

Prevention of money laundering: controls of cash entering or leaving the Community

2002/0132(COD) - 12/08/2010 - Follow-up document

This report concerns the application of Regulation (EC) No 1889/2005 of the European Parliament and of the Council on controls of cash entering or leaving the Community.

To recall, this Regulation entered into force on 15 December 2005. Article 10 of the Cash Control Regulation requires the Commission to submit a report on its implementation to the European Parliament and the Council 4 years after its entry into force. The Cash Control Regulation is applicable since 15 June 2007 and given this recent applicability, focus has been put, both by Member States and the Commission, on the creation of appropriate structures and the development of adequate procedures so as to allow for a harmonised implementation of the Cash Control Regulation.

To start the evaluation process, the Commission sent out questionnaires to the Member States in July 2008. The replies provided the Commission with sufficient information to draw up this report.

Conclusions: the report concludes that the contributions received by the Member States show that the recent implementation of the Cash Control Regulation is **generally satisfactory**. Member States have organised competent authorities as to ensure that passengers comply with their obligation to declare, cash declarations are processed and controls are carried out on passengers, the luggage and the means of transport. They also have put in place a penalty system and/or cash detention system for cases of non-compliance with the cash declaration requirements. Member States have organised themselves to ensure that the information gained from the cash declaration system is made available to the national FIU. They exchange information where relevant with other Member States, Commission and third countries, whilst complying with confidentiality and data protection standards. Considering the differences between Member States in cash declarations gathered and controls performed, a close monitoring of Member States is necessary to **enhance the harmonisation of the implementation of the Cash Control Regulation by the Member States**. Where necessary, Member States will be required to take remedial actions.

In a few MS some shortcomings have been detected in the recording, processing and making available of control information and in the introduction of national penalties. The Commission is taking the necessary action to ensure that the EU legislation on cash controls is appropriately implemented in all Member States.

Recommendations: the experience gained from the practical implementation of the Cash Control Regulation, has led to conclude that **a thorough review of the Regulation is NOT necessary**.

However it does show that some adjustments to the cash control regulatory framework could be considered:

- revising article 3 of the Cash Control Regulation to cater for the practical control difficulties of Member States with regard to transit passengers;
- introducing a Common EU Cash Declaration Form, based on the Common Declaration Form currently in use by the majority of Member States to allow for further harmonisation of the data gathered, travellers' awareness and possible computerisation;

- inserting compulsory (quarterly) reporting requirements to the COM on statistics gathered by MS, to ensure the monitoring of the effectiveness of the Cash Control Regulation. These reporting requirements are currently based on voluntary agreements;
- inserting a compulsory requirement to raise awareness on the cash declaration obligation. At present all communication actions are taken on a voluntary basis;
- introducing a Committee procedure to institutionalise the discussions with MS on the management of the Cash Control Regulation;
- envisaging a COM implementing Regulation for technical elements such as the format of the Common Declaration Form or the content of reporting requirements.

Greater harmonisation could already be achieved by exchanging best practices and by enhancing harmonisation of procedures via soft law, like guidelines or technical agreements between the Member States via the Cash Control Working Group.

In order to achieve complete harmonisation of cash controls on entering and leaving the EU it would be necessary to amend the Cash Control Regulation.