

Study on an EU initiative for a restriction on payments in cash

Final Report

Client: European Commission, DG ECFIN

Brussels, 15 December 2017



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Authors: Ecorys, CEPS

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Preface

This report presents the assessment of the impacts of a potential EU measure on cash payment restrictions (either a prohibition or a declaration obligation). Impacts are estimated across categories ranging from terrorist financing, money laundering to tax evasion, and distortions in the Internal Market. Even though an effort is made to quantify impacts, obviously not all impacts can be fully quantified because of data limitations. In those cases where this was not possible, the direction of impacts is as much as possible evidenced and made plausible by data, which is available.

In the course of this study, we have consulted a wide range of stakeholders. We would like to thank them for their valuable insights in the matter.

It should be noted that the findings in this report represent the analysis and assessment by the team of consultants and does not represent in any form a position of the European Commission. Furthermore, as the report looks at the impacts of a potential EU measure on cash payment restrictions, it does not deal with the legal feasibility of any such measure.

Rotterdam/Brussels, December 2017

Disclaimer:

The information and views set out in this report are those of the authors and do not necessarily reflect the official opinion of the Commission. The Commission does not guarantee the accuracy of the data included in this study. Neither the Commission nor any person acting on the Commission's behalf may be held responsible for the use which may be made of the information contained therein.

Executive summary

Introduction

In recent years, an increasing number of EU Member States have introduced restrictions on payments in cash, in order to combat illegal activities (especially terrorist financing and money laundering) as well as tax evasion and the shadow economy in general. These measures fit in the broader AML/CFT framework and are, by those countries that have implemented them, seen as complementary to EU Directives on combating money laundering and terrorist financing (most recently the '4th AML Directive') and the Regulation on physically transporting cash across borders (the 'Cash Controls Regulation').

These national measures vary from one another in terms of the threshold above which cash payments are restricted (for example EUR 1 000 in France, EUR 3 000 in Belgium, Italy and Portugal, EUR 15 000 in Poland). Some explicitly exempt non-nationals, while other explicitly target specific sectors with stricter measures.

Currently no upper limits to cash payments are in place at the EU-wide level. In its Action Plan for strengthening the fight against terrorism financing, the Commission already signalled upper limits to cash restrictions could be further explored as an additional initiative to complement the current European AML/CFT framework (see COM2015(50)).

This initiative would aim at addressing two shortcomings that are identified as arising from the current situation. First of all, diverging national restrictions weaken the effectiveness of national measures, as they can be exploited by displacing illegal activities from a Member State with cash payment restrictions to those with more lenient or no cash payment restrictions. In addition, an initiative would seek to address distortions of competition in the Internal Market that have arisen from the different rules applying to cash payments between Member States, as these may negatively affect certain business sectors in countries with cash payment restrictions, to the benefit of their competitors in neighbouring countries without such restrictions.

Analysis of the problem

This impact assessment first analyses the stated problems arising from the current situation. It first revisits the arguments and evidence for the linkage of cash with illegal activities and tax fraud. It then reviews and analyses the evidence gathered on the displacement of illegal activities from Member States with cash payment restrictions to those without, the so-called 'forum shopping'. Finally, an assessment is made of the distortionary effects on competition in the Internal Market generated by the divergences between national measures. To this end, the displacement of revenues between cash-intensive businesses in neighbouring countries is analysed econometrically.

Policy options

The terms of reference for this study outlined different policy options to address the problems identified. These can be grouped in two categories: a cash payment restriction through a prohibition on high value cash payments above an identified threshold, and a cash payment restriction through a declaration obligation for high value cash payments above the threshold. Within both options, we distinguish different threshold levels (EUR 10 000, 5 000, and 1 000) as well as persons concerned (in particular looking at the role of non-nationals) and transactions concerned (exceptions for certain

business sectors and transactions between consumers). These options are subjected to an impact assessment. The problem analysis of the status quo serves as the baseline of the study.

Impact assessment

The impact assessment concentrates on nine types of potential impacts identified for this measure. These comprise impacts on: Illegal activities; Tax evasion; (Addressing distortions in the) Internal Market; Revenue effects; Enforcement costs; Compliance costs; Economic freedom and privacy; Vulnerable groups. Based on these impact categories, the various policy options are assessed and compared against one another. We have carried out extensive desk research, field research via different channels (including in-depth interviews in 10 EU Member States), and analysis and validation activities with different stakeholder groups (including economic operators as well as law enforcement professionals).

Conclusions

Based on the assessment, effects within the impact categories can be summarised as follows:

Impact on terrorist financing

Findings indicate that the likely impact of a cash payment restriction on combating terrorist financing is limited. Amounts involved are so small, that the threshold levels would have to be set at an exceedingly low level. This is corroborated by the case study analysis. In the researched terrorist financing cases, neither a cash payment restriction nor a declaration obligation would have a significant impact. Most importantly, generally the amounts involved in the transactions are too small to be detected by a measure at either of the three researched threshold levels. This is corroborated by expert opinions sought in view of the country studies. Moreover, they often involve activities that are already illegal (procuring firearms, for example) and thus will not be further affected, or activities that would otherwise be considered as 'normal' activity (renting a truck, for example) and would not necessarily raise any suspicions.

Impact on money laundering

A restriction or declaration obligation will remove anonymity of a transaction and hence will complicate money laundering via the purchase of high-value goods. Cash restrictions are relevant for cash-generating crimes (such as the production and trade in illicit drugs) and to a much lesser extent to various so-called 'white-collar crimes', such as various types of fraud involving money that is already in the financial system. A cash restriction will have an impact on specific categories of illegal spending and money laundering schemes: in particular those where the purchase of high-value goods is involved.

The adoption of both a ban and a declaration obligation are expected to have a positive impact on the fight against money laundering, as it will restrict the expenditures of cash on high-value goods. A declaration obligation will provide law enforcement with intelligence. However, the effectiveness of a declaration obligation will depend on the levels of compliance by high-value dealers and the extent to which the reports are actually analysed and effectively used as intelligence, information or evidence in money laundering investigations. Compliance costs are expected to be higher in comparison with the cash restriction.

Both in case of a restriction and a declaration obligation, the principle is that the lower the threshold the more difficult money laundering is being made. Therefore, the most effective threshold is the lowest researched, namely that of EUR 1 000. Exceptions for foreigners will under both options, severely limit the impact of a measure.

Positive side-effects of a restriction are expected regarding increased alertness on the risks of illegal activities and on indirectly decreasing risks of robberies. A potential effect may be an increased reliance on financial infrastructure, which occasionally experience technical difficulties temporarily making payment by (credit)card impossible.

Impact on tax evasion

It should be noted that in general tax evasion is rather explained by other factors than solely by the use of cash. It also does not capture larger tax evasion schemes, which do not depend on cash at all. If a measure were introduced, the introduction of a cash payment prohibition makes more sense than introducing a declaration obligation. In the case of a commercial transaction in which tax evasion occurs, the person who evades taxes likely is the party that receives money (i.e. the seller side). Assuming that the seller has to give a declaration, it appears unlikely that in the case of a cash payment above the corresponding threshold level, a declaration will be made if the seller at the same time has the intention to evade taxes. In this scenario, the threshold level of the declaration is irrelevant since the intrinsic motivation stays the same irrespective if the declaration is high or low. On the contrary, with a cash payment prohibition, the responsibility always lies with the buyer and with the seller, instead of only with the seller who might already be dishonest by underreporting his income to the tax authorities. For the same reason, cash payment prohibitions are the preferred option in countries that have neither a cash payment prohibition nor a declaration obligation yet.

A high ban would not fulfil the purpose of reducing tax evasion. Even a threshold of 1 000 EUR is most likely going to be too high, because the vast majority of tax evasion cases concerns small amounts and would not be affected. The lower the threshold value, the more cash-settled commercial payments are likely to be affected by a cash payment limit. Despite the limited impact the measure would have on tax evasion, the threshold should be as low as possible to be somehow effective. If it is not possible to introduce cash payment prohibitions, a declaration obligation could be considered (or kept in the case of already existing obligations). Even though the risk of underreporting would be higher than with a prohibition, compliance could increase through a declaration obligation due to the corresponding fines.

Impact on the Internal Market

An EU measure on cash payment restrictions that harmonizes the limitations to cash payments at EU level would address distortions of the Internal Market. For this effect to occur, no deviations (higher or lower limits, or specific exemptions) should be allowed on a national level, although specific sectors may be singled out for exemptions or for targeted, stricter measures.

Impact on enforcement costs

It is not possible to sufficiently quantify the current enforcement costs associated with implementing the cash payment restrictions currently in place in most of the Member States. A calculation of additional enforcement costs associated with an EU measure in different forms is therefore not possible. The data that is available suggests that enforcement costs are rather limited, especially when seen in perspective of the total costs associated with enforcing the broader EU AML/CFT framework. It is clear that both the type of measure and the threshold level greatly determine consequences for expected additional enforcement costs. Taking into account that 16 countries currently have a cash payment prohibition in place, ceteris paribus, a declaration obligation regime is more costly to implement than a prohibition. Furthermore, adopting a threshold of EUR 10 000 is expected to create very limited or even no additional costs at EU level, as investments needed by countries without a current restriction are offset by less capacity needed for enforcement in those countries currently enforcing a lower threshold, as they need to supervise fewer transactions.

Impact on compliance costs

The effects on compliance costs can be expected to be minimal for the majority of businesses, as not many cash transactions are being conducted at the various threshold levels, because they are to a large extent already digitalised. For the group of cash transactions that would be affected, the consequences for compliance costs depend heavily on the type of measure that would be instituted, on the threshold level as well as on the concerned industry sector. If a declaration obligation would be introduced, cash-intense sectors which currently only have to apply customer due diligence measures above a certain threshold (EUR 10 000 under the 4th AML Directive), and where appropriate to file STRs, would have to face significant compliance costs. The same holds true for businesses, which are currently not obliged to file any report. In the case of the introduction of cash payment prohibition for the cash intensive industry, no significant increase of compliance costs is to be expected. On the contrary, compliance costs would decrease in the form of less reporting being necessary.

Revenue effects

Limited data and evidence is available on the size of revenue effects due to current cash payment restrictions. As the categories of transactions affected under the varying thresholds are already mainly not done in cash, the potential effects are limited.

Impact on economic freedom and privacy

For both economic freedom and privacy, the preferred option would be to remain at the baseline scenario. An obligation to declare is preferred to a cash prohibition, from the economic freedom perspective as it intervenes less with the choices. Lower thresholds (e.g. EUR 1 000) would impact in a more negative way economic freedom and privacy than higher thresholds (e.g. EUR 5 000, 10 000).

Impact on vulnerable groups

The expected impacts regarding both options are not be very significant regarding vulnerable groups, since the latter generally are not buying high-value goods. Nevertheless, access to information and additional targeted support is a crucial factor for these groups. Accompaniment is hence crucial to allow adaption and full inclusion of vulnerable people. Additional support but also coordination from banks, associations (for consumers, persons with disabilities, refugees, etc.) and legal guardians would be needed to guarantee their conclusion.

Persons concerned

It is clear from the current national restrictions in place that a trade-off between effectiveness of a measure in combating illegal activities and potential negative effects on tourism exists. No quantifiable assessment can be made of the how tourism by non-Europeans may be affected. Exemptions for non-nationals may avoid potential negative revenue effects, but complicate enforcement measures and lessen the effectiveness of the measure overall. They are also perceived as being discriminatory in those countries that currently have them (France, Italy and Spain).

