



Decision of the Supreme Administrative Court of Lithuania of 11 October 2023 in administrative case No eA-1012-415/2023



[LINK](#)

The real estate company "Inreal" has lost in a case against the Financial Crimes Investigation Service regarding a EUR 8 300 fine for violations related to money laundering prevention. The Supreme Administrative Court of Lithuania (LVAT) rejected the company's complaint on October 11, upholding the decision of the Vilnius District Administrative Court from October 2022. In its ruling, LVAT affirmed that FCIS had imposed a proportionate, effective, and deterrent fine, taking into account all relevant circumstances. "Inreal" had argued that it was not obligated to verify the buyer or tenant's information or the source of their funds in property transactions, as this responsibility falls on a notary public. The company also contended that it only received brokerage fees via legitimate transfers, and it had no knowledge of suspicious transactions that would warrant reporting to the FCIS. The FCIS countered that "Inreal" had failed to assess customer risks, neglected to examine transactions, and thus could not determine the absence of suspicious monetary activities. The FCIS deemed the information collected by the company as insufficient for client due diligence.

In the Third Quarter of the Year, Fraudsters Targeted 5.1 million EUR, The Amount of Protected Funds Exceeded the Real Losses



[LINK](#)

According to the data of AML Centre of Competence, in the third quarter of the 2023, financial fraudsters attempted to defraud 5.1 million Lithuanian citizens and companies, an increase of 21% compared to the previous quarter. However, the actual losses incurred by these fraud attempts decreased by 3% to 2.3 million euros during the same period, with an average defrauded amount of 871 euros. The amount of funds successfully suspended in financial institutions and recovered from fraudsters in the third quarter reached approximately 2.8 million euros.

The Financial Crime Investigation Has issued Fines to two Crypto Exchanges and a Motor Vehicle Dealer



[LINK](#)

In September 2023, the Financial Crime Investigation has fined two virtual currency exchanges/depository virtual currency wallets operators – UAB "Exmo Exchange" and UAB "Mirhax Group". The FCIS has assessed that the companies did not comply with the customer due diligence, enhanced due diligence, risk assessment, record keeping and other requirements. In addition, the FCIS has fined a motor vehicle dealer UAB "Baltas Aljansas" for non-compliance with the AML/CTF requirements.

FinCEN Proposes New Regulation to Enhance Transparency in Convertible Virtual Currency Mixing and Combat Terrorist Financing



[LINK](#)

The U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) announced a Notice of Proposed Rule Making (NPRM) that identifies international Convertible Virtual Currency Mixing (CVC mixing) as a class of transactions of primary money laundering concern. This NPRM highlights the risks posed by the extensive use of CVC mixing services by a variety of illicit actors throughout the world and proposes a rule to increase transparency around CVC mixing to combat its use by malicious actors including Hamas, Palestinian Islamic Jihad, and the Democratic People's Republic of Korea (DPRK). The NPRM is a key part of Treasury's efforts to promote transparency for CVC mixing activities.

The Financial Markets Policymaking Advisory Commission Discussed How to Strengthen Oversight of Crypto Market Participants



[LINK](#)

To meet the requirements of MiCA and Fund Transfer Regulations (TRF), the Ministry of Finance is preparing seven draft amendments to existing laws. In this proposed implementation, crypto asset service providers would be integrated into the existing supervisory framework, with the Bank of Lithuania granting licenses and conducting prudential supervision. The Financial Crimes Investigation Service and the Bank of Lithuania would oversee the prevention of money laundering and terrorist financing among crypto market participants.

Outcomes FATF Plenary, 25-27 October 2023



[LINK](#)

In October 25-27 the Financial Action Task Force has held a meeting during which it included Bulgaria to the list of jurisdictions subject to increased monitoring (the "Grey List"). The FATF also decided to remove Albania, Cayman Islands, Jordan and Panama, from the Grey List.



Detailed and full Regulatory Compliance report on AML/CTF regulation can be found [here](#):

Our recommendations and details are in this file



REGULATORY COMPLIANCE UPDATE



EMI, PI REGULATION

10.2023

Amendments to the Law on Electronic Money and Electronic Money Institutions and to the Law on Payment Institutions



LINK



LINK

Plans to change the Law on Electronic Money and Electronic Money Institutions of the Republic of Lithuania and the Law on Payment Institutions of the Republic of Lithuania.

