



Brussels, 22 March 2019
(OR. en)

Interinstitutional File:
2017/0226(COD)

7633/19
ADD 1

CODEC 703
DROIPEN 41
CYBER 97
JAI 304
TELECOM 136
MI 267

'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Draft Draft DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on combating fraud and counterfeiting of non-cash means of payment and replacing Council Framework Decision 2001/413/JHA (**first reading**)

- Adoption of the legislative act
- Statement

Statement by the Czech Republic

The Czech Republic supports the aim of the Directive of the European Parliament and of the Council on combating fraud and counterfeiting of non-cash means of payment and replacing Council Framework Decision 2001/413/JHA (hereinafter referred to as “the Directive”) to strengthen the fight against criminal activities in the area of non-cash payment instruments. Nevertheless, the Czech Republic would like to highlight its concerns regarding Article 16 of the Directive on assistance and support to victims.

In our view, rights, support and protection of victims of crime are sufficiently and comprehensively covered by the Directive 2012/29/EU of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime (hereinafter referred to as “Victims Directive”). The Victims Directive defines the term “*victim*” as a natural person.

However, under Article 16 of the Directive Member States shall provide assistance and support not only to natural persons but also to legal persons who have suffered harm as a result of any of the offences referred to in Articles 3 to 8 of the Directive, therefore requesting the Member States to ensure that legal persons aggrieved by criminal offences pursuant to this Directive are awarded the same level of protection as the natural persons.

It shall be noted that unlike natural persons who might also be regarded as particularly vulnerable (e.g. elderly people), legal persons have at least a minimum extent of proficiency, knowledge, experience and they are also supposed to be acquainted with possible risks related to their business activities. Therefore the Czech Republic considers that there is no need to provide legal persons with specific advice and information going beyond criminal proceedings, e.g. how to protect themselves against the negative consequences of the offences, such as reputational damage as this is typically the subject of civil proceedings.

Similarly, the obligation to provide legal persons with specific information without undue delay after their first contact with a competent authority seems unjustified and disproportionate. The Czech Republic considers that it would be sufficient to inform legal persons about their procedural rights in criminal proceedings, such as the right to receive information about the case, in accordance with national law.

The Czech Republic also considers an approach introduced by this Directive as a non-systematic and partial broadening of legal persons’ rights and protection as it only applies to the criminal activity in the area of non-cash means of payment. If there is a need at EU level to regulate rights of legal persons who have suffered harm as a result of criminal offences, these rights should be regulated in a systematic way within a single general legal instrument.

Moreover, the approach introduced by the Directive causes a terminological problem. The Czech Republic is of a view that the term “*victim*” should be used consistently within all EU legal instruments.