Transactions concerned

Any measure would need to cover B2B and B2C transactions broadly. Certain exceptions could be countenanced: based on a sector-specific risk assessment, certain sectors could be subjected to a higher threshold level (for example, if they are already well monitored and supervised) and others to lower threshold (for example money transfers). Whether this is needed also depends on the threshold level chosen for an EU measure. At any rate, sector-specific exceptions should hold for the European Union broadly, to contribute to solving the problems identified in the status quo.

The measure should not include C2C transactions, for two reasons. First, they are broadly deemed unenforceable by law enforcement professionals. Second, taking the first objection into account, they are considered to be an infringement on economic freedom and privacy that is not warranted by the potential effects.

Comparison of options

On balance, a prohibition on high value cash payments is considered to be effective in addressing distortions currently in place on the Internal Market, and potentially effective in combating in particular money laundering, both by introducing additional hurdles to money laundering (making it more difficult) and by removing loopholes within Europe which are created by diverging regimes. The latter effect is influenced by the threshold level chosen: if set at the highest level, harmonisation will take place but it will also make a number of existing country thresholds less stringent. However, there is also a trade-off with enforcement costs and other impacts such as economic freedoms and privacy and compliance costs as more transactions would be affected.

Glossary

Abbreviation	Explanation
AML	Anti-money laundering
B2B	Business to business transactions
B2C	Business to consumer transactions
C2C	Consumer to consumer transactions
CFT	Combating the financing of terrorism
DLT	Distributed Ledger Technology, or block chain
ECB	European Central Bank
FATF	Financial Action Task Force
EU	European Union
FIU	Financial Intelligence Unit
FTE	Full Time Equivalents
ML	Money laundering
MOCTE	Money laundering, organised crime, tax evasion
MS	Member State
OC	Organised Crime
POS	Points of Sale
SAR	Suspicious Activity Report
SNRA	Supranational Risk Assessment
STR	Suspicious Transaction Report
TE	Tax Evasion
TF	Terrorist Financing
VAT	Value-added tax

1 Introduction

This study assesses the impacts of a potential EU measure on cash payment restrictions. To this end, this Chapter first gives an overview of why cash is still being used widely and reasons why a cash restriction might be considered as well as the current regulatory framework in place. The Chapter closes with a summary of the definitions used in this study.

1.1 Features of cash

The introduction of cash as a means of payment long ago, instead of barter trade, has changed the economy and society profoundly. Even though, after centuries of reliance on cash there are signs of alternative methods to cash becoming increasingly prevalent, today we are still far away from being a cashless society.

Cash has several qualities that renders it useful to society. Foremost, it is used in transactions in exchange for goods and services. Moreover, cash can be used to store value, i.e. as an asset. Citizens are able to hold cash for later use in life, though inflation reduces the attractiveness of cash as a store of value. In the 19 euro area countries almost a quarter of consumers are keeping some cash at home as a precautionary reserve.¹

Most relevant in the context of the discussions on cash payment restrictions and declarations is the role of cash for transactions purposes. For society, cash has several advantages compared to card or digital methods of payments. Firstly, it does not require electronic devices such as cards or smartphones for consumers and infrastructure for retailers such as card readers etc. for transactions. Secondly, the transactions can be concluded immediately, whereas digital payments currently in most cases still take up to a couple hours to clear - although the time that is required to process virtual payments is likely to gradually reduce to immediate or close to immediate with the introduction of instant payment technologies. Thirdly, consumers cherish the anonymity of cash as consumer preferences and sensitive purchases are not tracked as they could be via name linked cards or digital methods. Moreover, parts of society cling to cash simply out of routine and inexperience with other methods and technologies; this is particularly the case for the older generation and should already indicate a natural migration towards digital and card payment methods over time.²

On the other hand, cash payments have their drawbacks for society. Aside from the potential tax fraud and abuse of cash for terrorist financing and money laundering, cash often requires regular withdrawals, which entail opportunity costs in terms of time spent. Cash payments also require additional investments from a societal point of view. An ECB study has compared the (social) costs arising from using different payment methods.³ The sample of 13 EU countries showed, that the

¹ ECB (2017): 'The use of cash by households in the euro area', ECB Occasional Paper No. 201. Accessible online: <https://www.ecb.europa.eu/pub/pdf/scopops/ecb.op201.en.pdf>.

² Ibid.

³ ECB (2012): 'The social and private costs of retail payment instruments: a European perspective'. ECB Occasional Paper No. 137. Accessible online: <https://www.ecb.europa.eu/press/pr/date/2012/html/pr121001.en.html>.

average annual cost of using cash for transaction is just below 1% GDP.⁴ In this study, social costs represent the costs for using resources in the production of payment services, including the total cost of production excluding payments, such as fees, tariffs, etc., made to other participants in the payment chain. In this sense, social costs measure the sum of the pure costs of producing payment instruments incurred by the different stakeholders in the payments market.

For cash the costs are incurred for 50% by banks and 46% by retailers, however these costs will at least partially be passed on to consumers.⁵ Overall, about half of all costs summed across all payment methods stem from cash transactions. This is not surprising as cash transfers are still the dominant payments method. When assessing the benefit to society the costs per transaction are more insightful and here cash is often associated with the lowest social costs. In the ECB sample (2012), for two-thirds of the countries cash had the lowest social cost per transaction and in the remainder debit, cards had the lowest costs attributed to them. However, as payments are affected by economies of scale, even if cash and direct debit payments are currently the less costly methods, this may change: the cost of other payment methods may be significantly reduced when they grab a larger share of the total volume of transactions.

In the next chapter, the current use of cash within the EU is examined. First, we turn towards the broader debate on cash payment restrictions and why research into the benefits and drawbacks of an EU measure regarding cash payment restrictions is warranted.

1.2 The role of cash in EU Member States

A lively debate is on-going in society about the topic of cash payment restrictions. Opponents (often businesses) stress that cash is a legitimate means of payment and that 'criminal abuse of cash by a few should not outweigh the legitimate use by many' – moreover, limiting cash would have little to no impact on the illegal activities it is supposed to tackle anyway.⁶ On the other side, proponents of cash limitations (including most law enforcement representatives) stress that cash is the means of payment used for virtually all organised crime and therefore should be controlled.⁷

Whereas opponents tend to interpret a cash limitation as a move towards banning cash altogether, proponents of a restriction are faced with the difficulty of establishing proof – finding hard, concrete evidence – of the precise effects, a cash payment restriction would have. A balance between the two positions is provided in a recently published RUSI paper,⁸ which examines the current landscape regarding cash payment restrictions in the EU, and assesses its benefits and drawbacks vis-à-vis other policy options to counteract the problems associated with cash usage for illegal activities.

⁴ Ibid.

⁵ ECB (2012): 'The social and private costs of retail payment instruments: a European perspective'. ECB Occasional Paper No. 137. Accessible online: <https://www.ecb.europa.eu/press/pr/date/2012/html/pr121001.en.html>.

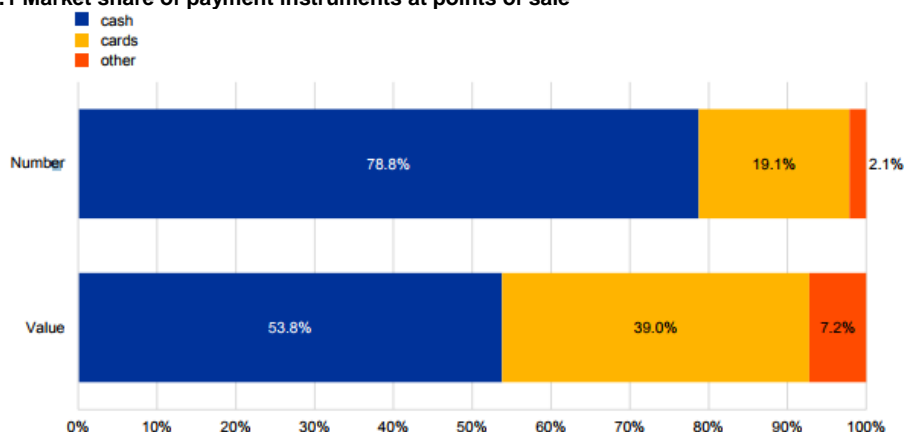
⁶ Cash Matters (2017): Keeping Cash. Assessing the Arguments about Cash and Crime. Accessible online: http://www.cashmatters.org/documents/15/Keeping_Cash_Whitepaper_download_PDF_US_Letter_Size.pdf.

⁷ Europol (2015): Why is cash still king? A strategic report on the use of cash by criminal groups as a facilitator for money laundering. Accessible online: <https://www.europol.europa.eu/publications-documents/why-cash-still-king-strategic-report-use-of-cash-criminal-groups-facilitator-for-money-laundering>.

⁸ Sands P., Campbell H., Keating T. and Weisman B. (September 2017): Limiting the Use of Cash for Big Purchases. Assessing the Case for Uniform Cash Thresholds. RUSI Occasional Paper. Accessible online: <https://rusi.org/publication/occasional-papers/limiting-use-cash-big-purchases-assessing-case-uniform-cash-thresholds>.

Some regard the vision that cash is, for the most part, being replaced by ‘plastic’ (card payments, credit transfers, direct debits) and digital payment methods (PayPal, digital wallets, etc.) as likely. However, today, cash is still ‘king’ in most countries around the world, and the EU is no exception. Data from the ECB’s household survey (2017) indicates the continuing relevance of cash as means of payment. Figure 1.1. shows that around 79% of all payments at POS in all 19 euro area countries were made with cash, 19% with cards and 2% with other payment instruments.⁹ In terms of value, the market share of main payment instruments was 54% for cash, 39% for cards and 7% for other instruments.¹⁰

Figure 1.1 Market share of payment instruments at points of sale



Source: ECB, Deutsche Bundesbank and De Nederlandsche Bank.

However, the outcomes show considerable differences between euro area countries. The current use of cash and cards differs according to country, transaction value, place of purchase and consumers’ demographic characteristics. Regarding the number of transactions, cash was most used in the southern euro area countries. Figure 1.2 illustrates the share of transaction per country at POS. In Germany, Slovenia and Austria 80% or more of POS transactions were conducted with cash.¹¹ On the contrary, cash was least used in the Netherlands, Estonia and Finland, where its share in the number of transactions ranged between 45% and 54%.¹² In terms of value, the share of cash was highest in Greece, Cyprus and Malta (above 70%), while it was lowest in the Benelux countries, Estonia, France and Finland (at, or below, 33%).¹³ When looking at the demographic characteristics of euro area consumers, it can be concluded that men tend to use cash more often than women do. In addition, consumers aged 40 and over use more cash than younger age groups, whereas cash usage seems to be relatively homogeneous across different levels of education.¹⁴

⁹ ECB (2017): ‘The use of cash by households in the euro area’, ECB Occasional Paper No. 201. Accessible online: <https://www.ecb.europa.eu/pub/pdf/scpops/ecb.op201.en.pdf>.

¹⁰ Ibid.

