

VĚRA JOUROVÁ
Member of the European Commission

Brussels, 12/3/2019

Dear honourable Member of the Parliament,

Thank you for your letter of 11 February 2019 addressed to Mr Juncker, President of the European Commission, who asked me to reply on his behalf.

As regards the first issue, you state that the German transposition of the 4th Anti-Money Laundering Directive does not follow the legal requirements with respect to the obligation to identify and report the beneficial owners of a company. You state that according to Article 20 paragraph 3 of the German Act on the Detection of Profits from Serious Criminal Offences (GwG) adopted on 23 June 2017, in situations of indirect control, the German legal entity has no obligation to identify the beneficial owner. Instead, the obligation is on the beneficial owner to report himself. For this reason, the obligation to identify and report the beneficial owner would be limited to situations where a company is directly controlled by a beneficial owner that is a natural person. In contrast, Article 30 of the 4th Anti-Money Laundering Directive states that it is the obligation of the company to identify its beneficial owners without any exceptions and under all circumstances.

From the preliminary assessment of the Commission that is currently being carried out, it does not appear that Article 20 of the German Act on the Detection of Profits from Serious Criminal Offences is contrary to Article 30 of the Directive. According to Article 20 paragraph 1 of this German law, in combination with Article 3 of the German Act, the main obligation to collect, retain and keep up to date information about the beneficial owners still applies to the legal entity. Article 20 paragraph 3 of the German law is merely an additional provision laying down the methods regarding the way in which such beneficial ownership information is collected at the level of the legal entity. This issue is not regulated by the Directive.

The assessment of the correctness of the German law in transposing provisions of 4th Anti-Money Laundering Directive is still ongoing as part of a horizontal transposition check of all national measures transposing the Directive in the national law of Member States. Nevertheless, I would like to draw your attention to the fact that the Commission is not currently checking the transposition of the obligation of Member States to establish the beneficial ownership registers and access rights of third parties to these registers, including the fees charged for such access, as these obligations of Member States were postponed for a later date by the 5th Anti-Money Laundering Directive. Thus, Member States are obliged to establish the centralised beneficial ownership registers for companies only by 10 January 2020 and the centralised beneficial ownership registers for trusts by 10 March 2020.

Mr Sven Giegold
Member of the European Parliament

As regards the second issue in your letter, the alleged failure of Germany to transpose provisions of 4th Anti-Money Laundering Directive regarding the Financial Investigation Unit, the Commission's assessment is that the transposition of the relevant provisions by Germany is largely complete. As regards issues relating to the functioning of the German Financial Intelligence Unit, the Commission services have established a dialogue with the German authorities to better understand the root causes of what media have reported and how these issues are addressed by the German authorities. It is the assessment of the Commission that the initial difficulties have been largely remedied and the Commission intends to continue its dialogue with the German authorities in this respect.

Let me assure you that the complete and correct transposition of EU anti-money laundering rules is a priority for the Commission. On the basis of the findings of the detailed analysis, the Commission will take appropriate steps in cases of possible infringements of EU law.

Yours faithfully,



Věra Jourová