking about a hostile foreign power here, and I think we should treat Russia differently.

1-039-0000

Věra Jourová, Member of the Commission. – It's a misunderstanding. I meant it in the technical sense that I cannot tell you now if Russia will be on the list in the first or second round and that, in this sense, my answer will be similar to the answer on Switzerland. Believe me, I would be crazy if I compared Switzerland with Russia.

1-040-0000

Thomas Mann (PPE). – Mr Coburn always puts on a little show to accompany his speeches: you can't have one without the other. And he was quite taken aback when you admitted to him that he might just be right. But in one thing he is certainly not right: the idea of obsession. And you quite correctly put him right on this. What we are doing is not having an obsession with certain financial players. What we are trying to do is to say that there have to be rules, people have to comply with the rules, and they must play fair. That is our task as representatives of the people, and you supported this completely.

So the question is how we ensure that the supervisory authorities help improve quality. In Germany we have had some raids in the major cities – in Berlin, for example – but also in North Rhine-Westphalia. This issue here is clans who, while driving around in swish cars, also claim benefits under Hartz IV. This is completely wrong, and we know these are money-laundering operations. But we can only intervene if we first have precise information. Nothing else would comply with our legislation – and this is how it should be.

My question to you is this. One way to proceed is by having only a coordinated strategy such as my colleagues just mentioned, for sure. Yet do we not also need the other way, to ensure that the quality of supervision will satisfy European minimum standards? In other words, how can we encourage or persuade certain Member States or help them, by means of financial support, to achieve this high-quality supervision? Do we not have the possibility – or indeed the need – to intervene in a much more robust way? You might say that that is for the Member States to decide. But this is not good enough for me. How can we ensure that there is a sufficient level of quality in these Member States for citizens to feel that, yes, there is proper supervision, so that we will finally have an outcome which we all want?

1-041-0000

Věra Jourová, Member of the Commission. – Well this is a million dollar question: how to make our institutions and people working in the institutions work better? Of course, this is a mixture of professionalism and responsibility. This is a matter of the proper preparation of the staff working in this area, and this is a matter of training. This is a matter of the institutional reputation, which is at stake and which has to be taken into account by managers. The people working in the institutions have to contribute to the reputation of the institutions, and there are many other factors.

Many things have to be done to increase responsibility and professionalism in the institutions. Here you are right that the EU could do more by training and by supporting these things. But at the same time, I cannot help it if somebody fails, and if he fails in compliance or in something which can be qualified as a criminal act, then the people have to be punished and these cases must be known.

You know I am responsible for data protection and proper action of privacy. I will never let go for some exemplar cases showing the faces of people and so on, but these cases should be known, if there are concrete people in the institutions who have failed, perpetrated some criminal wrongdoing and been punished by the state. So it is always a mixture of preparation, prevention and repression, because here we are in the field of criminal justice. So we have to do more on all levels.

1-042-0000

Ana Gomes (S&D). – Thank you, Commissioner. I would like to ask you – since you mentioned that several problems with the transposition of the fourth Anti-Money Laundering Directive have been found – to what do these problems with Member States mostly relate? The public register?

Also, I'd like to ask you whether there is a time frame for the EBA inquiry regarding Danske Bank, and when do you think there will be conclusions on that?

We here in the Parliament looked at the cum-ex scandal while making the link between tax fraud and money laundering, and of course we expect the EBA to investigate. Is this perspective also being taken by you in the Commission? After all, it's the integrity of the financial system that is at stake.

Finally, we see cryptocurrencies and associated technology, blockchain, being regulated, but from other points of view not really from an anti-money laundering perspective. Of course, this will be a great tool for all sorts of criminals, and we see some Member States styling themselves as hubs for these technologies and these cryptocurrencies. So when can we expect proper regulation on that?