The proposed amendments to the laws propose to supplement/correct the following provisions of both laws:

- The supervisory authority (The Bank of Lithuania) is given the right to appoint a temporary administrator in place of the representative as a means of enforcement.
- Administrator functions are set.
- The maximum term is waived (currently 2 months) during which an Electronic Money Institution/Payment Institution whose license has been suspended must eliminate the deficiencies. Instead of the maximum term, the minimum term is entered - not less than 1 month.

Our recommendation:

The feedback / comments / insights on the proposed amendments shall be sent to email address info@fintechhub.lt **until 7th of November 2023**.

It is foreseen for the changes to come into force from 30th of November 2023.

Article published by the Bank of Lithuania



LINK

In the first half of 2023, the Bank of Lithuania received more than 930 complaints, which is 6% more than in the same period last year. Most of the complaints were related to payment services, but complaints about credit were growing rapidly.

Complaints about payment services accounted for 80% of all complaints, credit services for 7% and insurance services for 4%. The rest were complaints about investment and other services. Complaints about payment services increased by almost one tenth compared to the first half of last year. Complaints related mainly to payment accounts and non-cash transactions.

Decision of the Board of the Bank of Lithuania



LINK

The Board of the Bank of Lithuania approved resolution dated on 23rd of October 2023 No 03-155 On approval of the contribution rates of supervised financial market participants in 2024. This Resolution, along with Resolution of the Bank of Lithuania No 03-73 On the approval of the description of the methodology for calculating the contributions of supervised financial market participants and the payment procedure, set the rates of the contributions for financial market participants, as well sets deadlines and procedure of payment of such contributions.

Our recommendation:

Please note that the contribution for the current year shall be paid to the Bank of Lithuania no later than 31st of May of that year.

Contribution shall be transferred to the account of the Bank of Lithuania No. LT34 1010 0000 0037 1223.

Detailed and full Regulatory Compliance Report on EMI, PI regulation can be found here:



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Our recommendations and details are in this file



REGULATORY COMPLIANCE UPDATE



PERSONAL DATA PROTECTION REGULATION 10.2023

Belgian DPA publishes checklist for cookie compliance



LINK

The news: the Belgian DPA released a checklist for organizations to align their cookie practices with regulations. It outlines obligations and approved methods for using cookies and similar technologies. Consent for cookies is stressed, with exceptions for essential ones.

Recommendations for the legal department of organisations:

- provide the option to refuse non-essential cookies by the second layer of the cookie notification;
- clearly define cookie categories based on specific purposes;
- ensure the notification details the responsible data controller, how to accept or reject cookies, consequences of acceptance, and the right to withdraw consent;
- prevent implied consent through continuous browsing or closing the banner and eliminate pre-checked boxes and additional consent links in the banner;
- maintain previous versions of your cookie policy, clearly indicating the date and version number in the policy.

CJEU issued its decision in a case regarding right of access to medical record data



LINK

The news: The CJEU ruled that patients cannot be charged for this copy, and the dentist, as the data controller, must provide it without cost. In a doctor-patient relationship, the right to access personal data means the data subject can request a complete, accurate, and intelligible copy of their medical records, including information like diagnoses, exam results, assessments, and treatments if it's essential for verification.

VDAI fines a natural person and a healthcare institution



LINK

The news: the Lithuanian Data Protection Authority (VDAI) has announced its decision to impose fines on both a healthcare facility and a doctor. These fines were imposed due to the sharing of a patient's personally identifiable health data on the doctor's personal Instagram account without the patient's consent. This data included a picture of the patient's body part with a visible tattoo, which could help identify the person, leading VDAI to consider it as personal data. Both the doctor and the healthcare facility failed to obtain the patient's explicit consent, as required by GDPR.

This violation breached the principles of lawfulness, fairness, transparency, and confidentiality, in addition to the lawful processing conditions and health data processing provisions outlined in GDPR.

The Supreme Administrative Court of Lithuania issues a significant decision for the financial market participants



LINK

The news: the Supreme Administrative Court of Lithuania upheld a fine imposed by the Financial Crimes Investigation Service (FNTT) on a brokerage firm for violating money laundering and terrorist financing laws. The significance of this decision comes from the court's recognition of a legal basis for processing personal data for AML purposes. Based on the decision, processing data to implement measures for money laundering and terrorist financing prevention is lawful under the condition of public interest, as regulated by Article 6 of GDPR.

