

MICHEL BARNIER

*Membre de la Commission européenne*

Brussels, 27. 03. 2014  
JC/cq D(2014) 590994

Dear Ms Gomes,

Thank you for your letter of 11 February 2014 by which you bring to my attention and that of my colleague Cecilia Malmström your concerns regarding the nature of the dealings between the Portuguese bank BANIF and a company in Equatorial Guinea. I reply on behalf of us both.

I share your opinion that the threats caused by money laundering to the financial integrity of our Member States, in this case Portugal, should be prevented and dealings where there is clear proof of involvement of dirty money should not be allowed.

However, the European Commission is not in a position to give instructions to a national government or intervene in the internal affairs of a Member State based on general allegations, unless the Member State in question is violating EU law or misapplying the relevant EU regulations.


As you point out in your letter, Portugal has implemented the Anti-money Laundering (AML) Directive and consequently should have rules in place which indicate to the relevant actors what should be done in situations where there is suspicion of money laundering activities. Based on AML rules, obliged entities are required to apply enhanced customer due diligence (CDD) measures in respect of politically exposed persons residing in a third country. Thus, financial institutions should take adequate measures to establish the source of wealth and funds that are involved in the business relationship or transaction (Directive 2005/60/EC, art 13). Where an obliged entity is unable to comply with CDD obligations, it may not carry out a transaction through a bank account or establish a business relationship, or it shall terminate the business relationship and shall consider making a report to the financial intelligence unit (art 9(5)).

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The AML Directive further obliges Member States to require obliged entities to pay special attention to any activity which they regard as particularly likely, by its nature, to be related to money laundering or terrorist financing and in particular complex or unusually large transactions and all unusual patterns of transactions which have no apparent economic or visible lawful purpose. Member States shall require the obliged entities to refrain from carrying out transactions which they know or suspect to be related to money laundering or terrorist financing until they have notified the financial intelligence unit. In conformity with the legislation of the Member States, instructions may be given not to carry out the transaction (art 24).

You inform us in your letter that the issue has already been raised with the relevant national authorities. In light of the rules I referred to above, these national authorities will be responsible for taking concrete further action if necessary.

Thank you again for bringing this important matter to my attention.

Yours sincerely, 



Michel BARNIER