



Anti-Money Laundering Newsletter

GARRIGUES

April 2021

1. Spain transposes the 5th Directive on the prevention of money laundering

The [V Directive \(2018/843\)](#) on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, has been incorporated into our legal system by means of [Royal Decree-Law 7/2021](#), of April 27, on the transposition of European Union directives approved this Tuesday, April 27, 2021 by the Council of Ministers and published in the BOE on April 28.

The transposition avoids the initiation by the European Commission of a sanctioning procedure before the Court of Justice of the EU against Spain for the failure to transpose the 5th Directive into our national legislation, whose deadline for its transposition ended on January 10, 2020.

Furthermore, the publication of Royal Decree-Law 7/2021, as stated in its preamble, has the double objective of perfecting the mechanisms for the prevention of terrorism and improving the transparency and availability of information on the beneficial owners of legal persons and other entities without legal personality that act in the legal traffic.

The main amendments to Law 10/2010, of April 28, 2010, on the prevention of money laundering and terrorist financing (hereinafter, "**Law 10/2010**") included in Royal Decree-Law 7/2021 for the transposition of the V Directive are the following:

- The inclusion of **new obliged subjects**:
 - (i) Those who professionally exercise agency, commission or intermediation activities in real estate leasing involving a transaction for a total annual rent equal to or greater than 120,000 euros or a monthly rent equal to or greater than 10,000 euros.
 - (ii) Providers engaged in exchange services between virtual currencies and fiat currencies, as well as custodian wallet providers or safeguarding of keys, with the consideration of financial entities for the purposes of Law 10/2010.
 - (iii) Any person who undertakes to provide, directly or through other related persons, material aid, assistance or advice on tax matters as a main business or professional activity.
- The reinforcement of the system of identification of the beneficial owners of legal entities, for which a single registry system is created, which will include the information of the beneficial owners already existing in the Commercial Registry and in the notarial databases, and will incorporate the mandatory registration of trusts and entities of similar nature operating in our country and their beneficial owners.
- It establishes the duty for obliged entities to request this registry information in their business relations with legal entities, and the duty for legal entities and entities without legal personality to obtain keep and update their beneficial ownership information and provide it to authorities and obliged entities when so required.
- The clarification of the information requirements to be provided in relation to the Financial Ownership File (*Fichero de Titularidades Financieras*), existing in Spain since 2016. Specifically, the regulation clarifies the obligations of declaration in the file by the reporting entities and extends this obligation to safe deposit boxes and all payment accounts, including those existing in electronic money institutions and in all payment institutions.

- Persons who perform important public functions in international organizations accredited in Spain are incorporated to the definition of politically exposed persons. These organizations must draw up and keep updated a list of these public functions.
- In business relationships and transactions without physical presence, it will not be mandatory to obtain a copy of the document proving the identity of the client when it has been accredited by means of a qualified electronic signature under the terms regulated in the EIDAS Regulation.
- The data protection regime when complying with due diligence obligations is included, expressly stating that the processing of personal data that is necessary to comply with the obligations established in Chapter II of Law 10/2010 is covered by the provisions of article 8.1 of Organic Law 3/2018, of December 5, and article 6.1 c) of Regulation (EU) 2016/679 of the European Parliament and of the Council, of April 27, 2016, not requiring the consent of the data subject.

Once this amendment has been approved by the royal decree-law, the entities and groups that are considered as "obliged entities" must carry out an evaluation exercise and, if necessary, adapt their models and procedures for the prevention of money laundering and the financing of terrorism to the new regulatory requirements.

The transposition by this means has left behind the option of the Draft Law amending Law 10/2010, of 28 April, on the prevention of money laundering and financing of terrorism, which was published in our country on 12 June 2020, with which the V Directive was transposed and which included additional improvements to our system for the prevention of money laundering, which are not included in the text of Royal Decree-Law 7/2021, which only contemplates the urgent provisions incorporated in the V Directive.

Some of the improvements envisaged in the draft bill that have been left out by opting to approve a royal decree-law are: (i) the inclusion of new obliged entities such as management companies of securization funds, management companies of banking assets funds, the Real Estate Investment Trusts (REIT or Spanish SOCIMIS), and participatory financing platforms; (ii) the approval of a new liability system for external experts; and (iii) the development of common data storage services between entities.