Recommendations for the legal department of organisations:

If you're a member of the financial market and process extensive or "sensitive" personal data for AML purposes, review whether the obligation to have a DPO applies for your company.

UK's ICO publishes guidance regarding employee workplace monitoring



LINK

The news: The guidance covers a range of topics, from establishing a legal basis for processing, ensuring data accuracy and security, to addressing special cases like disclosing data to employees. It also provides a checklist that all employers who monitor their workers can use for self-assessment. Employee monitoring, though seemingly straightforward, can present complex challenges, as shown in cases of email monitoring involving special category data, like healthcare communications.



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Detailed and full Regulatory Compliance report on PERSONAL DATA PROTECTION REGULATION can be found here:

Our recommendations and details are in this file





EC FAQ updates



LINK

On 2 October 2023, the European Commission updated its Frequently Asked Questions (FAQs) section:

On the export of dual-use and high-technology goods restrictions

The updated FAQs indicate that Article 2(4) of Council Regulation (EU) No 833/2014 provides for eight derogations where the authorisation of the competent authority must be requested. It should be noted that until authorisation is granted, the export of the product is prohibited.

On the processing in third countries of iron and steel products into which iron and steel raw materials from Russia

Article 3g(1)(d) of Council Regulation (EU) No 833/2014 prohibits the importation into the Union or the purchase of the iron and steel products listed in Annex XVII, directly or indirectly, if they are processed in a third country. It shall be noted that the prohibition applies to imports into the Union of iron and steel products containing raw materials originating in Russia, which enter the Union from 30 September 2023, if they were manufactured after 23 June 2023.

Baltic-registered crypto firms service payments for Russian private army, allow sanctions evasion



LINK

An international consortium of journalists has analysed 291 Estonian-registered crypto companies to find potential links to illicit activity. The consortium has found Russian intelligence ties, vast money laundering operations, dozens of cases of international fraud, and a serious lack of transparency: hired actors, fake profiles, and fraudulent owners of the companies.

Decision of the supreme court of Lithuania



LINK

The Danish bank Nets Denmark will not be obliged to return the frozen funds to the "Belorus". This was decided by the Supreme Court of Lithuania, which finally confirmed the bank's decision to terminate its contract with Belarus because of its links with the Minsk regime.

The Supreme Court noted that the bank had legally refused to transfer the funds and that the termination of cooperation was legal.

The Court rejected Belarus' appeal and confirmed the decision of the Vilnius Regional Court.

EU restrictive measures prolonged for an additional year



LINK

The Council renewed the restrictive measures regime against the proliferation and use of chemical weapons for a period of three years until 16 October 2026 and extended the restrictive measures against persons and entities for a further period of one year until 16 October 2024.

Following Terrorist Attack on Israel, Treasury Sanctions Hamas Operatives and Financial Facilitators



LINK

The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) imposed sanctions on ten key Hamas terrorist group members, operatives, and financial facilitators in Gaza and elsewhere including Sudan, Türkiye, Algeria, and Qatar.

Treasury Targets Additional Sources of Support and Financing to Hamas



LINK

The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) imposed a second round of sanctions on key Hamas-linked officials and financial networks following the October 7 barbaric attacks on Israel and its civilian population.

Detailed and full Regulatory Compliance report on Financial and Economic Sanctions can be found here:



Treasury Sanctions Transnational Procurement Supporting Iran's One-Way Attack UAV Program



LINK

The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) sanctioned five entities and two individuals based in Iran, the People's Republic of China (PRC), Hong Kong, Türkiye, and the United Arab Emirates (UAE) involved in the procurement of sensitive parts for Iran's one-way attack unmanned aerial vehicle (UAV) program.



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Our recommendations and details are in this file



The Bank of Lithuania informs on complaint handling statistics



LINK

In 2023 in the first half of the year, the Bank of Lithuania received more than 930 complaints. This is 6 percent more than during the same period last year. Residents mostly criticized service providers for payment services, but the number of complaints also grew rapidly about crediting. Complaints about payment services make up about 80 percent, credit services - 7 percent, insurance services - 4 percent of all complaints. The rest consists of complaints about investment and other services.

Complaints about payment services are mainly (42%) related to payment accounts and non-cash transactions (26%). Every fifth complaint in this area is related to the limited ability to use a payment account, almost every eighth is filed due to cases where the payer made a transfer, but the funds were not credited to the recipient.

The Bank of Lithuania received 69 complaints regarding lending services.

