



EU initiative on restrictions on payments in cash

CONSULTATION STRATEGY

Context

The Commission published on 2 February 2016 a Communication to the Council and the Parliament on an Action Plan to further step up the fight against the financing of terrorism. This Action Plan indicated that "*Payments in cash are widely used in the financing of terrorist activities... In this context the relevance of potential upper limits to cash payments could also be explored*". In its Conclusions on the fight against terrorism, the Economic and Financial Affairs Council of 12 February 2016 also called on the Commission to explore the need for appropriate restrictions on cash payments exceeding certain thresholds.

Cash has the important feature of offering anonymity to transactions. Such anonymity may be desired for legitimate reason (e.g. protection of privacy). But, such anonymity can also be misused for money laundering and terrorist financing purposes. The possibility to conduct large cash payments facilitates money laundering and terrorist financing activities because of the difficulty to monitor and track cash transactions. The introduction of restrictions on cash payments must therefore be contemplated.

While a number of Member States already have (or have had) in place restrictions on cash payments as a measure to combat crime, this has not been addressed at Union level. The fragmentation and divergent nature of these measures has the potential of interfering with the proper functioning of the internal market. The purpose of the initiative under consideration is therefore to examine whether action at EU level is warranted and whether legislative or other measures stemming from such analysis should be initiated.

Objectives and scope of the consultation

Three different objectives can be identified for the consultation of stakeholders.

First, cash is still the most accessible means of payment and in some Member States it is deeply ingrained in the public's image of personal freedom. A change of policy is therefore a sensitive issue, which would affect everyone. Any attempts to regulate the use of cash must start from the assumption that restrictions could be opposed by many.

A first objective of the consultation is therefore to collect the views of the public in general towards the potential introduction of restrictions on payments in cash with the view of combating terrorism financing and other illegal activities. Information should be collected on how the general public assesses the interest of restrictions in view of the balance between the convenience and privacy associated with the use of cash, and its role as facilitator for terrorism and other illegal activities.

Second, cash is still widely used, even for larger payments, by some specific economic sectors of activity. Among a certain portion of SMEs, cash is still preferred when engaging in B2B trade and payments. For SMEs, cash remains the most common payment method by their customers. These economic sectors could be significantly impacted by the introduction of restrictions on cash payments, and possibly already are by divergent national measures.

A second objective of the consultation is therefore to collect the views of sectors of activities that rely significantly on cash, and in particular obtain their assessments of the impact that such restrictions would have on their activities, how this impact could possibly be reduced, and whether such impact is justifiable by the objectives pursued.

Finally, the objective of the initiative being to combat terrorism financing and other illegal activities, the views of experts in criminality and law enforcement should be sought on the relevance of introducing restrictions on cash payments for this specific objective. Experts' opinions should be collected on the effectiveness of potential measure taking into account also their enforceability and consequently, any administrative and operational burden.

Stakeholder mapping

In line with the three main objectives described above, three different types of stakeholders can be identified.

- The general public: as nearly all citizens use cash for payments, their views need to be collected in the broadest way possible. This would concern both individual citizens and associations representing a broad range of citizens (consumer associations, unions, etc.)
- The economic sectors that deem they would potentially be negatively or positively impacted by the introduction of restrictions on cash payments at EU level. This would concern both individual businesses and associations representing these businesses. The Commission does not intend to identify, *a priori*, the sectors that may be concerned but will open the consultation broadly and leave the initiative to the sectors concerned to contribute to the consultation.
- The experts in criminality and law enforcement: this will concern mainly government agencies active in the field, or individuals working for these agencies. Individual independent experts or consultants could also be targeted, although their importance is expected to be limited, as law enforcement and crime prevention remains mainly a government activity. The Commission will identify and target specifically the bodies and individuals that would have valuable expertise in the field. Also included in this group are the ECB and the national central banks, who are the issuers of cash.

Method, tools and accessibility

The Commission will consult the general public and the economic sectors particularly concerned through an internet-based open public consultation published on the Your Voice in Europe website (http://ec.europa.eu/yourvoice/consultations/index_en.htm). The duration of the consultation will be the standard 12 weeks. The Inception Impact Assessment has also been published (http://ec.europa.eu/smart-regulation/roadmaps/docs/plan_2016_028_cash_restrictions_en.pdf).

Experts will be consulted through targeted discussions, individually or in groups, after having been identified. Specific written consultations will also be organised when deemed more appropriate. Nevertheless, experts will also have the opportunity to participate in the general public consultation open to everyone.

A brief factual summary of the outcome of the online open consultation will be published on DG ECFIN's dedicated consultation website and a 'Synopsis Report' containing a short analysis of all consultation activities will be annexed to the impact assessment.