Most of these additional improvements were already included in the previous draft proposal for the transposition of the IV Directive (2015/849), which was not finally approved due to the lack of consensus in the Congress of Deputies due to the political context and the urgency of the deadline for the transposition of the regulation.

2. Legislation and publications of official bodies

2.1 The Commission for the Prevention of Money Laundering and Monetary Infringements has published the list of positions determining Politically Exposed Person (PEP) status

In January 2021, the Commission for the Prevention of Money Laundering and Monetary Infringements ("CPBC", for its acronym in Spanish) published in the web page of the Spanish Public Treasury the **list of positions determining Politically Exposed Person status** (from now on, the "List") in compliance with the provisions of article 14.3 of [Law 10/2010, of April 28, on the prevention of money laundering and financing of terrorism](#) (from here on, "**Law 10/2010**").

Article 14 of Law 10/2010 establishes that obliged entities shall apply the enhanced due diligence measures set forth in that article in the business relationships or transactions with politically exposed persons (hereinafter, the "PEP").

Specifically, this provision stipulates that *those who perform or have performed important public functions* at both national and international level will be RPRs, establishing a specific series of cases -among which we can find, among others, heads of state, members of parliament, senior management positions in Spanish trade union or business organizations or ambassadors-.

Given the breadth of this definition, the same Article 14, in its paragraph 3 and as a result of the amendment of Law 10/2010 through Royal Decree-Law 11/2018, of August 31, which transposed the IV Directive (EU) 2015/859 on the prevention of money laundering in our country, included a mandate for the CPBC to prepare and publish a list detailing what type of functions and positions determine the consideration of PEP.

Said List, has been expressly included in the Community legislation by Article 20a of the V Directive (EU) 2018/843 on the prevention of money laundering, which establishes that Member States shall draw up an updated a list of the exact functions which, according to national laws, regulations and administrative provisions, are considered to be important public functions.

The aforementioned List published in January 2021 on the website of the Public Treasury, was drawn up in July 2020 by the CPBC, without prejudice to the existence of other persons of legal responsibility due to their positions or functions in other countries (foreign persons of public responsibility), or in international organizations as defined in Article 14 of Law 10/2010. Thus, the list enumerates the functions or positions that determine the consideration of a person with Spanish public liability, for those who perform or have performed such functions or positions.

The list also includes the affected positions within the scope of political parties and trade unions, the State, autonomous communities and local entities:

- (i) Political parties and trade unions: in this section, it includes those persons holding senior management positions with representation in democratic institutions - leaving out of this framework the parties that are not represented - and in Spanish trade unions and business organizations, enumerating a list of senior management positions.
- (ii) State: in this block, the CPBC broadly lists a series of positions related to the General State Administration or other large public administrations such as the Supreme Court, the Constitutional Court, the Congress, the Senate, among others.
- (iii) Autonomous Communities: this section includes positions of great responsibility related to the autonomous structure such as presidencies and vice-presidencies, the autonomous legislative power or the senior management of the public companies in which the Autonomous Community has an interest, among others.
- (iv) Local entities: this item includes mayors, councilors and other positions of responsibility that operate in municipalities with more than 50,000 inhabitants and, in any case, in the capitals of the provinces, as well as of the Autonomous Communities.

The List has been a step forward in the identification of the PEP, facilitating the work of the obligated entities by being able to specifically define which positions will have this status. However, the number of positions contemplated is still high, so the obliged entities need to rely on other additional mechanisms for the identification of the PRPs, such as digital tools, self-declarations or contrasts with public sources of information.

Lastly, the list contains the positions within political parties and labor unions, central government, regional governments and local authorities.

More information [here](#).

2.2 Countdown for the transposition of the “whistleblowing” or anonymous reporting channel Directive

December 17, 2021 is the limit date for transposition of [Directive \(EU\) 2019/1937 of the European Parliament and of the Council of 23 October 2019](#), which came into force on December 16, 2019, on the protection of persons who report breaches of Union law. On that date, national legislation which gives effect to the obligation to establish internal reporting channels must be in force (article 26 of the Directive).

This Directive contains rules and procedures to protect persons who provide information acquired in a work-related context, regarding breaches of EU Law in key policy areas. The breaches include both unlawful acts and omissions and unfair practices.

The Directive covers the **reporting of breaches of anti-money laundering and counter-terrorist financing regulations**, together with other different areas, such as public procurement; financial services, products and markets; protection of the environment; consumer protection; protection of privacy and personal data; breaches affecting the financial interests of the EU; breaches relating to the internal market, including breaches of EU competition and state aid rules, as well as breaches of corporate income tax rules, amongst other.