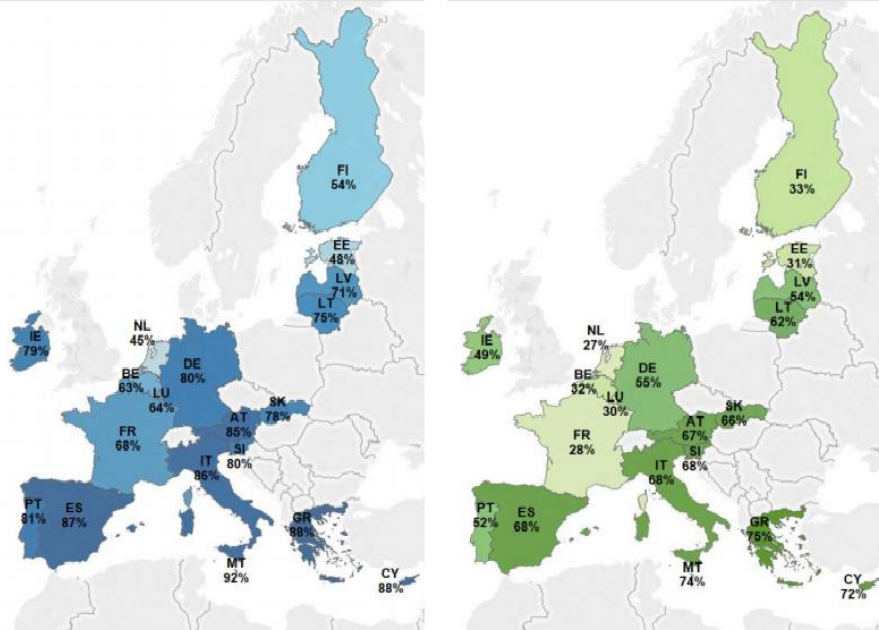
¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

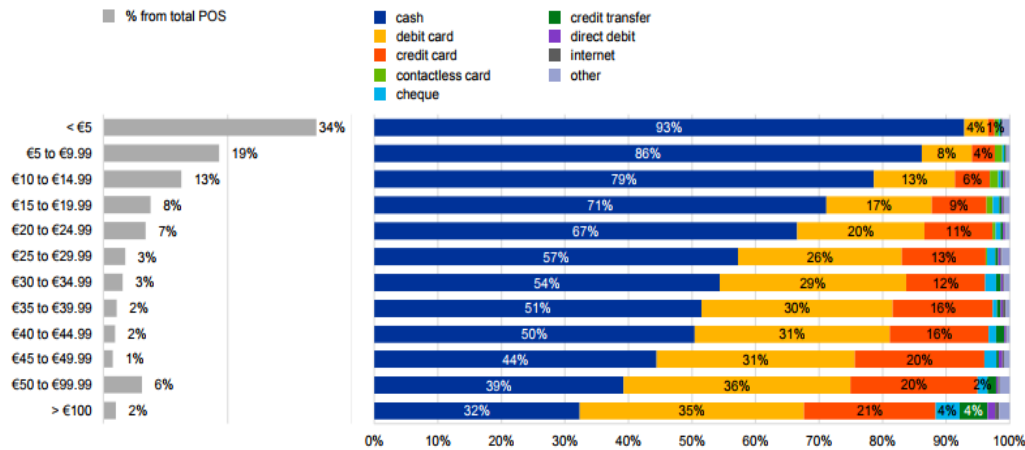
Figure 1.2 Share of cash transactions per country at points of sale by number of transaction (left figure) and value of transaction (right figure)



Source: ECB, Deutsche Bundesbank and De Nederlandsche Bank.

In addition, studies have shown that small transactions are more likely to be conducted via cash payments than large transactions. For example, the ECB household survey (2017) found a steep reduction in the use of cash as the transaction values get higher. Figure 1.3 highlights that in all surveyed countries, small amounts are very likely to be paid in cash, whereas amounts over EUR 100 are mostly paid with alternative means of payment.

Figure 1.3 Use of payment instruments at POS, by value range



Sources: ECB, Deutsche Bundesbank and De Nederlandsche Bank.

Looking more closely at the payment amounts above EUR 100, it is interesting to note that the use of cash remained relatively high. Almost a third of POS transactions with a value above EUR 100 were paid with cash. However, the number of payments above EUR 100 was relatively small; only 2% of recorded payments were above EUR, which is why no reliable breakdown of the use of various payment instruments for value ranges above EUR 100 can be provided.¹⁵

¹⁵ ECB (2017): 'The use of cash by households in the euro area', ECB Occasional Paper No. 201. Accessible online: <https://www.ecb.europa.eu/pub/pdf/scpops/ecb.op201.en.pdf>.

While banknotes in circulation have been continuously rising, other means of payment have also increased sharply. Kireyev (2017) conducted a survey in several countries finding that the use of non-cash transactions had risen to around 10 times over the course of one decade. Though not all alternative payment methods are flourishing, notably cheque payments have lost its significance in recent year. Credit transfers and direct debit payments have more than doubled in the EU between 2000 and 2015. Over the same time card payments have more quadrupled similarly to banknotes in circulation though some of the increase in banknotes is due to store-of-value and foreign demand. Thus, the dynamic of card payments as a share of all transactions is thereby comparatively underreported.

1.3 Why cash payment restrictions?

The recently published report by the European Commission on the assessments of risks of money laundering and terrorist financing affecting the internal market and relating to cross-border activities specifically zooms in on cash as the most recurring means used for ML/TF purposes. Monitoring of cash transactions is weak and there is a lack of clear regulation and controls requirements in the EU. There are a number of reasons that underpin a potential introduction of a cash restriction in Europe. These are introduced below and further elaborated in Chapter 3.

1.3.1 Cash and illegal activities

The advantages of cash do not only accrue to those that seek to utilise it legitimately. The advantage of anonymity means that it is also the means of payment of choice for people with malign intentions – and while cash certainly does not imply illegal activities, illegal activities usually imply the use of cash. From a criminal perspective, cash is superior to all payment alternatives.¹⁶

Cash and terrorist financing

Cash is one of the means for terrorists and criminals because it helps them minimize the chances of being caught. It offers anonymity and aids the ability to conceal not only illegal activities, but also ancillary legal transactions that could otherwise be tracked by law enforcement agencies. In many terrorist activities, cash does play a role.

Cash and money laundering

Organised crime and the so-called common indictable serious offences in which it is active (particularly drugs, but human and arms trafficking as well) form a worldwide shadow economy that is still largely based on cash. To be able to make use of cash receipts from illegal activities in the formal, real economy it needs to be laundered.

This can be done by depositing it in a bank account, by investing it in monetary instruments, or by buying (high-value) goods and services, which may be re-sold. Because of increased law enforcement activity and monitoring of cash flows, launderers need to break up large sums of cash in many smaller amounts used for transactions.

¹⁶ See Sands P. et al. (February 2016),: 'Making it Harder for the Bad Guys: The Case for Eliminating High Denomination Notes', Mossavar-Rahmani Center for Business and Government M-RCGB Associate Working paper Series (No.52); Rogoff K. (2016), *The Curse of Cash*. Princeton: Princeton University Press.

Money laundering and cash

In the last 2 years, the international standard setter in charge of anti-money laundering and terrorist financing, the Financial Action Task Force (FATF) has issued important typology reports where the risks posed by cash in various scenarios (physical transportation across the borders) or in high risk areas (West Africa) have been highlighted.¹⁷ This has been confirmed by some national FIUs.¹⁸

Measures to curb the illicit use of cash should therefore make it harder for criminals to conceal the movement or payment of large amounts of money, enabling further investigation.

Cash and tax evasion

Whether cash payments can be a driver of shadow economy activity, is subject to a controversial scientific debate. Proponents argue that it provides an incentive not to report the transaction and evade tax payments.¹⁹ These activities would be possible because cash provides anonymity and non-traceability to the transacting parties, and would be a reason of the 'tax gap' countries face: the difference between how much taxes should theoretically be generated in a country versus what the government actually receives. Measures to curb the illicit use of cash should therefore aid in addressing the tax gap that countries face. Indeed, there is ample literature that underreporting by smaller businesses of a significant portion of cash transactions accounts for a large portion of lost revenues due to tax evasion.²⁰ Through non-or under-reporting of sales made through cash payments, businesses are able to avoid value-added (VAT) and corporate taxes they are due. Similarly, non- or under-reporting of payments in cash for services rendered to employees enables workers to avoid income taxes and employers to avoid social insurance premiums.

However, opponents argue that cash is neither a cause nor a driver for tax evasion. In their opinion, it is not cash but other causal factors determining tax evasion and the shadow economy as a whole, including tax and social security contribution burdens, the quality of public sector services, tax morale, deterrence measures and the quality of institutions and existing regulations.²¹

1.3.2 *Diverging restrictions displace illegal activities and create internal market distortions*

At present 16 EU Member States have introduced a form of cash restriction (see section 1.4.2), which differ strongly with regard to the threshold chosen and the exemptions that are allowed. The current lack of harmonisation of cash restriction in Europe has different side effects. On the one hand, it creates loopholes in the system, which may induce illegal activities to be moved to countries, which adopt less stringent regulation. On the other hand, it may lead to distortion in the internal market as consumers might opt to shift their purchases from cash restricted EU Member States to other EU Member States, which are not bound by any cash restriction (or face a less restrictive regime).

¹⁷ See <http://www.fatf-gafi.org/media/fatf/documents/reports/Terrorist-Financing-West-Central-Africa.pdf>, <http://www.fatf-gafi.org/media/fatf/documents/reports/money-laundering-through-transportation-cash.pdf>; <http://www.fatf-gafi.org/media/fatf/documents/reports/Role-of-Hawala-and-similar-in-ml-tf.pdf>.

¹⁸ See <https://www.fiu-nederland.nl/nl/witwas-typologieen-0>.

¹⁹ Bussmann, Kai (2015): Dark figure study on the prevalence of money laundering in Germany and the risks of money laundering in individual economic sectors. Accessible online: https://www.schleswig-holstein.de/DE/Fachinhalte/M/marktueberwachung/Downloads/Geldwaesche/dunkelfeldstudie_geldwaesche_Dtld.pdf?__blob=publicationFile&v=1.

²⁰ E.g. Morse, S.C./Karlinsky S. & Bankman J. (2009): 'Cash Businesses and Tax Evasion', *Stanford Law and Policy Review*: 20(1).

²¹ Schneider, Friedrich (2016): Estimating the Size of the Shadow Economy: Methods, Problems and Open Questions, Discussion Paper No. 9820 March 2016,. Accessible online: <http://ftp.iza.org/dp9820.pdf>.

The example of money laundering

As the AML regime constrains the ability of criminals to launder money via the banking system, physically moving cash is becoming increasingly attractive as a means to launder money. Indeed, through moving cash within the European Union criminals exploit differences between national AML/CFT regimes and seek the jurisdiction offering the least chance of getting caught or the lowest penalties for violations.

An EU measure harmonizing cash payment restrictions at an upper limit would therefore aid in closing off one avenue through which money launderers conduct their illegal activities.

Distortions of competition in the internal market

Diverging practices among EU Member States regarding restrictions on cash payments can create an uneven playing field for businesses in different EU Member States; hence, these differing restrictions create distortions of competition in the internal market. As a consequence, economic activity moves across the border in order to avoid the cash restriction, thereby negatively affecting businesses in Member States with cash payment restrictions.

An approximated measure at EU level would address these distortions of competition by equalizing the legislative landscape as regards cash payment restrictions for businesses in different EU Member States, effectively creating a single cash payment restriction regime.

1.4 Current regulatory framework

An EU initiative towards restricting the use of cash above certain thresholds would be complementary to the current regulatory framework in place both at a European and national level.

