

COMMISSION DECISION

of 4 May 2010

authorising the French Republic to conclude an agreement with the Principality of Monaco for transfers of funds between the French Republic and the Principality of Monaco to be treated as transfers of funds within the French Republic, pursuant to Regulation (EC) No 1781/2006 of the European Parliament and of the Council

(notified under document C(2010) 2634)

(Only the French text is authentic)

(2010/259/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1781/2006 of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds ⁽¹⁾, and in particular Article 17 thereof,

Having regard to the application from the French Republic,

Whereas:

(1) On 28 November 2007, the French Republic requested a derogation pursuant to Article 17 of Regulation (EC) No 1781/2006 for the transfers of funds between the Principality of Monaco and the French Republic.

(2) In accordance with Article 17(2) of Regulation (EC) No 1781/2006, transfers of funds between the Principality of Monaco and the French Republic have been provisionally treated as transfers of funds within the French Republic from 4 December 2007.

(3) Member States were informed at the meeting of the Committee on the Prevention of Money Laundering and Terrorist Financing of 17 December 2009 that the Commission considered that it had received the information necessary for appraising the request made by the French Republic.

(4) The Principality of Monaco does not form part of the territory of the Community as determined in accordance with Article 52 of the Treaty on European Union and Article 355 of the Treaty on the Functioning of the European Union but it concluded a Monetary Agreement with the European Community represented by the French Republic. On the basis of the Agreement of 26 December 2001, the Principality of Monaco is entitled to use the euro as its official currency and to grant legal tender status to banknotes and coins in euro. The Principality of Monaco therefore complies with the criterion set out in Article 17(1)(a) of Regulation (EC) No 1781/2006.

(5) Payment services providers in the Principality of Monaco participate directly in payment and settlement systems in the French Republic, be it CORE, Target2-Banque de France or ESES France (the Euro Settlement for Euronext-zone Securities). They therefore comply with the criterion set out in Article 17(1)(b) of Regulation (EC) No 1781/2006.

(6) The Principality of Monaco has incorporated into its legal order provisions corresponding to those of Regulation (EC) No 1781/2006 in particular through Sovereign Order No 1630 of 30 April 2008 amending Sovereign Order No 631 of 10 August 2006 on the participation of financial institutions to the fight against money laundering and terrorist financing.

(7) The Sovereign Orders No 1674 and No 1675 of 10 June 2008 concerning the freezing of assets notably in the fight against terrorism financing ensure that appropriate measures are in place in the Principality of Monaco to impose financial penalties vis-à-vis entities or persons listed by the United Nations or the European Union.

⁽¹⁾ OJ L 345, 8.12.2006, p. 1.

- (8) Act No 1362 of 3 August 2009 relating to the fight against money laundering, financing of terrorism and corruption (*Loi n° 1362 du 3 août 2009 relative à la lutte contre le blanchiment de capitaux, le financement du terrorisme et la corruption*) repealed and replaced Act No 1162 of 7 July 1993 relating to the participation of financial undertakings in countering money laundering and terrorism financing. This new Act together with Sovereign Order No 2318 of 3 August 2009 addresses the shortcomings identified in the 2008 Third Round Mutual Evaluation Report of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism — MONEYVAL concerning the Principality of Monaco; it ensures that the Principality of Monaco has in place an anti-money laundering regime equivalent to that in application on the French territory as regards transfers of funds.
- (9) Therefore, the Principality of Monaco has adopted the same rules as those established pursuant to Regulation (EC) No 1781/2006 and requires their respective payment services providers to apply them, thus fulfilling the criterion set out in Article 17(1)(c) of that Regulation.
- (10) It is therefore appropriate to grant to the French Republic the requested derogation.
- (11) The measures provided for in this Decision are in accordance with the opinion of the Committee on the Prevention of Money Laundering and Terrorist Financing,

HAS ADOPTED THIS DECISION:

Article 1

The French Republic shall be authorised to conclude an agreement with the Principality of Monaco, to the effect that the transfers of funds between the Principality of Monaco and the French Republic are treated as transfers of funds within the French Republic for the purposes of Regulation (EC) No 1781/2006.

Article 2

This Decision is addressed to the French Republic.

Done at Brussels, 4 May 2010.

For the Commission

Michel BARNIER

Member of the Commission