2.3 The EBA launched a public consultation on changes to its guidelines regarding the supervision of anti-money laundering systems with a risk-based approach

The European Banking Authority (EBA) has issued a [public consultation](#) proposing changes to its guidelines on the supervisory features of anti-money laundering and terrorist financing prevention systems with a risk-based approach.

Since the publication of the guidelines in 2016, the EBA has observed that EU supervisors find it difficult to implement the risk-based approach for AML/CFT supervision, which means that supervision is not always as effective as would be advisable. The proposed changes address the key obstacles to effective AML/CFT supervision.

The revised guidelines also propose taking into consideration the changes in the EU legal framework since the original guidelines were published, as well as new international guidance of the Financial Action Taskforce (FATF) and the Basel Committee on Banking Supervision on this subject.

The public consultation will run until June 17, 2021. Comments on the draft guidelines can be sent on the EBA consultation page. All contributions received will be published following the close of the consultation, unless requested otherwise.

2.4 EBA highlights the main money laundering and terrorist financing risks in the EU's financial sector

On March 3, 2021 the EBA published its [Opinion on the risks of money laundering and terrorist financing affecting the EU financial sector](#).

In the document, the EBA identifies the risks that are applicable to the entire financial system, for instance the use of innovative financial services or the differences in the treatment by competent authorities of financial institutions' involvement in facilitating tax-related crimes.

The list of risks includes those arising from COVID-19 which have an impact on compliance with prevention obligations, since they require immediate attention and monitoring by competent authorities.

Other risks identified in the document were already identified in previous reports, like those associated with virtual currencies.

As a complement to this report, the EBA has developed an interactive tool giving European citizens, competent authorities and financial institutions access to all risks relating to money laundering and terrorist financing covered in the document.

2.5 The Spanish Public Treasury publishes its National Risk Analysis

The Spanish Public Treasury published, in mid-December 2020, the document [National Analysis of Money Laundering and Terrorist Financing Risks– 2020](#), which revises and updates the various existing risk assessments, with the participation of authorities and institutions associated with combating money laundering and terrorist financing.

Among the objectives of this analysis it is sought to integrate in a single document the analyses and conclusions of various existing documents regarding risks and threats in these areas, taking into consideration the framework of the National Security System. Additionally, to review the threats to which Spain is subject and their weight in determining the AML/CFT risk, to establish the general vulnerabilities of the system and describe their evolution in the various sectors, identify and assess the residual risks following application of legislative, preventive, supervisory and financial intelligence measures and determine lines of action for mitigation of the risks identified.

2.6 The Bank of Spain and the Commission for the Prevention of Money Laundering enter into a new agreement that sets out the basic rules for collaboration and coordination between both entities

The Bank of Spain and the Commission for the Prevention of Money Laundering and Monetary Infringements have entered into a new agreement, defined in a [decision of February 23, 2021](#) and published in the Official State Gazette (BOE) on February 26.. The agreement sets out the basic rules for collaboration and coordination between both entities for the economic, budgetary and procurement system of the Commission's Enforcement Service.

The Commission, which reports to the Secretary of State for the Economy and Business Support attached to the Ministry of Economic Affairs and Digital Transformation, is in charge of coordinating the enforcement of Anti-Money Laundering and Counter-Terrorist Financing Law 10/2010, of April 28, 2010, which entrusts to it the function of approving the budget of its Enforcement Service, following consultation with the Bank of Spain.

The Commission's Enforcement Service permanently guides its activity, which means that the powers relating to the economic, budgetary and procurement system for the enforcement service are exercised by the Bank of Spain.

The Bank of Spain and the Commission for the Prevention of Money Laundering and Monetary Infringements considered it necessary to prepare a new agreement, after the previous agreement expired, in order to adapt its content to the current legal requirements and to the identified needs.

The new agreement provides, among other things, for the creation of a mixed monitoring committee, which will meet at the request of either of the parties (at least once a year) and will be formed by two members appointed by the Bank of Spain and another two who represent the secretariat of the Commission.

2.7 The European Commission favors a new independent AML/CFT supervisor

European Union finance ministers (ECOFIN) at their meeting at the end of 2020 supported the establishment of an EU anti-money laundering supervisor (EU AML/CFT supervisor) to complement the oversight of national authorities, after several cases of money laundering in EU banks in recent years.