1-043-0000

Věra Jourová, Member of the Commission. – Yes, thank you very much. I will start with the EBA. The EBA proved to be a very useful and fast-working institution in the case of Pilatus Bank, and we had the results of their investigation in four or five months. Of course, this is not a copy-paste case in Danske Bank Estonia because the magnitude of the money laundered is much higher, but it's a simplistic comparison. I cannot say when this investigation will be finished. I would like the EBA to keep up to speed with the Danish and Estonian law enforcement authorities because they have ongoing investigations. I hope it might be by mid-2019. It's a hope, but also a little bit of a prediction based on the previous investigation which was ongoing in Malta.

What problems are affecting anti-money laundering implementation? At this moment, we are checking for completeness, and we are missing some of the elements in the national systems. As I said to you, this is a very complicated thing too, because it's a directive where we need to see the purpose fulfilled at the Member State level, and everything is projected in the work of very different kinds of institutions. This is not harmonised.

So this is now the infringement up and running regarding the incompleteness but we will go into all the system again to check the compliance, and here I expect some major problems, but not so much related to what you mentioned, namely the public register. This is an issue that I expect to deal with when we check the implementation of the fifth Anti-Money Laundering Directive, because here we have that strict condition of a fully public register.

I am very happy that we managed to promote this, because in the current situation we have some kind of semi-public system; some Member States went public and some did not. In some states, it's very unclear who are the persons with legitimate interests who have the right to go into the system and to look into that. It's a very strange system, which I really don't like, and I expect all the Member States to make all the registers fully public. There is still some halfway solution for the trusts, and here I think that we will have bigger problems than with the fully public final beneficiaries registers. I would like to be mistaken on this prediction.

The same goes for crypto currencies. It's in the fifth Anti-Money Laundering Directive. We are purely looking into cryptocurrencies in order to limit the possibility to use Bitcoins and other cryptocurrencies for money laundering. We are not regulating, in the fifth Anti-Money Laundering Directive, other aspects of cryptocurrencies, but we will have to be much better in

helping the Member States to prepare for January 2020 because these are crucial changes. For the first time, we want to impose due diligence and the stricter checking of the cryptocurrencies transactions, so there will be a lot of work to do.

1-044-0000

Catch-the-eye procedure

1-045-0000

Ramón Jáuregui Atondo (S&D). – Just a quick question, Commissioner. I would like to know what the framework is for our relations with the United States. Are they close relations? Have they got better or worse in the past two years? And are the United States continuing to tackle crimes connected with money laundering or are they only interested in – let us say – terrorism? What are the terms of the relations?

1-046-0000

Věra Jourová, Member of the Commission. – You wanted a quick answer. I don't see any worsening of the cooperation with the United States on this. They have a very different system and different principles, but they are also addressing money laundering as such – not only money used for possible terrorist attacks – so they have this wider scope.

We cooperate very well in the Financial Action Task Force. We confirmed several times with our American partners that we would like to improve the functioning of the Financial Action Task Force, and we are working quite well together. I will hopefully see, in the first quarter of the next year, the new Attorney General, who will also cover this issue of money laundering under the criminal law sphere. I will test whether we are on the same page with this.

1-047-0000

Ana Gomes (S&D). – Just about the question I asked the Commissioner.

1-048-0000

Věra Jourová, Member of the Commission. – I didn't catch one part.

1-049-0000

Ana Gomes (S&D). – In the Parliament resolution, we linked tax fraud with money laundering in the cum-ex scandal. Is that perspective and the perspective of the integrity of the EU financial system also present in your one?

1-050-0000

Věra Jourová, Member of the Commission. – It was explained to me by the experts that this cum-ex case is related to tax evasion – Moscovici's field – rather than to money laundering.

1-051-0000

Ana Gomes (S&D). – But it's both.

1-052-0000

Věra Jourová, Member of the Commission. – I have to check.

1-053-0000

Chair. – Thank you very much, Commissioner, for all your answers. I think that it's clear that, although your portfolio is broad, you devote a lot of attention to the issues which are within the purview of this committee. There has been a lot of effort and initiatives on the side of the Commission, so thank you very much for this.

The next meeting of the committee will be on 24 January and 29 January, and therefore I now wish you a Merry Christmas and a Happy New Year.

(The meeting closed at 20.52)