Although currently no upper limits to cash payments are in place at the EU level, several Member States have established prohibitions for cash payments above specifically defined thresholds. These thresholds differ between countries. In its Action Plan for strengthening the fight against terrorism financing, the Commission already signalled upper limits to cash restrictions could be further explored as an additional initiative to complement the current framework. Another initiative at EU level is the European Central Bank's decision of 4 May 2016 to permanently stop the production of the EUR 500 banknote and to discontinue by around 2018 its issuance.²²

1.4.1 European legal framework

The 4th Directive on anti-money laundering and combatting terrorism financing (4th AML/CFT Directive)²³ reiterates that the use of large cash payments is highly vulnerable to money laundering and terrorism financing. In order to increase vigilance and mitigate the risks posed by such cash payments, persons trading goods that receive cash payments of EUR 10 000 or more are subject to

²² See European Central Bank (4 May 2016), Press Release. ECB ends production and issuance of €500 banknote. Last consulted 13 April 2017, Accessible online: <https://www.ecb.europa.eu/press/pr/date/2016/html/pr160504.en.html>.

²³ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorism financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC.

the due diligence requirements.²⁴ The Directive also states that EU Member States may adopt lower thresholds, additional general limitations to the use of cash and further stricter provisions.

The European legal AML/CFT framework is primarily based on the global standards set by the Financial Action Task Force (FATF).²⁵ Measures to combat money laundering, terrorism financing and the proliferation of weapons of mass destruction are specified and agreed internationally in the FATF's 40 recommendations of 2012.²⁶

The EU has transposed the FATF recommendations into EU law by adopting a number of Directives and Regulations. The last Directive is the Directive (EU) 2015/849 on the prevention of the use of the financial system against money laundering and combating the financing of terrorism (4th AML/CFT Directive).

Fourth AML/CFT Directive

The fourth Directive on anti-money laundering and combatting terrorism financing (4th AML/CFT Directive), which was due for transposition in June 2017, observes in its sixth recital, that the use of large cash payments is highly vulnerable to money laundering and terrorism financing. In order to increase vigilance and mitigate the risks posed by such cash payments, persons trading that receive cash payments of EUR 10 000 or more are subject to the Directive (in Article 11), meaning that they shall apply customer due diligence measures to their customers and file, where appropriate, Suspicious Transactions Reports. The Directive also says that EU Member States may adopt lower thresholds, additional general limitations to the use of cash and further stricter provisions. The objective of these measures is to limit the risks linked to the anonymity of the transactions, where cash payments are primarily concerned.

The Fourth Directive is currently under the process of being revised, following the terrorist attacks and Panama Papers scandals.²⁷ The proposed amendments include further measures to increase the traceability of the financial transactions by including new actors in the scope of the obliged entities subject to AML/CFT requirements (virtual currencies exchange platforms), and to lift the anonymity surrounding sectors already covered by EU AML/CFT requirements (lowering of the threshold under which prepaid cards users should be identified from EUR 250 to EUR 150 for offline payments and no anonymity anymore for online payments). At the time of the finalisation of this study, the negotiations are still on-going.

In addition to the overarching fourth AML/CFT Directive, the Cash Control Regulation requires the disclosure of cash or equivalent in excess of EUR 10 000 when entering or leaving the EU.

²⁴ Article 11: Member States shall ensure that obliged entities apply customer due diligence measures in the following circumstances: (...) (c) in the case of persons trading in goods, when carrying out occasional transactions in cash amounting to EUR 10 000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked.

²⁵ All EU Member States are part of the FATF and the European Commission is an observer.

²⁶ In 2013, the FATF added to these recommendations the formulation of a high-level goal that can be divided in three intermediate outcomes related to (1) policy coordination, (2) legislative action and (3) law enforcement. These thematic goals are further operationalised in 11 immediate outcomes or key goals.

²⁷ See <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016PC0450&from=EN>.

Cash Control Regulation

An EU-wide obligation to declare to customs when bringing more than EUR 10 000 in cash in or out of the European Union has been in place since 2005 (Regulation (EC) 1889/2005). On 21 December 2016, the Commission proposed to extend the already existing controls. In short, the measures will extend cash controls to unaccompanied cash such as cash sent in postal parcels or freight consignments and to precious commodities such as gold, which serve as 'quasi-cash' and are used to circumvent the obligation to declare. The aim of the proposed changes is to improve the exchange of information between competent authorities at national level and between Member States and allow them to act on amounts lower than the declaration threshold, provided that there are indications of criminal activity.²⁸

Other relevant measures for combating terrorism financing include the in particular the Cash Control Regulation (see box text), but also the Regulation on fund transfers and the Common Position and Regulations based on the UN Security Council resolutions requiring the blacklisting individuals and groups suspected of terrorism.

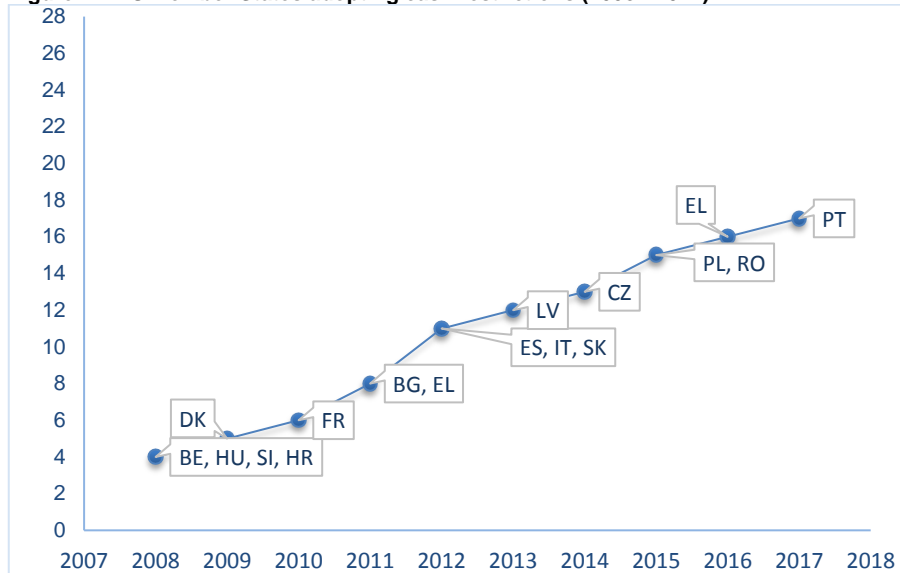
1.4.2 National legislation

Although there is currently no EU restriction on cash payments in the fourth AML Directive, a majority of EU Member States do have cash payment restrictions. As shown in Figure 1.4 below, these restrictions vary from EUR 500 (Greece) and EUR 1 000 (France, Spain and Portugal) to thresholds of EUR 15 000. Some countries (for example France, Spain and Italy) have introduced exemptions (higher thresholds) for non-residents. It is important to note that these cash restrictions need not be related to combating terrorism financing – for example, the cash restrictions in Greece were originally imposed during its sovereign debt crisis to avoid a collapse of the banking system.

The number of EU Member States with cash restrictions has risen rapidly in the past couple of years. Hence, the number of countries adopting cash restrictions has gradually increased from four in 2008 to 16 in September 2017.

²⁸ See: https://ec.europa.eu/taxation_customs/individuals/cash-controls/cash-controls-new-proposal_en and http://ec.europa.eu/taxation_customs/sites/taxation/files/com_2016_825_en.pdf.

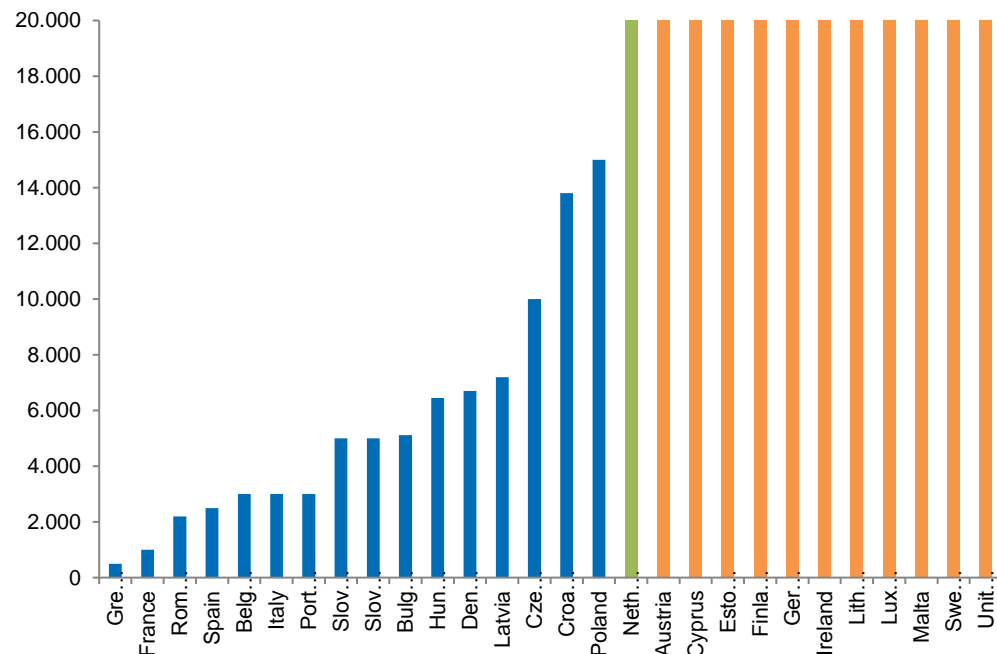
Figure 1.4 EU Member States adopting cash restrictions (2008 - 2017)



Source: Ecorys and CEPS own elaboration.

In total, 17 out of 28 EU Member States have implemented some sort of cash restriction as of September 2017 (Figure 1.5). However, these measures are quite heterogeneous, with differences in the type of measures, thresholds, and coverage. Some countries have thresholds that apply only to transactions conducted with financial institutions, whereas others address high-value purchases from retailers and other businesses. The reporting requirements provide a record of the transactions involved to financial intelligence units and other law enforcement agencies.

Figure 1.5 Cash payment restrictions in place across the EU



Source: Ecorys. NB1. The Netherlands has a declaration obligation for cash payments differentiated by trader type (EUR 2 000 for money transfers, EUR 15 000 for high value traders, EUR 25 000 for car dealers) NB2. Countries indicated in orange currently have no cash payment restriction in place.

