



EU Anti-Money Laundering strategy: no end in sight

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The EU-Commission adopted its new [Anti-Money Laundering Package](#) in the beginning of May 2020, in which it proposes further comprehensive measures to combat money laundering. Following the 5th AML-Directive (now implemented in Germany, see *Burmeister/Uwer*, AnwBI Online 2020, 382), new legislative plans are being prepared. The anti-money laundering obligations for lawyers increase constantly and become more and more complex. Nonetheless, the EU-institutions still voice a demand for improvement, which is also evident from the [Commission's communication](#) published in July 2019 and the [Council conclusions](#) on strategic priorities on anti-money laundering and countering the financing of terrorism of December 2019.

The Anti-Money Laundering package is essentially built on six pillars. In addition to reinforced cooperation between Financial Intelligence Units (FIU) and ensuring the efficient and comprehensive implementation of the existing provisions, two aspects of the package relating to the work of lawyers deserve special attention: Firstly, a European supervisory authority with direct AML/CFT supervisory tasks could call into question the role of self-regulation. Secondly, some provisions relevant to anti-money laundering could be turned into directly applicable provisions set out in a new AML-Regulation (Single Rulebook).

There is broad agreement at EU level that a more effective framework for the prevention of money laundering is necessary. Although ineffective application of AML-provisions is constantly being criticised, it cannot be located at the level of lawyers. Since lawyers react immediately in the course of exercising AML-obligations and are bound by professional rules which lead to the possible subsequent resignation from a mandate (or even rejection of a mandate), they act at an early stage in order to prevent money laundering. Nevertheless, the development of AML-Directives shows the tendency that professional legal privilege as well as the protected client-lawyer confidentiality relationship are becoming increasingly diluted. Likewise, self-regulation of lawyers, which ensures the independence of the legal profession, should be emphasised in the discussion on a single supervisory authority at EU-level.

The question of the added value of a single European supervision for heterogeneous groups of obliged entities in the anti-money laundering framework is also left open. Professional rules for different groups of obliged entities are not harmonised on EU level and even differ from Member State to Member State. In practical terms, a "*One Size Fits All*" approach could probably only be successfully implemented for obliged entities in the financial sector. All the more, since the AML-Directives were primarily drafted for financial and credit institutions and other obliged entities were added at a later stage. Their investigation-powers and insight in relation to AML activities enable those institutions to uncover criminal activities at an early stage, in contrast to lawyers, whose role as "investigators" is incompatible with professional standards and professional legal privilege.

Therefore the published Anti-Money Laundering Package is also an opportunity to show European legislators where the strengths of the legal profession lie and how the group of obliged entities varies within the framework.