



Plenary sitting

A9-0004/2023

17.1.2023

*****I**

REPORT

on the proposal for a directive of the European Parliament and of the Council amending Directive (EU) 2019/1153 of the European Parliament and of the Council, as regards access of competent authorities to centralised bank account registries through the single access point
(COM(2021)0429 – C9-0338/2021 – 2021/0244(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Emil Radev

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ***■*** symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council amending Directive (EU) 2019/1153 of the European Parliament and of the Council, as regards access of competent authorities to centralised bank account registries through the single access point

(COM(2021)0429 – C9-0338/2021 – 2021/0244(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2021)0429),
 - having regard to Article 294(2) and Article 87(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0338/2021),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the opinion of the Committee on Economic and Monetary Affairs,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0004/2023),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) Facilitating access to financial information is necessary to prevent, detect,

Amendment

(1) ***Optimising and*** facilitating access to financial information is necessary to

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.

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

(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 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

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, requirements applicable to the staff of the designated competent authorities, the security of the data and the logging of access and searches.

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*~~

(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*

Amendment 7

Proposal for a directive

Article 1 – paragraph 1

Directive (EU) 2019/1153

Article 4 – paragraph 1a

Text proposed by the Commission

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..

Amendment

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] **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.

15.3.2022

OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a directive of the European Parliament and of the Council amending Directive (EU) 2019/1153 of the European Parliament and of the Council, as regards access of competent authorities to centralised bank account registries through the single access point (COM(2021)0429 – C9-0338/2021 – 2021/0244(COD))

Rapporteur for opinion: Inese Vaidere

AMENDMENTS

The Committee on Economic and Monetary Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a directive Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) Financial Intelligence Units (FIUs) should endeavour to exchange financial information or financial analysis to prevent and combat money laundering, the associated predicate offences and terrorist financing more effectively as provided in Directive (EU) 2015/849.

Amendment 2

Proposal for a directive Article 1 – paragraph 1 – point -1 (new) Directive (EU) 2019/1153 Article 1 – paragraph 1

Present text

Amendment

This Directive lays down measures to facilitate access to and the use of financial information and bank account information by competent authorities for the prevention, detection, investigation or prosecution of serious criminal offences. It also lays down measures to facilitate access to law enforcement information by Financial Intelligence Units ('FIUs') for the prevention and combating of money laundering, associate predicate offences and terrorist financing *and measures to facilitate cooperation between FIUs.*

(-1) Article 1(1) is replaced by the following:

"This Directive lays down measures to facilitate access to and the use of financial information and bank account information by competent authorities for the prevention, detection, investigation or prosecution of serious criminal offences. It also lays down measures to facilitate access to law enforcement information by Financial Intelligence Units ('FIUs') for the prevention and combating of money laundering, associate predicate offences and terrorist financing."

(Directive 2019/1153)

Justification

Measures to facilitate cooperation between FIUs should be carried out under the legal basis provided by the Anti-money Laundering Directive.

Amendment 3

Proposal for a directive

Article 1 – paragraph 1 – point 1 a (new)

Directive (EU) 2019/1153

Article 9

Present text

Amendment

Article 9

(1a) Article 9 is deleted.

***Exchange of information between FIUs
of different Member States***

1. Member States shall ensure that in exceptional and urgent cases, their FIUs are entitled to exchange financial information or financial analysis that may be relevant for the processing or analysis of information related to terrorism or organised crime associated with terrorism.

2. Member States shall ensure that in the cases referred to in paragraph 1 and subject to their operational limitations, FIUs endeavour to exchange such information promptly.

(Directive 2019/1153)

