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

2002/0132(COD) - 26/10/2005 - Final act

PURPOSE : to prevent money laundering through customs cooperation.

LEGISLATIVE ACT : Regulation 1889/2005/EC of the European Parliament and of the Council of the European Parliament and of the Council on controls of cash entering or leaving the Community.

CONTENT : this Regulation complements the provisions of Directive 91/308/EEC, which covers money-laundering operations conducted through credit institutions, financial institutions and certain professions. Since there are large sums of money of dubious origin entering and leaving the Community, which cannot be detected by this mechanism, this Regulation deals with the obligatory declaration of cash at external frontiers. The main points are as follows:

- any natural person entering or leaving the Community and carrying cash of a value of EUR 10 000 or more shall declare that sum to the competent authorities of the Member State through which he is entering or leaving the Community;

- the form of obligatory declaration is laid down in the Regulation. Imposing the use of a standard pre-printed declaration form will enable customs administrations to improve synergies and exchange information more easily. The declarant must provide prescribed information, including details of

the owner of the cash and the intended recipient of the cash;

- in the event of failure to comply with this obligation, cash may be detained by administrative decision in accordance with the conditions laid down under national legislation;

- "cash" encompasses a whole range of fungible assets;

- where there is evidence that cash is being carried for the purposes of money-laundering operations, information obtained through the declaration or through subsequent controls will automatically be transmitted to the competent authorities of the appropriate Member State, and, in certain circumstances, the Commission;

- the competent authorities have the powers to ensure compliance with the obligation to declare and to exercise effective control;

- Member States must introduce penalties for failure to lodge a declaration. By 15 June 2007, Member States shall notify the Commission of the penalties applicable in the event of failure to comply with the obligation to declare;

- there are provisions for divulging information to non-Member countries in the framework of mutual administrative assistance. Member States shall notify the Commission of such exchanges of information where particularly relevant for the implementation of the Regulation;

- all information which is by nature confidential or which is provided on a confidential basis shall be covered by the duty of professional secrecy. It shall not be disclosed by the competent authorities without the express permission of the person or authority providing it. The communication of information shall,

however, be permitted where the competent authorities are obliged to do so, particularly in connection with legal proceedings. Any disclosure must comply with prevailing data protection provisions, in particular Directive 95/46/EC and Regulation 45/2001/EC;

- the Commission shall submit to the European Parliament and the Council a report on the application of the Regulation four years after its entry into force.

ENTRY INTO FORCE : 15 December 2005.

DATE OF EFFECT : 15 June 2007.