Our recommendation:

Financial service providers can minimize disputes with consumers by focusing on clear communication of terms and conditions, establishing robust customer support, encouraging regular account reviews, implementing transaction alerts, ensuring secure systems, developing an effective dispute resolution process, proactively monitoring for issues, collecting customer feedback, and maintaining compliance with regulations. These strategies collectively contribute to a more transparent, responsive, and secure financial service environment, reducing the likelihood of disputes and enhancing the overall customer experience.

European commission and consumer protection authorities investigate business practices of influencers



LINK

The European Commission and national authorities of the Consumer Protection Cooperation Network will screen online posts to identify testimonials and endorsements that mislead consumers.

Influencers are required to disclose advertisements in a transparent manner. The result of this social media sweep will feed into the Digital Fairness fitness check that helps assess whether new legislation is necessary to make digital markets as safe as offline markets.

Our recommendation:

When marketing financial activities through influencers, prioritize transparency and disclosure of relationships. Focus on educational content to empower consumers and ensure influencers comply with financial regulations. Provide accurate information, guide responsible messaging, and target specific audiences. Implement monitoring, due diligence on influencers, clear communication of terms, and responsive customer support for enhanced consumer protection.

European Banking Authority provided answer to an inquiry on Strong customer authentication (SCA)



LINK

Inquiry to clarify: Whether under Regulation (EU) 2018/389 - RTS on strong customer authentication and secure communication is it allowed to use the same SCA element to authorize a payment and at the same time (using the same session ID) approve (technically using by a checkbox) the payee as a trusted beneficiary? If it is allowed, the payment service user shall be informed (prior to authorisation) by an approval SCA element (SMS) about the payment execution and about modifying the list of the trusted beneficiaries as well?

Answer: To comply with EU regulations on SCA during electronic payment transactions, one of the elements used during the account access session can be reused when initiating a payment, as long as the other SCA element is performed during payment initiation. This is in accordance with Article 4 of the Commission Delegated Regulation (EU) 2018/389. It is allowed to reuse of one authentication element when adding a payee to the trusted beneficiaries list within the same session. However, using the same two SCA elements for both payment initiation and adding a payee is not compliant with legal requirements

Our recommendation:

Financial service providers should follow EBA opinions to ensure legal compliance, promote consistency in regulatory practices, manage risks effectively, facilitate smoother regulatory interactions, build customer trust, enhance operational efficiency, and maintain a positive market reputation.



Information from the State Labour Inspectorate



LINK

According to the State Labour Inspectorate, the second most common type of case brought before the Labour Disputes Committee relates to the lawfulness of termination. The employees often claim that the termination of an employment contract initiated by them was unlawful.

In such cases, it is important to determine whether the employee's decision was voluntary or was influenced by the employer, made under duress or any other undue influence. The burden of proof in such cases lies with the employee.

Employers sometimes try to deceive employees into signing a letter of resignation to avoid obligations such as paying severance pay and complying with notice periods. However, such termination is considered unlawful, and it may lead to the obligation to pay the average wage for the period of enforced absence and compensate for any damages suffered by the employee.

Furthermore, the employee has the right to withdraw the resignation letter within 3 working days from the submission date. Therefore, even if the employee voluntarily submits a resignation letter, the employer cannot refuse withdrawal unless the employment contract has already been terminated.

Our recommendation:

It is crucial to establish that an employment contract's termination upon the employee's initiative can only be considered legal if the decision made by the employee is voluntary, without any undue influence or coercion from the employer.

We strongly recommend organizations to always try to come to an agreement on the termination of an employment contract. By doing so, both parties can determine the most appropriate and favourable terms of termination, while also safeguarding themselves against any further claims of wrongful termination.

Decision of the Supreme Court of Lithuania



LINK

A recent case heard by the Supreme Court of Lithuania concerned the legality of terminating an employment contract during a probation period.

The employer decided to terminate an employee's contract after receiving information that the employee had insulted his colleague, used condescending language, and made derogatory comments regarding women in the transport industry.

According to case law, the probation period solely focuses on the assessment of performance. The employer has the sole discretion to determine whether the employee can perform their duties satisfactorily. If an employee disputes the dismissal, the employer must provide evidence that the employee has not met the requirements of the probation period. In such cases, the court will assess whether the employer had valid reasons for the dismissal. However, once the employer has proved the circumstances indicating unsatisfactory performance, the courts cannot question the assessment of those circumstances.