Justification

Art 53 of the current AMLD5 introduces a broad legal basis for exchange of information between FIUs regarding money laundering and predicate offences, including terrorism. Article 9 of Directive (EU) 2019/1153 has therefore introduced an inconsistency regarding the legal basis for the exchange of information between FIUs in the EU, and, to avoid legal uncertainty, it should be deleted. Article 53 of the AMLD5 - and its replacing Article 24 of the Commission proposal for AMLD6 - should be the sole legal basis for exchange of information between FIUs.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Amending Directive (EU) 2019/1153 of the European Parliament and of the Council, as regards access of competent authorities to centralised bank account registries through the single access point
References	COM(2021)0429 – C9-0338/2021 – 2021/0244(COD)
Committee responsible Date announced in plenary	LIBE 13.9.2021
Opinion by Date announced in plenary	ECON 13.9.2021
Rapporteur for the opinion Date appointed	Inese Vaidere 16.9.2021
Discussed in committee	13.1.2022
Date adopted	14.3.2022
Result of final vote	+: 46 –: 3 0: 7
Members present for the final vote	Rasmus Andresen, Gunnar Beck, Isabel Benjumea Benjumea, Stefan Berger, Gilles Boyer, Carlo Calenda, Engin Eroglu, Markus Ferber, Jonás Fernández, Raffaele Fitto, Frances Fitzgerald, José Manuel García-Margallo y Marfil, Luis Garicano, Valentino Grant, Claude Gruffat, Enikő Győri, Eero Heinäluoma, Michiel Hoogeveen, Danuta Maria Hübner, Stasys Jakeliūnas, France Jamet, Othmar Karas, Billy Kelleher, Ondřej Kovařík, Aurore Lalucq, Aušra Maldeikienė, Pedro Marques, Costas Mavrides, Csaba Molnár, Siegfried Mureşan, Luděk Niedermayer, Lefteris Nikolaou-Alavanos, Piernicola Pedicini, Lídia Pereira, Kira Marie Peter-Hansen, Sirpa Pietikäinen, Dragoş Pîslaru, Evelyn Regner, Antonio Maria Rinaldi, Alfred Sant, Joachim Schuster, Ralf Seekatz, Pedro Silva Pereira, Paul Tang, Irene Tinagli, Ernest Urtasun, Inese Vaidere, Johan Van Overtveldt, Stéphanie Yon-Courtin, Marco Zanni, Roberts Zile
Substitutes present for the final vote	Manon Aubry, Karima Delli, Maximilian Krah, Chris MacManus, Andreas Schwab, Linea Søgaaard-Lidell
Substitutes under Rule 209(7) present for the final vote	Silvia Modig

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

46	+
ID	Antonio Maria Rinaldi, Marco Zanni
NI	Enikő Győri
PPE	Isabel Benjumea Benjumea, Stefan Berger, Markus Ferber, Frances Fitzgerald, José Manuel García-Margallo y Marfil, Danuta Maria Hübner, Othmar Karas, Aušra Maldeikienė, Siegfried Mureşan, Luděk Niedermayer, Lúdia Pereira, Sirpa Pietikäinen, Andreas Schwab, Ralf Seekatz, Inese Vaidere
Renew	Gilles Boyer, Carlo Calenda, Engin Eroglu, Luis Garicano, Billy Kelleher, Ondřej Kovařík, Dragoş Pîslaru, Linea Sogaard-Lidell, Stéphanie Yon-Courtin
S&D	Jonás Fernández, Eero Heinäluoma, Aurore Lalucq, Pedro Marques, Costas Mavrides, Csaba Molnár, Evelyn Regner, Alfred Sant, Joachim Schuster, Pedro Silva Pereira, Paul Tang, Irene Tinagli
Verts/ALE	Rasmus Andresen, Karima Delli, Claude Gruffat, Stasys Jakeliūnas, Piernicola Pedicini, Kira Marie Peter-Hansen, Ernest Urtasun

3	-
ID	Gunnar Beck, Maximilian Krah
NI	Leftis Nikolaou-Alavanos

7	0
ECR	Raffaele Fitto, Michiel Hoogeveen, Johan Van Oortveldt, Roberts Zīle
ID	Valentino Grant, France Jamet
The Left	Chris MacManus

	Corrections to votes and voting intention
+	Valentino Grant
-	
0	

Key to symbols:

+ : in favour

- : against

0 : abstention

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Amending Directive (EU) 2019/1153 of the European Parliament and of the Council, as regards access of competent authorities to centralised bank account registries through the single access point	
References	COM(2021)0429 – C9-0338/2021 – 2021/0244(COD)	
Date submitted to Parliament	20.7.2021	
Committee responsible Date announced in plenary	LIBE 13.9.2021	
Committees asked for opinions Date announced in plenary	ECON 13.9.2021	
Rapporteurs Date appointed	Emil Radev 29.11.2021	
Discussed in committee	31.3.2022	13.7.2022
Date adopted	12.1.2023	
Result of final vote	+: 56 –: 2 0: 1	
Members present for the final vote	Abir Al-Sahlani, Malik Azmani, Vladimír Bilčík, Malin Björk, Vasile Blaga, Patrick Breyer, Saskia Bricmont, Joachim Stanisław Brudziński, Patricia Chagnon, Clare Daly, Lena Düpont, Lucia Ďuriš Nicholsonová, Laura Ferrara, Andrzej Halicki, Evin Incir, Sophia in 't Veld, Patryk Jaki, Marina Kaljurand, Fabienne Keller, Łukasz Kohut, Moritz Körner, Alice Kuhnke, Jeroen Lenaers, Erik Marquardt, Nadine Morano, Javier Moreno Sánchez, Maite Pagazaurtundúa, Paulo Rangel, Karlo Ressler, Isabel Santos, Birgit Sippel, Sara Skyttedal, Vincenzo Sofo, Tineke Strik, Ramona Strugariu, Yana Toom, Milan Uhrík, Tom Vandendriessche, Elena Yoncheva	
Substitutes present for the final vote	Bartosz Arłukowicz, Damian Boeselager, Delara Burkhardt, Susanna Ceccardi, Olivier Chastel, Tudor Ciuhodaru, Nathalie Colin-Oesterlé, Gwendoline Delbos-Corfield, Klára Dobrev, Christian Doleschal, Cyrus Engerer, Loucas Fourlas, Romeo Franz, Daniel Freund, José Gusmão, Balázs Hidvéghi, Brice Hortefeux, Laura Huhtasaari, Rasa Juknevičienė, Beata Kempa, Dietmar Köster, Ondřej Kovařík, Sergey Lagodinsky, Nathalie Loiseau, Leopoldo López Gil, Jaak Madison, Giuseppe Milazzo, Alessandra Mussolini, Matjaž Nemeč, Janina Ochojska, Jan-Christoph Oetjen, Carina Ohlsson, Philippe Olivier, Kostas Papadakis, Anne-Sophie Pelletier, Morten Petersen, Giuliano Pisapia, Peter Pollák, Carles Puigdemont i Casamajó, Bergur Løkke Rasmussen, Sira Rego, Terry Reintke, Thijs Reuten, Franco Roberti, Rob Rooken, Domènec Ruiz Devesa, Silvia Sardone, Michal Šimečka, Sylwia Spurek, Paul Tang, Cristian Terheş, Róza Thun und Hohenstein, Romana Tomc, Dragoş Tudorache, Miguel Urbán Crespo, Nils Ušakovs, Tom Vandenkendelaere, Hilde Vautmans, Harald Vilimsky, Loránt Vincze, Petar Vitanov, Alexandr Vondra, Axel Voss, Maria Walsh, Charlie Weimers, Isabel Wiseler-Lima, Tomáš Zdechovský, Juan Ignacio Zoido Álvarez	

Substitutes under Rule 209(7) present for the final vote	Asim Ademov, Isabel Benjumea Benjumea, Jorge Buxadé Villalba, Marian-Jean Marinescu, René Repasi, Antonio Maria Rinaldi, Mounir Satouri, Jörgen Warborn
Date tabled	17.1.2023

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

56	+
ECR	Joachim Stanisław Brudziński, Patryk Jaki, Beata Kempa, Vincenzo Sofo
ID	Patricia Chagnon, Antonio Maria Rinaldi, Tom Vandendriessche
NI	Laura Ferrara
PPE	Asim Ademov, Isabel Benjumea Benjumea, Vladimír Bilčík, Vasile Blaga, Lena Düpont, Loucas Fourlas, Andrzej Halicki, Jeroen Lenaers, Marian-Jean Marinescu, Nadine Morano, Alessandra Mussolini, Paulo Rangel, Karlo Ressler, Sara Skyttedal, Loránt Vincze, Jörgen Warborn, Tomáš Zdechovský
Renew	Abir Al-Sahlani, Malik Azmani, Lucia Ďuriš Nicholsonová, Sophia in 't Veld, Fabienne Keller, Moritz Körner, Ondřej Kovařík, Maite Pagazaurtundúa, Ramona Strugariu, Yana Toom
S&D	Evin Incir, Marina Kaljurand, Łukasz Kohut, Javier Moreno Sánchez, Matjaž Nemec, René Repasi, Thijs Reuten, Domènec Ruiz Devesa, Isabel Santos, Birgit Sippel, Petar Vitanov, Elena Yoncheva
The Left	Malin Björk, Clare Daly, Sira Rego
Verts/ALE	Patrick Breyer, Saskia Bricmont, Alice Kuhnke, Erik Marquardt, Mounir Satouri, Tineke Strik

2	-
ID	Gunnar Beck
NI	Milan Uhrík

1	0
ECR	Jorge Buxadé Villalba

Key to symbols:

+ : in favour

- : against

0 : abstention