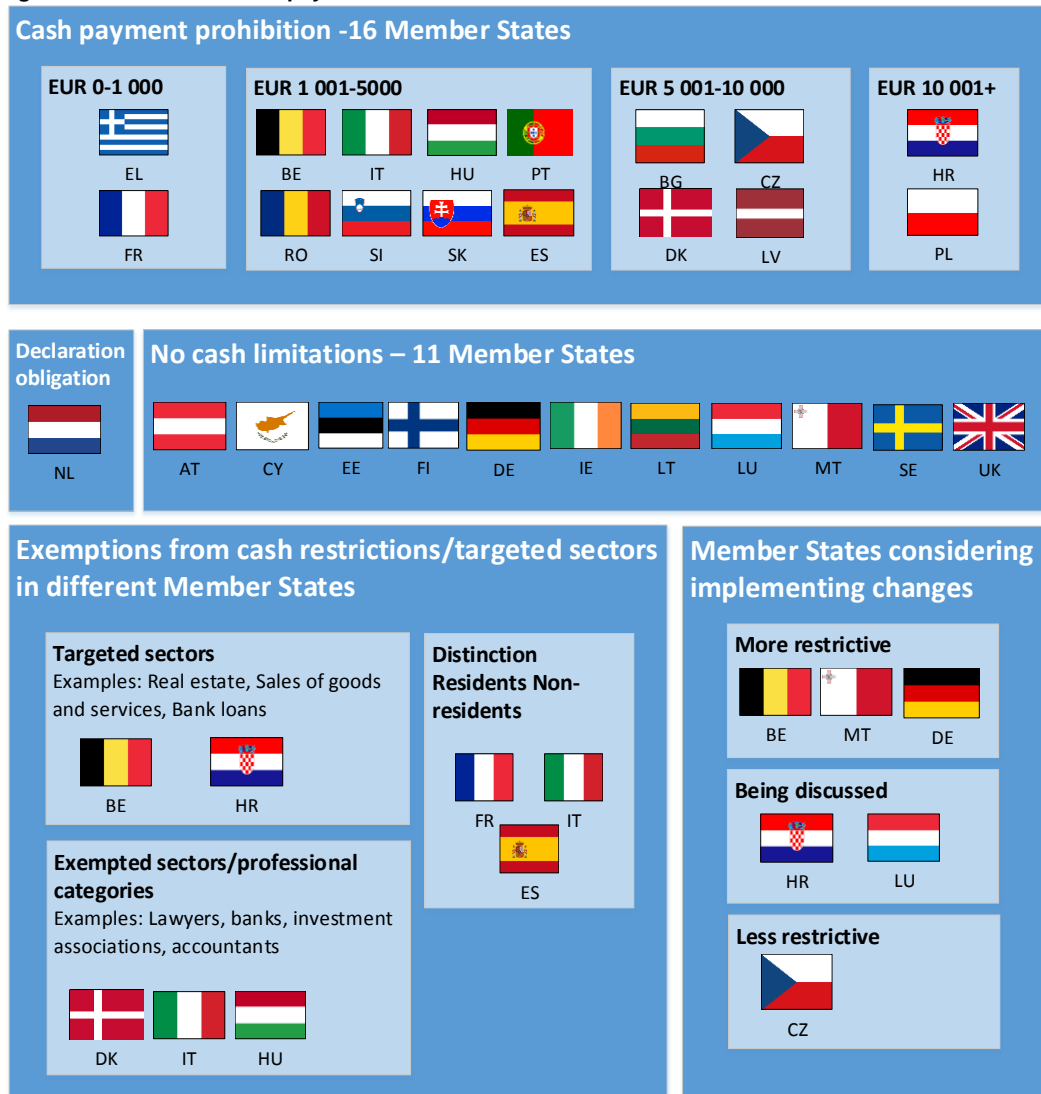
The figure below outlines the cash payment restrictions currently in place in the EU Member States, as well as whether there are plans to adapt or change them. The first infographic shows that currently cash prohibition are enforced in 16 EU Member States. The thresholds vary from EUR 500 in Greece

and EUR 1 000 in France to approximately EUR 13 800 in Croatia and EUR 15 000 in Poland. The Netherlands is the only country that has adopted a declaration obligation and the remaining 11 EU Member States do not have any cash limitations in place.

In several EU Member States particular business sectors or consumers are exempted or targeted by the cash prohibitions. In France, Italy and Spain a distinction is made between residents in the respective countries and non-residents. In this sense, in France and Spain non-residents can perform payments up to a higher threshold (EUR 15 000), while in Italy, the general threshold is not applicable for non-residents. Other countries exclude from the cash restrictions particular sectors enabling professionals in those sectors perform transactions in cash above the generally applicable threshold. For instance in Denmark eleven professional categories including banks and lawyers, are exempted from the thresholds. In the cases of Belgium and Croatia, certain lower thresholds apply in certain sectors. For instance in Belgium cash transactions are completely banned in the real estate sector.

Adoption of new cash payment prohibition is discussed in a number of countries, while others are considering of changing their current threshold. Belgium is considering expanding the scope of the restrictions and including all operations apart from individuals. Germany and Malta are considering adopting a cash payment prohibition. The issue is also discussed in Luxembourg and Croatia, without a concrete proposal for either more or less restrictive measures being prepared. The Czech Republic is the only country considering to move towards less restrictive measures.

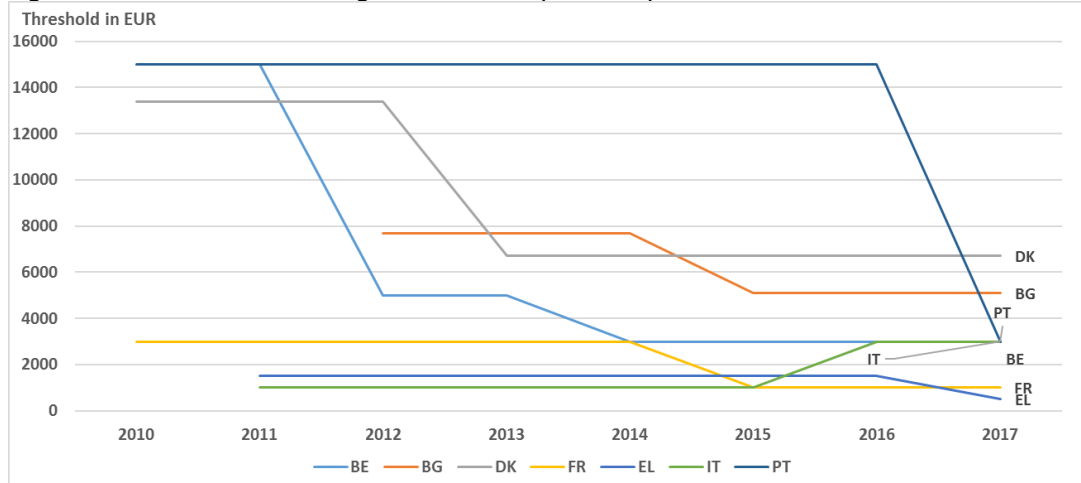
Figure 1.6 Overview of cash payment restrictions in EU Member States



Source: Ecorys and CEPS own elaboration.

Figure 1.7 indicates that six of the EU Member states, which have a cash payment prohibition in place, have lowered the threshold in the last seven years. Italy is the only EU Member State which adopted a cash payment prohibition at a lower threshold (EUR 1 000) and then raised it in 2016 to EUR 3 000.

Figure 1.7 Cash restrictions: Changes in thresholds (2010-2017)



Source: Ecorys and CEPS own elaboration.

1.5 Definitions

In this study, we follow the following definitions:

Terrorist financing is the provision or collection of funds, by any means, directly or indirectly, with the intention that they should be used or in the knowledge that they are to be used, in full or in part, to carry out any of the offences defined in Framework Decision 2002/475/JHA.

In this study, we adopt the broad FATF (2015) definition of terrorism financing, consisting of two general areas:

- Funding specific terrorist operations and preparation of these operations;
- Organisational costs to develop and maintain an infrastructure of organisational support and to promote the ideology of a terrorist organisation.

Money laundering is understood in Article 1 of the 4th AML/CFT Directive²⁹ as:

- The conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an activity to evade the legal consequences of that person's action;
- The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of, property, knowing that such property is derived from criminal activity or from an act of participation in such an activity;
- The acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such an activity;
- Participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions referred to in points (a), (b) and (c).

Tax evasion is the illegal non- or underpayment of tax, where taxpayers deliberately misrepresent the true state of their affairs to the tax authorities to reduce their tax liability. This includes for example reporting less or no turnover to evade the value-added tax (VAT) due, lowering profits to evade corporate income tax as well as personal income to evade income tax.

²⁹ See http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2015_141_R_0003&from=ES.

2 Methodology

2.1 Impact assessment questions

The study methodology follows the principles of the EU Better Regulation Guidelines to undertaking an impact assessment. As such, the research approach was wholly informed by answering the seven key impact assessment questions listed in Table 2.1. Below, we outline the methodological tools that were used in carrying out this research.

Table 2.1 Impact assessment questions

Impact assessment steps	Reading guide
What is the problem and why is it a problem?	Chapter 3
Why should the EU act?	
What should be achieved?	Chapter 4
What are the various options to achieve the objectives?	Chapter 5
What are the impacts of the different policy options and who will be affected?	Chapter 6
How do the options compare?	Chapter 7
How would actual impacts be monitored and evaluated?	

2.2 Methodological tools

Scoping interviews

Through interviews with key stakeholders, the study team's understanding of the policy context, key challenges and topics that require specific attention were determined. These stakeholders were identified based on their expertise, knowledge and relevance in the field. An overview is given in Annex I.

Desk Research

Throughout the study, we have made use of desk research to create an initial understanding of the issues at hand, to plug gaps from the stakeholder consultation inputs, and to gather available quantitative data. Desk research consisted of reviewing the national legislations, the explanatory memoranda if cash payment restrictions were in place and, where available, their subsequent evaluations and impact assessments. In addition, data on national cash use and other means of payments have been compiled and reports and studies on the impacts of cash payment restrictions were reviewed.

EU28 quick scan

A fiche of the legislative cash payment restriction framework in place per EU Member State was created to complete the overview of the current situation per Member State. These were circulated to the relevant national contact points within the Member States for a validation exercise.

Case studies

Through case studies, the effects of payment restrictions on illegal activities were highlighted and isolated. The case study approach allowed us to provide more empiric detail on the use of cash by

terrorist and terrorist organisations (for the expenses related to the (foiled) attacks and as far as possible maintaining a terrorist network).

Seven cases were selected according to the following approach. First, the geographic scope was limited to attacks within the EU leaving aside the major attacks such as those in Istanbul (i.a. Atatürk Airport in 2016 and the Reina nightclub 2017) or the Orlando nightclub shooting (2016). Because of the constantly changing nature of the threat and means of financing, it seems justified to look at the most recent attacks and limit the timeframe to the past five years. To address the issue of poor data quantity and quality, we focussed on those cases for which the most information is publicly available. As such, it was decided to only take into account completed terrorist attacks and leave out disrupted plots and attacks. Finally, it was decided to concentrate on cases of jihadi terrorism and exclude separatist and right- and left-wing attacks. As the 2017, Europol TE-SAT report explains: jihadi terrorism is an international issue, which is less the case of the other forms of terrorism. In addition, the level of activity in the EU attributed to jihadist terrorism remains high and there are indications that it will be continuing to rise and, more importantly, nearly all reported fatalities and most of the casualties were the result of jihadist terrorist attacks.³⁰

These criteria led to an overview of 29 completed jihadi terrorist attacks in Europe between 1 January 2012 and 1 September 2017. One person or very small cells using very limited means such as a kitchen knife and/or a vehicle carried out a great number of these attacks. While these attacks still have an important impact on society, their costs are very limited (below EUR 500) analysing their financing appears to have limited added value in the context of this report. Hence, the case studies below will focus on the more complex attacks that have taken place and necessitated more funds and interaction. In the choice of cases, the geographic spread was also taken into account. The cases have been reconstructed based on media reporting, policy reports, academic literature and interviews with stakeholders.

The goal of the case studies was to understand how cash was used, in which amounts and through what kind of transactions. These sub-questions have eventually helped us to answer the question: would attacks (or money laundering schemes) have been impacted by cash payment restrictions?

EU10 Member State research

In total, 10 EU Member States have been subject to more in-depth research. These include France, Belgium, Sweden, the Netherlands, Germany, Spain, Italy, Greece, Bulgaria and Austria. Through combining a national literature review with interviews with relevant stakeholders from different categories (EU Member States, law enforcement, business, consumers, NGOs), an assessment has been made of the (potential) effects of an EU measure restricting cash payments. The opinions and ideas of businesses and especially representatives from cash-intensive industries have also been included.