While inappropriate communication with colleagues or clients may be a valid reason for termination, it must be relevant to the employee's job function. The Court of Appeal found that the dismissed employee's comments did not constitute sexual harassment, and the statements made did not lead to the conclusion that the employee was unfit for the job, because it would be unfair to impose higher ethical and communication standards on an employee who was hired for a driver's position. The Supreme Court agreed with the Court of Appeal's decision.

Our recommendation:

According to Article 36(3) of the Labour Code, if an employer finds an employee's performance during the probation period unsatisfactory, they can terminate the employment. However, recent case-law has shown that the employer cannot dismiss an employee without being able to provide evidence that the reasons for dismissal are related to their inability to perform their job functions.

To avoid any possible disputes, it is recommended that during the probation period companies document the requirements and expectations that are imposed on the employee, the progress of the employee, and any evidence that may be available to prove it. If the employee's performance is unsatisfactory, it should be described in detail and made available to the employee.

ESMA urges crypto market participants to start preparing for the transition to the MiCA regulation



LINK

The entry into force of MiCA is a fundamental development for the establishment of a single rulebook for the regulation and supervision of crypto-asset issuance, trading, and service provision.

ESMA reminds holders of crypto-assets and clients of crypto-asset service providers that MiCA does not address all of the various risks associated with these products. Many crypto-assets are by nature highly speculative. Even with the implementation of MiCA, retail investors must be aware that there will be no such thing as a 'safe' crypto-asset. In anticipation of the risks posed by global crypto firms and to advance preparations ahead of the application of MiCA, ESMA and its members are working to promote coordinated actions across the Union by (i) facilitating the exchange of information between competent authorities on authorisation requests and real supervisory cases in their jurisdictions, (ii) encouraging the convergent application of MiCA rules as early as possible, (iii) consulting with the European Commission to provide the basis for a common understanding on MiCA provisions that may require further clarity.

In Lithuania, it is expected to have shortened transitional period, i.e., shorter than 18 months.

Consultation on Joint EBA and ESMA Guidelines on suitability assessments of the management body and holders of qualifying holdings under MiCAR (EBA/CP/2023/20)



LINK

On October 20, 2023, the EBA has launched a consultation on its draft Regulatory Technical Standards (RTS) on the minimum content of the governance arrangements on the remuneration policy under the Market in crypto-assets Regulation (MiCAR). These draft RTS outline key governance procedures related to creating, implementing, and maintaining remuneration policies and specify essential elements these policies should incorporate.

The Draft RTS provides specific requirements for issuers of significant asset-referenced tokens, while the issuers of e-money tokens are required to follow the general requirement to adopt, implement and maintain a remuneration policy as provided in Article 45(1) of the MiCAR.

According to the Draft RTS, the remuneration policies must, inter alia, provide incentives for the control and limitation of ESG impacts, be gender neutral, avoid conflicts of interest, not encourage risk-taking that would exceed the risk-appetite, be transparent.

The consultation runs until 22 January 2024.

Consultation on draft Guidelines on internal governance arrangements for issuers of ARTs under MiCAR (EBA/CP/2023/23)



LINK

On October 20, 2023, the EBA has launched a consultation on Guidelines on internal governance arrangements for issuers of ARTs under MiCAR. The Guidelines cover operational, fraud and compliance risks with a focus on customer and investor protection.

According to the Guidelines, all issuers of ARTs should have a permanent and effective compliance function while, in line with the principle of proportionality (depending on the size of the issuer, complexity of services, etc.), not all issuers are required to have a risk management and an internal audit function but are still required to have respective policies and procedures in place.

The consultation runs until 22 January 2024.

Consultation on Joint EBA and ESMA Guidelines on suitability assessments of the management body and holders of qualifying holdings under MiCAR (EBA/CP/2023/20)



LINK

On October 19, 2023, the European Banking Authority (EBA) together with the European Securities and Markets Authority (ESMA) has published a Consultation Paper on two draft Joint Guidelines covering suitability assessment of members of the management body and shareholders of crypto companies.

Assessment of suitability includes assessment of knowledge, skills and experience of members of the management body as well as their good repute, honesty and integrity and if they are able to commit sufficient time to perform their duties.

According to the Guidelines, companies should apply proportionality principle in relation to the persons' suitability and the company's size, complexity of business activities, type of clients, etc.

The consultation runs until 22 January 2024.



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Detailed and full monthly CRYPTO update can be found here:

