

16.4.2024

A9-0004/ 001-007

AMENDMENTS 001-007

by the Committee on Civil Liberties, Justice and Home Affairs

Report

Emil Radev

A9-0004/2023

Access of competent authorities to centralised bank account registries through the single access point

Proposal for a directive (COM(2021)0429 – C9-0338/2021 – 2021/0244(COD))

Amendment 1

Proposal for a directive

Recital 1

Text proposed by the Commission

Amendment

(1) Facilitating access to financial information is necessary to prevent, detect, investigate or prosecute serious crime, including terrorism. In particular, swift access to financial information is essential for carrying out effective criminal investigations and for successfully tracing and subsequently confiscating instrumentalities and proceeds of crime.

(1) ***Optimising and*** facilitating access to financial information is necessary to prevent, detect, investigate or prosecute serious crime, including terrorism. In particular, swift access to financial information is essential for carrying out effective criminal investigations and for successfully tracing and subsequently confiscating instrumentalities and proceeds of crime, ***in particular as part of investigations into organised crime.***

Amendment 2

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) Considering the cross-border nature of organised crime and money laundering as well as the importance of relevant financial information for the purposes of combating criminal **activities**, including by swiftly tracing, freezing and confiscating illegally obtained assets where possible and appropriate, authorities competent for the prevention, detection, investigation or prosecution of criminal offences designated in accordance with Directive (EU) 2019/1153 should be able to directly access and search the centralised bank account registries of other Member States through the BAR single access point put in place pursuant to Directive (EU) YYYY/XX.

Amendment 3

Proposal for a directive Recital 6

Text proposed by the Commission

(6) The safeguards and limitations already established by Directive (EU) 2019/1153 should also apply in respect of the possibilities to access and search bank account information, through the BAR single access point, established by the present Directive. These safeguards and limitations include those concerning the limitation to the authorities that have the power to access and search bank account information, the purposes for which the access and search may be conducted, the types of information that are accessible and searchable, requirements applicable to the staff of the designated competent authorities, the security of the data and the logging of access and searches.

Amendment

(5) Considering the cross-border nature of organised crime, **the financing of terrorism**, and money laundering, as well as the importance of relevant financial information for the purposes of combating **serious criminal offences**, including by swiftly tracing, freezing and confiscating illegally obtained assets where possible and appropriate, authorities competent for the prevention, detection, investigation or prosecution of criminal offences designated in accordance with Directive (EU) 2019/1153 should be able to directly access and search the centralised bank account registries of other Member States through the BAR single access point put in place pursuant to Directive (EU) YYYY/XX.

Amendment

(6) The safeguards and limitations already established by Directive (EU) 2019/1153 should also apply in respect of the possibilities to access and search bank account information, through the BAR single access point, established by the present Directive. These safeguards and limitations include those concerning the limitation to the authorities that have the power to access and search bank account information, the purposes for which the access and search may be conducted, the types of information that are accessible and searchable **while respecting the principle of data minimisation**, requirements applicable to the staff of the designated competent authorities, the security of the data and the logging of access and searches.

Amendment 4

Proposal for a directive Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) Enabling the competent authorities of one Member State to access and search the centralised bank account registries of other Member States through the BAR single access point is based on the presumption that Member States comply with Union law and respect the rule of law as enshrined in Article 2 of the Treaty on European Union and fundamental rights as enshrined in the Charter of Fundamental Rights of the European Union, such as the rights to privacy and to the protection of personal data. Where data accessed through the BAR single access point are used in the investigation and prosecution of criminal cases, the requirement for Member States to comply with fundamental rights standards and related obligations also entails a duty to ensure that the rights of suspected and accused persons are equally protected, including the right to an effective remedy and to a fair trial, which are essential elements of the area of freedom, security and justice within the Union. When using the BAR single access point, competent authorities are also to respect the fundamental rights and principles provided for in international law, in international agreements to which the Union or all the Member States are party, including the European Convention on Human Rights and Fundamental Freedoms, and in Member States' constitutions.

Amendment 5

Proposal for a directive
Recital 6 b (new)

Text proposed by the Commission

Amendment

(6b) In a similar fashion to Directive (EU) 2019/1153, and as regards access to and the consultation of bank account information via the BAR single access point, when implementing this Directive, Member States should consider the nature, organisational status, role and prerogatives of the authorities and bodies established under national law as responsible for preventing, detecting, investigating or prosecuting criminal offences, including the existing mechanisms to protect financial systems from money laundering and terrorist financing.

Amendment 6

Proposal for a directive
Recital 12

Text proposed by the Commission

Amendment

(12) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council [and delivered ***an opinion*** on XX 2021],

(12) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council and delivered ***its comments*** on ***6 September*** 2021,

Amendment 7

Proposal for a directive
Article 1 – paragraph 1
Directive (EU) 2019/1153
Article 4 – paragraph 1a

Text proposed by the Commission

Amendment

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

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

access and search, directly and immediately, bank account information in other Member States available through the bank account registers (BAR) single access point put in place pursuant to Article XX of Directive (EU) YYYY/XX [the new Anti-Money Laundering Directive] *when* necessary for the performance of their tasks for the purposes of preventing, detecting, investigating or prosecuting a serious criminal offence or supporting a criminal investigation concerning a serious criminal offence, including the identification, tracing and freezing of the assets related to such investigation..

access and search, directly and immediately bank account information in other Member States available through the bank account registers (BAR) single access point put in place pursuant to Article XX of Directive (EU) YYYY/XX [the new Anti-Money Laundering Directive] *where those competent authorities have justified reasons to consider that there might be relevant bank account information in other Member States which is* necessary for the performance of their tasks for the purposes of preventing, detecting, investigating or prosecuting a serious criminal offence or supporting a criminal investigation concerning a serious criminal offence, including the identification, tracing and freezing of the assets related to such investigation.

Data gathered as a result of accessing or searching bank account information through the BAR single access point under the first subparagraph shall be adequate and relevant for the purposes for which they are sought and shall not be excessive for those purposes. Member States shall ensure that the competent authorities can only conduct searches as provided for in the first subparagraph provided that the competent national authorities would be able to conduct such searches in the national registry under the same conditions in a similar domestic case. Information obtained by means of accessing and searching the BAR single access point shall be used only for the purpose for which it was sought.

Member States shall ensure that, when the competent national authorities they have designated pursuant to Article 3(1) access and search for information in other Member States available through the BAR single point of access, those competent authorities respect the procedural rights of individuals and comply with Union and national rules on the protection of personal data.

Member States shall ensure that the staff

of the designated competent authorities having access through the BAR single access point maintain high professional standards of confidentiality and data protection, are of high integrity and are appropriately skilled.