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European Commission
Mrs Věra Jourová
Commissioner for Justice, Consumers and Gender Equality
Rue de la Loi / Wetstraat 200
1049 Brussels
Belgium

15.10.2018, Brussels

Dear Commissioner Jourová,

On 26 June 2017, Germany transferred the responsibility for its Financial Intelligence Unit (FIU) from the Federal Criminal Police Office to the General Directorate of Customs. Since then, German media repeatedly reported about the non-functioning of the FIU constituting a clear violation of Article 32 of the 4th Anti-Money Laundering Directive (Directive (EU) 2015/849) stating: "1. Each Member State shall establish an FIU in order to prevent, detect and effectively combat money laundering and terrorist financing", "2. (...) Member States shall provide their FIUs with adequate financial, human and technical resources in order to fulfil their tasks" and "4. Member States shall ensure that their FIUs have access, directly or indirectly, in a timely manner, to the financial, administrative and law enforcement information that they require to fulfil their tasks properly."

Since the transfer of responsibility to the General Directorate of Customs end of June 2017, the German FIU has received more than 83,000 suspicious transaction reports filed by obliged entities. As of beginning of October 2018, 22,000 suspicious transaction reports are said to still wait for being processed by the FIU. According to the "Handelsblatt" 22,000 cases are waiting in an internal database without being effectively accessible to other law enforcement bodies. Once processed, an internal report of the Federal Criminal Police Office lists the problems and reveals that the reports forwarded by the FIU to the police or the public prosecutor's office are often incomplete, incorrect, useless, forwarded to the wrong recipient, sometimes heavily delayed or not transmitted at all. Cases were reported where the delayed action of the FIU led to criminal money being transferred by credit institutions despite having reported suspicions of money laundering. According to "BR Recherche" and "Der Spiegel", the FIU forwarded two suspect notifications of 29 and 30 June 2017, respectively, only one year later although they related to suspicions of terrorist financing. The State Offices of Criminal Investigation in Berlin, Lower Saxony, North Rhine-Westphalia and Hamburg confirmed that the two cases reported in the media are not the only ones where suspect notifications were forwarded by the FIU with delay. The State Office of Criminal Investigation in Saxony-Anhalt admitted that by July 2018 it had received 9 out of 12 suspect notifications with delay. In a specific case of summer 2017, also reported by "BR Recherche" and "Der Spiegel", the non-action of the FIU



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prevented the confiscation of nearly EUR 400.000 of a businessman who had been come to the attention of the police because of money laundering already in 2013.

While the German FIU has 125 permanent employees, it relies on additional 234 temporary staff of which, according to an internal analysis of the FIU, a large proportion have little technical knowledge in the field of combating money laundering. The FIU has no access to the databases of the State Criminal Investigation Office whose working group “Criminal Investigation Department” has recently refused to change this situation in the future. Such an access seems crucial to ensure an effective functioning of the FIU. So far there is no solution for this structural deficiency of the German FIU.

All in all, the disastrous state of the German FIU is said to pose a significant risk to national and European security. Given the obvious non-fonctioning of the German FIU, we would like to call on the the Commission to take action swiftly. It is important not only to tackle the lack of enforcement of the EU’s anti-money laundering laws in small member states but also in the large member states. Therefore, we would like to ask the Commission to make further enquiries with a view to start an infringement procedure against the Federal Republic of Germany for breaching its obligations under the 4th Anti-Money Laundering Directive (Directive (EU) 2015/849), in particular Article 32. This letter is accompanied by an official question with a request for a written answer by the Commission according to Rule 130 of the Rules of Procedure of the European Parliament.

Kind regards,

Sven Giegold
MEP