

# **MONEY LAUNDRY AND THE SPECIFIC OBLIGATIONS FOR THE EUROPEAN LAWYERS**

The European Directives - Last news and the  
impact in the member states

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## The European Directives - Last news and the impact in the member states

- **History of the legislation (I)**
  - **1991 - first anti-money laundering Directive (91/308/EEC)**
  - 1996 – Council Regulation concerning on-the-spot checks and inspections (2185/96)
  - 1999 – Commission decision on OLAF (1999/352/EC)
  - 2000 - Council Decision on information exchange (2000/642/JHA)
  - 2001 - Council Framework Decision on identification, tracing, freezing, seizing and confiscation (2001/500/JHA)

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- **History of the legislation (2)**
  - 2001 – second anti-money laundering Directive (2001/97/EC)
  - 2002 – Council decision on Eurojust (2002/187/JHA)
  - 2005 – Council Framework decision on confiscation (2005/212/JHA)
  - 2005 - Council Decision on combating euro counterfeiting (2005/511/JHA)
  - **2005 – third anti-money laundering Directive (2005/60/EC)**

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- **Activities after adoption the third AML Directive (I)**
  - 2006 – interinstitutional agreement (Official Journal C 139 , 14/06/2006)
  - 03.08.2006 - Commission adopts 'level 2' implementing measures to Third Directive
  - 12.2006 – Commission proposal to modify the AML Directive as regards the comitology procedure to adopt implementing measures.
  - 03.2008 – amending the third AML Directive (2008/20/CE) (*Other amendments introduced by directives 2007/64/EC, 2009/110/EC, 2010/78/UE*)

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- **Activities after adoption the third AML Directive (2)**
  - 24.01.2011 - Publication of an external study on the application of the AML Directive
  - 18.02.2011 - a meeting of the Commission staff with private sector stakeholders to discuss anti-money laundering issues
  - 04.10.2011 – a Commission staff working paper „ *Supervision of and reporting by Payment Institutions*”

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- **Activities after adoption the third AML Directive (3)**
  - *11.04.2012* – the Commission adopts a report on the application of the Third Anti Money Laundering Directive
  - *31.07.2012* – a Commission feedback statement of the comments received on the application report

## The European Directives - Last news and the impact in the member states

- **A Commission report on the application of the Third AML Directive – possible changes (I)**
  - national/supranational risk assessments
  - RBA to supervision
  - RBA applied by FIs and Designated Non Financial Businesses and Professions (DNFBPs)
  - Criminalisation at EU level could be envisaged
  - Possible extending the scope of the Directive to direct cover tax crimes
  - Broadening the scope beyond the existing obliged entities
  - Possible changes in three levels of customer due diligence (Regular CDD, EDD and SDD)

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- **A Commission report on the application of the Third AML Directive – possible changes (2)**
  - Some changes regarding PEPs
  - Verifying 25% thresholds
  - Desired revising the EU Anti-Money Laundering legislation in 2012 to enhance the transparency of legal persons and legal arrangements
  - Clarification reporting duties
  - Enhancing access of FIUs to the information
  - New provisions regarding group compliance
  - To discuss role of the Self-Regulatory bodies
  - Changes regarding third country equivalence



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- **A Commission report on the application of the Third AML Directive – lawyers (I)**

- Lawyers are subject of the provisions of the Directive

- Existing exemption – Article 23.2:

*“information they receive from or obtain on one of their clients, in the course of ascertaining the legal position for their client or performing their task of defending or representing that client in, or concerning judicial proceedings.”*

All Member States have opted to include the exemption of Article 23(2) of the Directive in their national legislation

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- **A Commission report on the application of the Third AML Directive – lawyers (2)**
  - Commission's position: reporting obligations do not violate a professional secrecy
  - There is no other needs to change provisions regarding lawyers except too low level of reporting transactions by lawyers.

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- **A Commission report on the application of the Third AML Directive – conclusion**

Although there may be some need of changes in the AML regulations, in the Commission's opinion Directive works well. We shall not expect any serious amendments regarding legal professions.

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Thank you for your attention

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