

Legal Regulation & Education: Doing the Right Thing?

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The Fourth AML Directive

The aim of this paper is to establish the link between legal requirements and their technical implementation with regard to anti-money laundering (AML) and combating the financing of terrorism (CFT). Special regard shall be paid to the Fourth AML Directive (COM(2013) 45 final) and the new developments it might provide. The centre piece of the EU's AML/CFT regime is the Third AML Directive (2005/60/EC), which is supposed to be replaced by the Fourth AML Directive. The resulting amendments and their impacts shall be examined.

Moreover, it will be explored whether deployed technologies infringe citizens' fundamental rights and what consequences derive from a regulatory model, based on a two stage procedure.

Money laundering and terrorist financing are inter alia targeted by tracking financial transactions. The major tools are on the one hand public and commercial watch lists and on the other hand transaction monitoring software. However, financial transactions are not being monitored by state authorities, but by stakeholders of the private sector.

Therefore, the fight against money laundering and terrorist financing is a two stage procedure, where state authorities outsource a major part of their tasks and responsibilities. Financial institutions monitor the transactions of their customers pursuant to international, European and national laws as well as internal policies. To comply with legal requirements they are forced to use sophisticated surveillance software and to collect large amounts of personal data. As a result, infringement of privacy rights and other fundamental rights is hardly avoidable.