For the semi-structured interviews an interview protocol was used to make the impacts discussed as concrete as possible. Per category of stakeholders (EU Member States, consumers, business) a separate list of topics to discuss was created in order to further focus the direction of the interview. This list was sent to the interviewees on forehand so during the interview the focus could be concentrated on the arguments and the rationale for the impacts.

The country studies can be found in Annex III.

³⁰ Europol (2017) TE-SAT report.

EU wide stakeholder interviews

In addition to the EU10 Member State research, a number of EU level interviews with identified stakeholders were conducted (see Annex I). These interviews were structured along the same lines as those of the EU10 Member States. These interviews focused on potential effects of an EU measure on cash payment restrictions and if and how this would differ from the patchwork of national legislation currently in place.

Econometric modelling of revenue impacts from internal market distortion

As part of this study the impact of diverging cash restriction regimes on revenues of high value industry sectors has been modelled based on an analysis of revenue data from the company database AMADEUS.

For the analysis only companies of the NACE classification 4511, 4777, 5510, 6831, 9200, which represent the vehicle dealers, jewellery, hotel and café, real estate and gambling sector, respectively. These sectors were most mentioned during the meetings and interviews as particularly affected by the high-value cash restrictions. If the imposition of cash restrictions has an effect on turnover, it should be most noticeable among these companies.

The aim of this data analysis has been to determine whether the introduction or tightening of national cash restrictions has an impact on firm revenues. More specifically, whether the (introduction or tightening) of cash restrictions in one Member State leads to a move of revenues from sectors for which high-value cash payments are important to other Member States. The latter would be an indication of a cross-border impact in the domain of cash restrictions and support the hypothesis that national payment restrictions distort the Internal Market.

More details on the approach taken can be found in Annex II.

Stakeholder workshop

During the study, two external workshops were organised to assess our findings and to collect feedback and suggestions. Both workshops were aimed at identifying and assessing the relevant impacts regarding the possible EU measure on cash payment restrictions for each of the stakeholder groups.

One workshop was targeted at representatives from economic operators and consumers (e.g. representatives of the European Jewellery Federation and the Euro Cash Users Group) and focused on the economic impacts while the other workshop included representatives from law enforcement authorities, financial regulators and FIUs (as well as Europol, European Central Bank). This workshop focused on the impacts on illegal activities and on enforcement issues.

This set-up, with a thematic split between the stakeholder groups, allowed for a more focused discussion among representatives from the same group, but who will still had differing views on what the best options are.

Targeted survey

A validation survey has been circulated after agreement with the Commission on its contents and on the stakeholders to involve. Its primary goal was to validate the draft outcomes of the impact assessment. Its outcome can be found in Annex IV.

2.3 Overview of stakeholders consulted

Below, an overview is given of stakeholders consulted over the course of this study, either through interviews, stakeholder workshops. It is noted that a stakeholder survey will still be organised to gather final inputs from the remaining stakeholders and to validate our draft assessment.

Table 2.2 Overview of stakeholders consulted

Organisation / stakeholder
EU institutions and agencies
Europol
European Central Bank
European Banking Authority
Fundamental Rights Agency
European Data Protection Supervisor
National competent authorities
National Central Banks
National Law Enforcement Authorities (e.g. FIUs, tax authorities, police)
Commission expert groups
Euro Cash User Group (X02757)
EU Financial Intelligence Units' Platform (E03251)
Commission Expert Group on Banking, Payments and Insurance (E02885)
Commission Expert Group on Money Laundering and Terrorism Financing (E02914)
Private sector
EuroCommerce
European Federation of Jewellery
European Cultural and Creative Industries Alliance
European Travel Agents and Tour Operators Associations
Association des Constructeurs Européens d'Automobiles (ACEA)
European Council for Motor Trades and Repairs
European Association of Independent Vehicle Traders
Committee of Professional Agricultural Organisations
Conseil des Notariats de l'Union Européenne
Union Européen du Commerce du Bétail et des Métiers de la Viande
The European Intelligent Cash Protection Association
Union Européenne de l'Artisanat et des Petites et Moyennes Entreprises (UEAPME)
Civil society
Caritas
Eurodiaconia
Privacy International

It must be noted that the study team faced some difficulties in contacting certain stakeholders from Spain (for the country report on Spain) and from EU organisations such as FRA and EDPS. In addition, some stakeholders such as the European Consumers Organisation turned down a request for an interview, stating that it was not in their policy rules to be interviewed.

2.4 Limitations of the study

It should be noted that impacts on cash restrictions or other policy interventions on terrorism financing and other illegal activities are by definition hard to measure due to the 'dark figure' problem. As such, we need to rely on indirect and qualitative evidence, including expert opinions rather than hard quantitative data to substantiate the impacts in these areas.

Next to this it should be noted that some impacts, e.g. fundamental rights, privacy and economic freedom, are valued differently by different stakeholders and might differ on their cultural setting. Hence, there is a level of subjectivity and perception, which cannot be fully avoided in the study.

3 Analysis of the main problems

In this chapter, the main problems as identified in the introductory chapter are further analysed. These are mainly related to the use of cash as a means in terrorist financing, money laundering and tax evasion. In addition, the existence of diverging national cash payment restrictions within the EU leads to displacements of illegal activities between Member States ('forum shopping'), and displacements of (legal) revenues between businesses in different Member States (Internal Market distortions).

This analysis details what the status quo is and as such, comprises the baseline against which the policy options are assessed.

3.1 Cash and terrorist financing³¹

In the recently completed Commission supranational risk assessment (SNRA) of the risks of money laundering and terrorist financing affecting the internal market and relating to cross-border activities,³² cash products have been subject to in-depth analysis of (i) cash couriers; (ii) cash intensive business; (iii) high value banknotes and (iv) payments in cash. All these products have been considered as highly exposed to both terrorist financing and money laundering for the following reasons: - risk exposure, - risk awareness, - legal framework and controls in place.

Size of the problem

The use of cash in terrorism financing is highlighted in a range of publications, including the EU's law enforcement agency Europol.³³ Hard data on the role of cash being used in terrorist financing remains elusive and the amount of in-depth, trustworthy and publicly available information on the fundraising and expenses for terrorist purposes is limited. Obviously, terrorists aim to operate in secrecy and often undertake great effort to avoid the detection of their financial transactions. Academic researchers, policy analysts and journalists have documented a broad range of legal and illegal means that have been used by terrorists to finance their acts and do offer estimations of the cost of an attack. However, these accounts usually do not study specifically the use of cash. Even court data from terrorism cases may lack the very detailed information how exactly terrorists paid for their expenses.

A notable exception is the 2014 report by Emilie Oftedal for the Forsvarets forskningsinstitutt (FFI). She studies the financing of 40 jihadi terrorist cells that have plotted attacks in Europe between 1994 and 2013 and examines four case studies in greater detail. Although the focus of the report is on the means through which terrorist cells finance attack related activities, it also offers information specifically on the use and prevalence of cash.

³¹ Contributions to this section come from Dr. Mara Wesseling, expert on terrorist financing and money laundering.

³² (SWD(2017) 241 final).

³³ Europol (2015), 'Why is cash still king? A strategic report on the use of cash by criminal groups as a facilitator for money laundering'. See <https://www.europol.europa.eu/publications-documents/why-cash-still-king-strategic-report-use-of-cash-criminal-groups-facilitator-for-money-laundering>.

In their study on 'Understanding Terrorist Finance', Magnus Normark and Magnus Ranstorp also offer brief descriptions of four cases of terrorism financing in Scandinavia between 2001 and 2015, providing some insight into the modus operandi of terrorists. In two of the cases, transfers of cash money via Hawala or remittance companies are evoked.³⁴

Furthermore, the French Centre d'Analyse du Terrorisme (CAT) has published a useful report on the financing of the January and November 2015 attacks in Paris. The 7-page report provides quite some detail on the different expenses made by the perpetrators, including: weapons, housing, vehicles, phones, false papers and travel costs. Furthermore, it describes how (part of) the money was raised and how transfers were made. The report emphasizes that in both Paris attacks, most payments have been made in cash, via pre-paid payment cards and through money transfers.

As elaborated in the Commission SNRA, the main driver of the problem that cash is used for terrorist financing, is the feature of anonymity associated with cash. Building upon the studies referenced above and other existing studies, the study team has documented the role of cash payments in the financing of terrorist attacks in Europe across a number of cases. These can be found in the next section.

Case study analysis

In this section, we analyse eight case studies of terrorism financing (seven attacks and one case of financing a terrorist group), and the role of cash and other means of payments:

- Case study 1: The Charlie Hebdo Attack – 7-9 January 2015;
- Case study 2: The Hyper Casher Attacks – 7-9 January 2015;
- Case study 3: The Paris attacks of 13 November 2015;
- Case study 4: Brussels Attack – airport and metro 22 March 2016;
- Case study 5: Berlin Christmas market attack – 19 December 2016;
- Case study 6: Manchester Arena attack – 23 May 2017;
- Case study 7: Barcelona and Cambrils attacks – 17-18 August 2017;
- Case study 8: Money laundering - terrorism financing nexus: an example from Hezbollah.

While for the sake of this study the analysis of the eight cases focuses on the use of cash, it has not been analysed in detail the use of non-cash means of payment or transfer. Even in cases where cash is crucial, terrorists and their supporters may use other channels to pay or transfer funds, such as credit and debit transfers, payment cards, electronic money or money remittances. The EU Supranational Risk Assessment indeed indicates that "terrorists use a wide range of methods to raise and move funds"³⁵. Even when cash is used, related bank information (e.g. a cash withdrawal from an ATM), may leave a trace. This information trail can prove very valuable for investigators.

Case study 1

The Charlie Hebdo Attack – 7-9 January 2015

On 7 January 2015 at about 11:30, the brothers Chérif and Saïd Kouachi forced their way into the offices of the editorial board of the Charlie Hebdo weekly magazine in the centre of Paris. Armed with assault rifles and other weapons they shot 12 people and 11 others were injured. Within ten minutes, they left the building and shot a police officer before escaping in a getaway car (a black Citroën C3) in the direction of Porte de Pantin. There they hijacked another car (a grey Renault Clio) and drove towards the north of Paris. Law enforcement lost track of the brothers who presumably spent the

³⁴ Normark, M. and Ranstorp, M. (2015) : Understanding Terrorist Finance. Modus Operandi and National CTF Regimes, Swedish Defence University, Report (46)., p. 9-11.

³⁵ COM(2017) 340 final, 26.6.2017.

night in a forest in the Vauciennes area. The next day they were identified at a gas station 80 km north of Paris where they refuelled, stocked up on bottles of water and chocolate bars and left without paying. The night of 8 January the brothers drove back in the direction of Paris again and probably slept in a forest again near Montagny-Sainte-Félicité. On 9 January, Chérif and Saïd stole another car (a Peugeot 206), and drove further back to Paris. About 35 km north of Paris they holed themselves up at a printing warehouse in Dammartin-en-Goele. They let go of all employees – except for one that hid himself in the building – and searched for a confrontation with the police. That afternoon the brothers were killed by the police when they left the printing warehouse while shooting at the police and specialized forces.³⁶

The Kouachi brothers identified themselves as belonging to the Islamist terrorist group Al-Qaeda on the Arab Peninsula, which later took responsibility for the attack. In 2011, Chérif Kouachi spent time in Yemen with Al Qaeda on the Arab Peninsula for firearms training. He also claimed that, at that time, he met and has been a student of Anwar Al-Awlaki, an American-Yemeni imam who also preached to three of the 9/11 hijackers. Media accounts differ on the question if Saïd joined his brother in Yemen or not.

The costs of the Charlie Hebdo attack appears to have been relatively modest. During the attack, the Kouachi brothers were armed with two Zastava M70 assault rifles, two semi-automatic Zastava M57 pistols and a M80 Zolja rocket launcher. On the black market, these weapons have an estimated worth of EUR 9 400.³⁷ One day before the attacks Chérif also bought walkie talkies, binoculars and a GoPro camera that were later found in their getaway car. There were also jihadist flags and Molotov cocktails left behind in this car. At the printing warehouse, a dozen of hand grenades and some fumigants were found. It is not publicly known how these items have been paid for. The Citroën C3 they used to flee from the Charlie Hebdo building was stolen in June 2014 and had false number plates. Miguel Martinez – a garage owner, serial offender and known Islamic radical – is suspected and currently being prosecuted for having given or borrowed the car to the Kouachi brothers and he perhaps also provided some of the weapons.³⁸ The other cars that were used during the brothers' escape were hijacked. The CAT estimates the telephone costs for the purchase of phones and prepaid cards to make calls and send text messages between the Kouachi brothers and Coulibaly as well as their spouses in the preparation of the attacks at around EUR 2 000 in total.³⁹

The Kouachi brothers had several sources of income they may have used to prepare and carry out the attacks. In the years prior to the attack, Chérif Kouachi has held various jobs but was mostly unemployed and appears to have received unemployment benefits at the time of the attacks. He also sold counterfeit perfume, clothes and sport shoes (Nike) from China. Between October 2012 and July

³⁶ Le Monde (2017) : Un ans après, le récit détaillé des attentats de Janvier 2015. Accessible online : http://www.lemonde.fr/les-decodeurs/visuel/2016/01/08/un-an-apres-le-recit-detaille-des-attentats-de-janvier-2015_4843963_4355770.html#partie8.

³⁷ The Telegraph, (2015): Charlie Hebdo shootings: Automatic rifles used in Paris attacks traced to shop in Slovakia, Accessible online: <http://www.telegraph.co.uk/news/worldnews/europe/france/11420946/Charlie-Hebdo-shootings-Automatic-rifles-used-in-Paris-attacks-traced-to-shop-in-Slovakia.html>.

³⁸ Lange, C. (2017)Voilà le profil du trentenaire ardennais soupçonné d'être impliqué dans la tuerie de «Charlie Hebdo», 13 June 2017, L'Union, Accessible online : <http://www.lunion.fr/40344/article/2017-07-13/voila-le-profil-du-trentenaire-ardennais-soupconne-d-etre-implique-dans-la>.

³⁹ As the CAT does not differentiate between the costs of the Charlie Hebdo attacks and the Hyper Casher attacks, I divided the estimated costs by half. Assuming that in their communication, half of the costs can be attributed to the Kouachi brothers and the other half to Amédée Coulibaly. This is of course an approximation.

2014, he makes about 30 money transfers via Western Union to five businesses in China for a total amount of at least EUR 8 000.⁴⁰ The products he received from China were sold in France for an estimated value ranging between EUR 25 000 and EUR 45 000 in cash.⁴¹ Saïd Kouachi has been a local civil servant for the City of Paris but was fired in 2009 because of his rigid jihadist beliefs. He was unemployed and received unemployment benefits in the two years prior to the attack.⁴²

International media reporting stated that Saïd Kouachi came back from Yemen in 2011 with 20 000 US Dollars from Al-Qaeda on the Arab Peninsula to finance an attack in Paris.⁴³ However, this money had already been spent by 2015 and there seems to be no indication that the brothers received more money from abroad to carry out their attack. They did however receive financial support from their co-conspirator Amedy Coulibaly. The latter has declared he gave a few thousand euros to the Kouachi brothers to make sure they could finish their purchases needed for the attacks.

Table 3.1 Financing of the Charlie Hebdo attacks

Expenses		Income
Weapons	EUR 9 400	Unemployment benefits
Communication (phones)	EUR 1 000*	Selling counterfeit goods
Walkie talkies, binoculars, GoPro, jihadist flags	EUR 500-1 000*	Donation
Transport (car)	EUR 0	Possibly personal savings
Total known/estimated costs	EUR 10 900 – 11 400	

* Estimation made by the author.

All expenses listed here, very likely were or could have been paid for in cash. The different sources of income consisted either of cash payments or were possible to withdraw in cash from their bank or payment account.

Case study 2

The Hyper Casher Attacks – 7-9 January 2015

Between 7 and 9 January, Amedy Coulibaly, an associate of the Charlie Hebdo attackers carried out a second series of attacks. He declared himself affiliated with ISIS but had not travelled to Syria or Iraq. On 7 January, he first shot and seriously wounded a jogger in Fontenay-aux-Roses, east of Paris. The next day, Coulibaly shot and killed a French police officer in Montrouge, another suburb south of Paris. On January 9, he stormed the Hyper Cacher supermarket near Porte de Vincennes in the east of Paris where he kept 16 people in the shop hostage and killed four of them. During the attack, he coordinated his actions with those of the Kouachi brothers by phone, he had also given a declaration by phone to a French news channel (BFMTV) and he uploaded a GoPro film of the attack on his computer which he sent to an unknown recipient. Coulibaly was eventually killed in a shootout with police on that same evening.

⁴⁰ Delahousse, M. and Lazard, V. (2015): Terrorisme: la chasse au cash, L'Obs, 18 March 2015, Accessible online: <http://tempsreel.nouvelobs.com/justice/20150316.OBS4746/terrorisme-la-chasse-au-cash.html>.

⁴¹ CAT, 2016, p. 4.

⁴² Lesechos (2015) : Accessible online : https://www.lesechos.fr/19/01/2015/lesechos.fr/0204093031660_les-dix-dernieres-annees-des-freres-kouachi-racontees-par-le-new-york-times.htm.

⁴³ CBS News (2015): Hunt for Paris terror cell expands as victims mourned, 13 January 2015. Similar reporting has appeared by CNN, The New York Times and ABC news.

Compared to the Kouachi brothers, Coulibaly seemed to have had more money at his disposal to prepare and carry out the attacks. During the attack, Coulibaly was armed with two AK 47 assault rifles, two semi-automatic pistols, 20 sticks of industrial dynamite and a combat knife. In his car, the police found more weapons, a flash light and three bulletproof vests. After the attacks, an even more impressive arsenal was discovered in his Gentilly apartment, consisting of four semi-automatic Tokarev TT33 pistols, an assault rifle, detonators and explosives, as well as amongst others cash, tear gas, phones, and ISIS flags.⁴⁴ Some of this material was also visible on photos in the IS propaganda magazine Dabiq and in videos that Coulibaly posted online. The two assault rifles (a VZ 58 Compact and a VZ 58 subcompact), six semi-automatic Tokarev TT33 pistols and a Nagant M 1895 revolver have an estimated value of EUR 10 000 according to the CAT and it is assumed they have been bought in cash.⁴⁵

The weapons seem to have had multiple origins across Europe. A Frenchman living in Spain is suspected of having sold some of the fire weapons.⁴⁶ The origin of the VZ 58 semi-automatic pistol that Coulibaly shows off in one of the videos online has been traced back to a gun shop in the west of Slovakia where they can be bought legally as deactivated weapons for about EUR 250. Just after the attacks it was reported that an arms dealer in Brussels handed himself in when he realized that he had sold the weapons to Coulibaly. He declared that at that time Coulibaly did not pay for the 10 Kalashnikovs, 25 hand guns and 66lb (30kgs) of C4 explosives in cash but in exchange for a car (a black Mini Cooper) belonging to Coulibaly's wife Hayat Boumeddiene.⁴⁷ However, how exactly the weapons were reactivated and arrived at Coulibaly is still subject of investigation.

Further costs included the rent for an apartment in Gentilly from 4-11 January where Coulibaly stored his weapons and equipment: The estimated EUR 300 rent was paid with a prepaid payments card activated with a false identity.⁴⁸ In the months prior to the attacks, Coulibaly used 13 mobile phone numbers either prepaid or bought with false identities and two different phones and he made use of public telephones.⁴⁹ A few days before the attacks Coulibaly also asked a friend to buy a second hand car (a Renault Scénic) sold by an individual on the Internet (via Le Bon Coin a portal for selling new and second hand goods throughout France). This car was bought under a false identity and paid for in cash (EUR 950) and was used by Coulibaly to drive to the Hyper Cacher supermarket.⁵⁰

⁴⁴ Dailymail: 'Deli jihadist admits link to Charlie Hebdo killers in ISIS martyrdom video - as French police discover his massive arms cache and link him to ANOTHER shooting two days earlier', 11 January 2015: Accessible online: <http://www.dailymail.co.uk/news/article-2905302/Calm-stare-Jewish-deli-terrorist-Jihadist-s-ISIS-suicide-video-emerges-confirms-link-Charlie-Hebdo-killers-calls-fellow-vigorous-Muslims-defend-prophet-Mohammed.html>.

⁴⁵ CAT 2016 report, p. 2 and 6.

⁴⁶ Reuters: Spanish police arrest man suspected of arming Paris supermarket gunman, 13 April 2016, Accessible online: <http://af.reuters.com/article/worldNews/idAFKCN0XA1JA?pageNumber=1&virtualBrandChannel=0>.

⁴⁷ Charlie Hebdo: Neetin Karasular, le "fournisseur d'armes" d'Amédée Coulibaly à Charleroi, sous mandat d'arrêt, Accessible online : <http://www.lanouvellegazette.be/1189996/article/2015-01-14/charlie-hebdo-neetin-karasular-le-fournisseur-d-armes-d-amedy-coulibaly-a-charle>.

⁴⁸ CAT 2016, p. 2.

⁴⁹ CAT 2016 and L'Obs, J-12 jours avant "Charlie" et l'Hyper Cacher : récit d'un effroyable compte à rebours, 24 February 2015, Accessible online : <http://tempsreel.nouvelobs.com/charlie-hebdo/20150224.OBS3299/info-obs-les-12-derniers-jours-des-terroristes-avant-charlie-hebdo.html>.

⁵⁰ L'Obs, J-12 jours avant "Charlie" et l'Hyper Cacher : récit d'un effroyable compte à rebours, 24 February 2015, Accessible online : <http://tempsreel.nouvelobs.com/charlie-hebdo/20150224.OBS3299/info-obs-les-12-derniers-jours-des-terroristes-avant-charlie-hebdo.html>.

Amédry Coulibaly and his wife Hayat Boumeddiene seemed to have quite some cash at their disposal. Between October and December 2014 Boumeddiene withdrew more than EUR 20 000 in cash from their bank account at ATMs of which EUR 12 000 in October alone.⁵¹ With the help of fake pay slips and income tax declarations, the couple subscribed to three separate consumer loans, two car loans (EUR 27 200 issued by Financo and EUR 27 000 issued by Mercedes) and one consumer credit of EUR 6 000 issued by Cofidis. Reportedly, Coulibaly bought a Mini Cooper in Bordeaux in September 2014 and paid for it with his savings and a consumer credit.

They sold the two cars; the Mini Cooper was allegedly sold against cash and weapons. The Mercedes was sold to an individual for a total of EUR 16 000 in cash.⁵² In addition to credit fraud, Coulibaly might have earned money from illegal sources too. He had a long criminal past and engaged in several illegal activities such as theft, drug trafficking and armed robbery. In 2010, he was caught for selling smuggled cigarettes.

