

# Controls on cash entering or leaving the Union

2016/0413(COD) - 12/11/2018 - Final act

**PURPOSE:** to improve controls of cash entering or leaving the EU in order to better detect terrorist financing, money laundering and other criminal activities in Europe.

**LEGISLATIVE ACT:** Regulation (EU) 2018/1672 of the European Parliament and of the Council on controls of cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005.

**CONTENT:** The Regulation provides for a system of controls on cash entering or leaving the Union to complement the legal framework for the prevention of money laundering and terrorist financing set out in Directive (EU) 2015/849.

The new legislative act replacing Regulation (EC) No 1889/2005 is necessary to take into account the fact that terrorists and criminals have managed to find ways to circumvent the rules on cash controls. Its objective is to ensure that EU legislation incorporates the latest developments in international standards against money laundering and terrorist financing developed by the Financial Action Task Force (FATF).

The new Regulation does not affect the ability of Member States to provide, under their national law, for additional national controls on movements of cash within the Union, provided that those controls are in accordance with the Union's fundamental freedoms.

## ***Scope and key definitions***

The definition of the term 'cash' has been extended to cover not only banknotes, but also other commodities used as highly-liquid stores of value, travellers' cheques, prepaid cards and gold.

The scope of the Regulation is also extended to include cash sent by the post office, by freight or carrier.

## ***Reporting and disclosure obligation***

Under the new rules, any holder carrying at least EUR 10 000 in cash on their person, in his luggage or in their means of transport would be required to declare the sum to the competent authorities of the Member State through which he enters or leaves the Union and to make it available to them for control purposes.

If the cash is to be sent in postal packages, consignments by courier, unaccompanied luggage or containerised cargo (unaccompanied cash), Member State through which the cash enters or leaves may require the sender or recipient or their representative to make a disclosure declaration within a fixed period of time not exceeding 30 days. The competent authorities may withhold cash until the declaration is made.

The authorities may control any consignment, container or means of transport likely to contain unaccompanied cash.

## ***Information to be included in the declaration***

The new Regulation extends the number of items of information to be included in the declaration - whether or not accompanied by cash - and has specified their nature, both for natural persons (declarant, owner, sender, and recipient) and for legal persons.

The declaration shall therefore contain information:

- on the contact details, nationality and number of an identity document or, where the owner is a natural person, or the full name, contact details, including address, registration number and, where available, Value Added Tax (VAT) identification number, where the owner is a legal;
- on the value of cash, its provenance and its intended use.

When cash of less than EUR 10 000 is discovered but there is evidence that it may be related to criminal activity, the competent authorities may also record information on the carrier, the owner and, where applicable, the intended recipient, its economic provenance and the intended use.

### ***Temporary detention of cash by the competent authorities***

The duration of the temporary detention may not exceed 30 days. However, the competent authorities may decide to extend the period of temporary detention to a maximum of 90 days.

### ***Transmission and exchange of information***

The competent authorities shall record the information obtained and transmit it to the financial intelligence unit (FIU) of the Member State in question. The latter shall ensure that the FIU transmits all relevant information spontaneously or on request to FIUs in other Member States.

Member State authorities shall exchange information when there are indications that cash is related to criminal activity that could harm the EU's financial interests. This information shall also be transmitted to the European Commission.

### ***Information campaigns***

Member States shall ensure that persons who enter or leave the Union or persons who send unaccompanied cash from the Union or who receive unaccompanied cash in the Union are informed of their rights and obligations under this Regulation.

The Commission shall assess, by 1 June 2019, the possibility of setting up a common mechanism to combat money laundering and terrorist financing.

ENTRY INTO FORCE: 2.12.2018.

APPLICATION: from 3.6.2021.