In this regard, in May 2020, the European Commission published an [AML/CFT Action Plan](#), which proposed, in section 3, the creation of an independent EU AML/CFT supervisor, as a result of which this task would cease to fall within the powers of the European Banking Authority (EBA). The new agency would be financed by a tax on financial institutions and other organizations that use their services.

ECOFIN has supported the creation of this EU AML/CFT supervisor with the power to impose administrative sanctions and the capacity to review internal policies, procedures and controls, as well as their effective implementation by the supervised entities, together with the review of documentation regarding transactions and clients. It will also incorporate new rules which will make suspicious activity reports (SARs) more important and will coordinate the information that is shared by obliged entities.

Given the complexity of the functions and the considerable number of obliged entities at EU level, the AML/CFT supervisor may also be devised in an incremental way, allowing it, as it consolidates and proves its effectiveness, **to cover all (financial and non-financial) sectors subject to AML/CFT obligations**. Another option would be for the EU supervisor to take direct charge of the financial sector as part of a system integrated with the national supervisor and to would be responsible for the indirect supervision of the nonfinancial sector, ensuring a minimum standard.

2.8 The U.S. updates its laws on the prevention of money laundering and terrorist financing

On December 2020 the U.S. Senate passed the [National Defense Authorization Act](#) and, as part of that legislation, the Anti-Money Laundering Act of 2020 and the Corporate Transparency Act.

The act's provisions broaden and update the Bank Secrecy Act, or BSA, and U.S. AML/CFT rules.

Among the key provisions of the new regulation, it:

- Establishes new reporting requirements in relation to beneficial ownership for certain entities that do business in the U.S., shell companies.
- Increases the rewards for AML/CFT whistleblowers, to of up to 30% of the penalties imposed on an entity when the reporting gives rise to penalties of more than one million dollars, and increases the protection of whistleblowers.
- Updates the legal definition of financial institution to include, in accordance with the existing FinCEN regulations, entities that offer custodian wallet providers or virtual currency services.
- Modifies the penalties for breaches of the Bank Secrecy Act, or BSA and AML.
- Established measures coordination and cooperation between international and federal agencies in applying AML/CFT law.

2.9 The European Council intends to adopt new rules to avoid the spread of terrorist contents online

The EU seeks to prevent terrorists encouraging violence on the internet. To achieve this, on March 3, 2021, the European Council has proposed a [Regulation](#) on the dissemination of text, images, audio or video files used to incite the commission of acts of terrorism, give instructions to commit offenses or seek participation in terrorist groups.

The purpose of this legislation is to combat misuse of the internet for criminal purposes by terrorists, with the objective of spreading propaganda, learning to manufacture explosives, inciting the commission of lone terrorist attacks or publishing their activities live, by establishing a common instrument for all the member states. The rules will apply to hosting service providers that offer services in the EU, regardless of whether they have establishments in the member States.

3. Risk jurisdictions in relation to AML/TF

3.1 The lists of the FATF and the European Commission on non-cooperative jurisdictions in the field of money laundering and terrorist financing prevention are updated by in relation to countering have been updated

On March 8, 2021 the Spanish Public Treasury published the updated list of high-risk jurisdictions in relation to countering money laundering and terrorist financing included on the FATF and EU lists. The communication can be found [here](#).

FATF LIST

The FATF list following the statement issued in February 2021 remains the same as in February 2020. However, the February 2021 statement does not necessarily reflect the most recent status of the systems for countering money laundering and terrorist financing in Iran and in the Democratic People's Republic of Korea.

The FATF keeps the following on the [“black” list](#) of high-risk countries which show strategic deficiencies in relation to countering money laundering and terrorist financing:

- **The Democratic People's Republic of Korea (DPRK or North Korea):** The FATF again reports the existence of significant deficiencies in its AML/CFT regime and the serious threats those deficiencies pose to the international financial system. It also expresses its concern about the threat posed by illicit activities related to the proliferation and financing of arms of mass destruction. It urges all jurisdictions to apply countermeasures and targeted financial sanctions in accordance with U.N. Security Council Resolutions and EU Regulations (the financial sanctions against North Korea are contained in [Council Regulation \(EU\) 2017/1509 of 30 August 2017](#) concerning restrictive measures against the Democratic People's Republic of Korea), to protect their financial sectors.
- **Iran:** Due to considering that it has not carried out all the reforms launched in its 2016 Action Plan, the FATF has decided to lift fully the suspension of countermeasures and to call on all jurisdictions to apply effective countermeasures in line with FATF Recommendation 19 and the EU Regulations (the latest amendment to Council Regulation (EU) No 267/2012 of 23 March 2012 concerning restrictive commercial and financial measures against Iran was made by Enforcement Regulation (EU) 2020/1695 of the Commission of 12 November 2020).

On its [grey list](#) of countries with strategic money laundering and terrorism financing deficiencies, subject to an action plan to resolve their deficiencies, during a plenary session, the FATF **added four new countries to the watch list: Morocco, Burkina Faso, Senegal and the Cayman Islands**. The list now has 19 countries: Albania, Barbados, Botswana, Burkina Faso, Cambodia, Cayman Islands, Ghana, Jamaica, Mauritius, Morocco, Myanmar, Nicaragua, Pakistan, Panama, Senegal, Syria, Uganda, Yemen and Zimbabwe.

LIST OF HIGH-RISK COUNTRIES DEFINED BY THE EUROPEAN UNION

Pursuant to article 11 of Law 10/2010 of 28 April, on the prevention of money laundering and terrorist financing, Spain must apply enhanced due diligence measures in relation to the countries designated in the updated version of [Commission Delegated Regulation 2016/1675](#) of 14 July 2016 identifying high-risk third countries with strategic deficiencies, in accordance with article 9 of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015.

On January 18, 2021 the European Commission published [Commission Delegated Regulation \(EU\) 2021/37 of 7 December 2020](#), amending and updating the list of high-risk countries in Commission Regulation 2016/1675. **Mongolia was removed** from the list because, following its assessment by the FATF, it no longer had strategic deficiencies in its AML/CFT regime.

The updated list of the EU contains references to North Korea and Iran, pointing to the specific treatment as high-risk countries which the FATF itself applies to these jurisdictions, and alongside these it also lists as countries with strategic deficiencies: Afghanistan, Bahamas, Barbados, Botswana, Cambodia, Ghana, Iraq, Jamaica, Mauritius, Myanmar, Nicaragua, Pakistan, Panama, Syria, Trinidad and Tobago, Uganda, Vanuatu, Yemen and Zimbabwe.

3.2 Spain will not include Gibraltar on the list of tax havens after the entry into force of the tax agreement

Spain has notified the removal of Gibraltar from its *blacklist* of tax havens, created in 1991, following the entry into force of [the International Agreement on Taxation and Protection of Financial Interests](#) regarding Gibraltar between Spain and United Kingdom in that territory.

This [treaty, published in the BOE](#), seeks to reaffirm the application in Gibraltar of rules consistent with the European rules on tax transparency and countering money laundering following the United Kingdom's departure from the EU; it also seeks to enhance cooperation and the exchange of information to prevent Gibraltar from acting as a refuge for Spanish tax evaders.

This agreement, which came into force on March 4, 2021, sets out the rules to determine when an individual or legal entity is considered tax resident in Spain: "Natural persons shall be tax resident only in Spain, when they spend 183 overnight stays of the calendar year in Spain; when their spouse, dependent ascendants or descendants reside in Spain; when their only permanent home is in Spain; or when two thirds of their net assets are in Spain. Companies are considered to be Spanish if the majority of their income derives from sources in Spain; or the majority of their directors or shareholders are tax resident there. This does not apply to companies incorporated in Gibraltar before 16 November 2018".

Tax information is to be exchanged every six months, and over the next four months Gibraltar must provide all tax information from January 2014 to the present date.

3.3 The European Council adds Dominica to the EU list of non-cooperative jurisdictions for tax purposes and removes Barbados

The European Council has decided to add Dominica to the EU list of non-cooperative jurisdictions for tax purposes and to remove Barbados.

The [EU list of non-cooperative jurisdictions for tax purposes](#) was adopted in December 2017 and forms part of the EU's external tax strategy. Its objective is to contribute to the current efforts to promote tax good governance throughout the world and it includes jurisdictions around the world that have not engaged in constructive dialogue with the EU regarding tax governance or have not fulfilled their commitments to implement the necessary reforms to comply with a set of objective criteria regarding tax good governance.

Jurisdictions are assessed on the basis of a set of [criteria established by the Council in 2016](#), covering tax transparency, fair taxation and implementation of international standards designed to prevent tax base erosion and profit shifting.

Changes in the list take into consideration the ratings recently published by the OECD Global Forum on Transparency and Exchange of Information (Global Forum) in relation to the exchange of information on request. For the purposes of this list, the EU requires jurisdictions to be at least largely compliant with the international standard on transparency and exchange of information on request (EOIR).

Dominica has been included on the EU list after it received a “partially compliant” rating from the Global Forum and has not yet resolved this issue.

Barbados was added to the EU list in October 2020 after it received a “partially compliant” rating from the Global Forum. It has now been granted a supplementary review by the Global Forum and has therefore been moved to a state-of-play document (Annex II of the Council conclusions) while awaiting the result of this review.

More information [here](#).

4. International sanctions regime

4.1 European Council renews EU terrorist list for another six months

As part of the fight against terrorism, [on February 5, 2021 the Council renewed the EU terrorist list](#), which contains persons, groups and entities subject to restrictive measures involving the freezing of their funds and other financial assets in the EU. EU operators are also forbidden from making funds and economic resources available to them.

The Council first set up the list to implement UNSC Resolution 1373/2001 adopted following the attacks on September 11, 2001. It regularly reviews the list at least every six months, on the basis of a regular exchange of information among member states.

This sanctions regime is separate from the EU regime implementing UN Security Council Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) and targeting Al-Qaida and ISIL / Da'esh. The EU also has its own sanctions regime which allows the EU to apply sanctions independently to ISIL / Da'esh and Al-Qaida and to persons and entities associated with or supporting them.

4.2 The EU revokes sanctions framework against Egypt and delists individuals

The European Council has decided to [revoke the EU framework for sanctions against persons responsible for offenses related to misappropriation of Egyptian State funds](#), so as to be able to eliminate restrictive measures in force against some Egyptian citizens.

Restrictive measures were initially adopted in 2011, to assist the Egyptian authorities with recovering misappropriated state assets.

These measures consist of freezing the assets of individuals on the list of sanctioned persons. In addition, nationals of EU member states and legal entities incorporated in the EU were forbidden from making funds available to anyone on the list, either directly or indirectly. The sanctions have been reviewed on an annual basis, and some individuals have been delisted over time.

The EU's restrictive measures are not punitive. Their purpose is to bring about a positive change in the third countries concerned.

4.3 United States singles out Cuba as state sponsor of terrorism

The U.S. Department of State singles out Cuba as [State sponsor of terrorism](#) on the grounds that it repeatedly provided support for acts of international terrorism, granting a safe haven to terrorists, according to its secretary's announcement on January 11, 2021. Cuba is therefore back on the list of entities registered for allegedly breaching their commitment to cease providing support for terrorism, as a condition for its removal by the previous Administration in 2015.

This decision renders Cuba subject to sanctions which penalize persons and countries that engage in trade with the Caribbean country. It restricts U.S. foreign assistance, bans defense exports and sales and imposes certain controls on exports of dual use items.

5. Judgments

5.1 A Valencia court annuls a penalty imposed by Spanish tax Agency (AEAT) on a company for infringing the financial legislation on cash payments

The Contentious-Administrative Court no 3 of Valencia has granted appeal to a company which had been fined for infringing the financial legislation on cash payments. Precisely, in judgment no 76/2021, of February 25, 2021, the court holds that the elimination of cash for transactions exceeding €2,500 in which a business or professional is involved, under Law 7/12 of November 29, cannot be applied across the board.

It was interpreted in that manner in a case where the sanctioned company by the AEAT received in 2017 a check to bearer in the amount 200,000 euros, as part of the total amount of 3.3 million euros for the sale of 36 commercial premises located in a building in Benidorm.

The magistrate-judge points out in the sentence that, as it is "**a payment made by means of a bearer check, drawn on an account of the payer**", **Law 10/2010, of April 28, on the prevention of money laundering and financing of terrorism, already establishes specific provisions for its supervision and control** (identification, knowledge of the clients, conservation, etc.), thus contributing to control and avoid tax fraud as well. Thus, the appeal was upheld by the court, understanding that the absolute prohibition, under penalty of sanction, of operations whose payment is made by means of bearer bank securities, "constitutes an unnecessary and disproportionate measure for the purposes of controlling tax fraud, and that it is opposed to the general principle of acceptance of the euro as legal tender".

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