Table 3.2 Financing of the Hyper Casher attacks

Expenses		Income
Weapons	EUR 10 000	Savings
Communication (phones, computer)	EUR 1 500*	Consumer credit fraud
GoPro, 3 bulletproof vests, flashing light, tear gas, jihadist flags...	EUR 1 000*	Possibly petty crime revenues (theft, drug trafficking and selling smuggled cigarettes)
Transport (car)	EUR 950	
Rent	EUR 300	
Total known/estimated costs	EUR 13 250	

*Estimation made by the author.

Again, the numbers presented in the table are mostly useful to give an order of magnitude rather than a very precise account of all expenses. Coulibaly and his wife made important cash withdrawals and made extensive use of cash to pay for their expenses. They also held functioning bank accounts and are also believed to have exchanged goods for weapons.

Case study 3

The Paris attacks of 13 November 2015

Major simultaneous terrorist attacks took place in Paris on 13 November 2015. First, three suicide bombers (Bilal Hadfi, 20, Ahmad al Mohamed, and M al Mahmod) aimed to attack the Stade de France in Saint Denis during the football match between France and Germany. As they were denied access to the stadium, they decided to detonate their explosives just outside the stadium. Not much later, three other terrorists (Chakib Akrouh, 25, Abdelhamid Abaaoud, 26, Brahim Abdeslam) started shooting with assault rifles at cafés and restaurants in the 10th and 11th arrondissements of Paris. One of the terrorists kills himself with a suicide bomb vest while the other two fled. The longest and most deadly attack takes place in the Bataclan concert hall. Another group of three terrorists (Omar Ismail Mostefai, 29, Samy Amimour, Foued Mohamed Aggad, 23) enters the venue and started shooting at the 1500 the people in the audience gathered for an Eagles of Death concert. The attacks left 130 people dead and 413 injured. The attacks were carried out in the name of ISIS.

Although less than a quarter of the estimated costs of 9/11 (400 000-500 000 US Dollar), a relatively significant budget was needed to carry out attacks of this size and sophistication. First, the members

⁵¹ CAT 2016 p. 4.

⁵² Boulard, D. and Piliu, F. (2016) : L'argent de la terreur, enquête sur les traffics qui financent le terrorisme, Paris : Editions First.

of the terrorist cell got together in Syria as members of the Islamic State before travelling to Europe. While most of the perpetrators had Belgian and French passports, two were probably of non-European origin. ISIS provided logistical aid and financing to these perpetrators to obtain false Syrian passports and enter the EU as refugees. They entered the EU via Greece with the false identity papers of a Syrian man called Ahmad al-Mohamed and another called M al-Mahmod. The cost for purchasing false identity documents is estimated at 5 000 EUR.⁵³ The travel budget for all perpetrators is estimated around EUR 27 000.⁵⁴

Weapons and explosives were another important expense. All of the perpetrators, except for Abdelhamid Abaaoud, wore suicide belts filled with TATP. The chemical ingredients to make this explosive are available at pharmacies for as little as 5-10 euros for each belt. The approximately 500 bolts used in each of the belts of the three Stade de France attackers would have cost about 150 EUR in a DIY store.⁵⁵ The weapons used during the attacks include six Zastava M70 or AK-47 type assault rifles, which would have cost between EUR 300 and EUR 700 each according to Europol. The weapons were of Yugoslav and Chinese origin. Three of them were used by the perpetrators of the Bataclan attacks, three others by the terrorists attacking the cafés and restaurants and another assault rifle was found in one of the cars. The price for 7.62 calibre bullets - the calibre of most of the several hundred bullet shells found outside the restaurants last Friday night - is around EUR 500 for 2 000 on the Internet.⁵⁶ A Browning pistol was found in the apartment in Saint-Denis where Chakib Akrouh and Abdelhamid Abaaoud were hiding. The total costs of the weapons and explosives are estimated around EUR 16 000.⁵⁷

Furthermore, the terrorist network rented at least eight apartments. Five of these apartments were located in and around Brussels. One of them was used to make the suicide vests; others were used to coordinate the attacks. Three other hideouts were two rooms in an apart-hotel in Alfortville, an individual house in Bobigny and an apartment in Saint-Denis. With the help of Hasna Aït Boulahcen, the cousin of Abaaoud, the perpetrators rented this last apartment for a few nights for the total amount of 150 EUR.⁵⁸ The house in Bobigny was rented by Brahim Abdeslam for one week (from 10-17 November) for 100 EUR per night.⁵⁹ The apart-hotel (Appart'City) was also booked for a week the day before the attacks and paid for with the payments card belonging to Salah Abdeslam on the website booking.com.⁶⁰ The current price per room per night for this accommodation is 53 EUR. The

⁵³ CAT, 2016.

⁵⁴ CAT, 2016, p. 3.

⁵⁵ Reuters (2015): Militants may have spent as little as \$7,500 on Paris attacks, 21 November 2015. Accessible online: <http://www.reuters.com/article/us-france-shooting-costs/militants-may-have-spent-as-little-as-7500-on-paris-attacks-idUSKCN0T92LX20151121>.

⁵⁶ Idem.

⁵⁷ CAT, 2016, p. 2.

⁵⁸ Lazard, Violette : "Je n'ai rien à voir avec Daech" : quand Jawad écrit au juge, L' Obs, 22 January 2016, Accessible online : <https://tempsreel.nouvelobs.com/attentats-terroristes-a-paris/20160121.OBS3176/je-n-ai-rien-a-voir-avec-daech-quand-jawad-ecrit-au-juge.html>.

⁵⁹ Le Parisien : Attentats : deux chambres d'hôtel louées à Alfortville par les terroristes, 17 November 2015, <http://www.leparisien.fr/faits-divers/attentats-deux-chambres-d-hotel-louees-a-alfortville-par-les-terroristes-17-11-2015-5285073.php> See also: Europe 1, (2015) Attentats à Paris : la propriétaire de la planque louée à Bobigny témoigne, 17 November 2015, Accessible online : <http://www.europe1.fr/faits-divers/attentats-a-paris-la-propietaire-de-la-planque-louee-a-bobigny-temoigne-2621557>.

⁶⁰ 20 Minutes : Attentats à Paris: Bobigny et Alfortville, tout savoir sur les deux « planques » des terroristes présumés, 17 November 2017, Accessible online : <http://www.20minutes.fr/societe/1732567-20151117-attentats-paris-bobigny-alfortville-tout-savoir-deux-planques-terroristes-presumes>.

payment card transaction has helped law enforcement to locate the perpetrators of the attacks. The total costs of renting these places is estimated at EUR 20 000.⁶¹

The terrorist network hired eleven vehicles, including a black Volkswagen Polo, a Seat Leon and a Renault Clio. A week rental from a major car rental company for this type of car would have cost around EUR 595, including fuel and tolls.⁶² The total expenses for car rental have been estimated at EUR 11 000.⁶³ Communication costs in the form of multiple sim cards and mobile phones were around EUR 3 000.⁶⁴

Given the complexity of the November attacks and the fact that the perpetrators have been sent from Syria to France and Belgium the total costs of the attacks have been fairly high. A striking feature of the perpetrators of the 13 November attacks is that they seem to have had few personal means to finance the sophisticated attacks. Their backgrounds vary from unemployed or student to living from temporary jobs or as a bus driver. The only slight exceptions were the brothers Brahim and Salah Abdeslam who owned and sold a bar in the Molenbeek neighbourhood of Brussels. They may have used this money to fund themselves. Several of the perpetrators were also involved in petty crime.

ISIS is believed to have sponsored the journey from Syria to Europe at the rate of EUR 2 000 to 3 000 per person to pay for human traffickers, transport and accommodation. The financial support by IS has been hard to detect because money was passed along in cash when the perpetrators left Syria, handed over in person elsewhere or sent via money transfer businesses in low amounts.⁶⁵ Abdelhamid Abaaoud who is perceived as the ringleader had a more sophisticated role. He had been in charge of selecting candidates for terrorism plots and could pay them as much as EUR 50 000 to carry out an attack.⁶⁶ Mohamed Abrini, who has been linked to both the Paris and Brussels attacks was sent to Birmingham by Abaaoud to collect 3 000 GBP from members of a group supportive of ISIS.⁶⁷ The money handed to him in the UK was allegedly collected for the preparation of an attack in France and withdrawn in 20 and 50 GBP banknotes from the bank account of Anouar Haddouchi, a Belgian national.⁶⁸

⁶¹ CAT, 2016, p. 2.

⁶² Reuters, 2015.

⁶³ CAT, 2016.

⁶⁴ CAT, 2016, p. 2.

⁶⁵ CAT, 2016, p. 1.

⁶⁶ Borger, Julian: Abdelhamid Abaaoud: dead Paris terror planner leaves behind countless what-ifs, the Guardian, 19 November 2015. Accessible online: <https://www.theguardian.com/world/2015/nov/19/abdelhamid-abaaoud-dead-paris-terror-leader-leaves-behind-countless-what-ifs>.

⁶⁷ CAT 2016, p. 4.

⁶⁸ The Telegraph: 'Man in the Hat' Belgian terror suspect says UK's security services make country 'more difficult to attack' than France, 28 November 2016. Accessible online: <http://www.telegraph.co.uk/news/2016/11/28/man-hat-belgian-terror-suspect-says-uks-security-services-make/>.

Table 3.3 Financing of the Paris attacks

Expenses	EUR	Income
Weapons, suicide bomb vests	16 000	Personal funds
Communication (phones)	3 000	Support from ISIS
Counterfeit documents	5 000	Donations from supporters
Transport (car, travel)	38 000	
Rent	20 000	
Total known/estimated costs	82 000	

Cash was central to the successful preparation of the Paris attacks. However, not all transactions related to the 13 November attacks were in cash. As made possible under the US/EU Agreement, Europol sent out 28 queries into the Terrorist Finance Tracking System with regard to the attacks. In return, it received 1180 leads from international bank transactions potentially containing relevant information regarding the attackers and their financiers.⁶⁹

Case study 4

Brussels Attack – airport and metro 22 March 2016

On 22 March 2016, terrorist attacks are carried out at Brussels airport and at Brussels Metro station Maelbeek. At 8.00 a.m., two terrorists - Ibrahim El Bakraoui en Najim Laachraoui – carry along travel bags with explosives and detonate them in the departure hall of Brussels airport. One hour later, at 9.00 a.m., at Metro station Maelbeek Khalid El Bakraoui, the brother of Ibrahim, detonates his suicide bomb vest. The attacks leave 32 persons death and 300-400 people are injured. Like the terrorist cell of the November attacks in Paris, the perpetrators of the Brussels attacks were affiliated with the Islamic State and returned from Syria. Three terrorists died during the attacks, another – Mohamed Abrini also known as the ‘man with the hat’ – escaped from the airport just before the bombs went off at the airport. His own bag held the largest explosives but failed to detonate. Abrini was also involved in the Paris attacks of 13 November 2015. In the aftermath of the attacks, a taxi driver who said he had driven three men with big bags to the airport on the morning of the attacks approached the police. According to media reports, the driver had refused to take one of men's large bags because there was not enough room in the vehicle. Later, the police found this bag with a large nail bomb at the address the taxi driver gave them, along with 15kg of TATP high explosive, chemicals, detonators, bomb-making materials and an Islamic State flag.

Investigators have established multiple links between the Paris and Brussels attacks. Aside the three terrorists that suicided themselves at the airport and in the metro, at least two other accomplices have been identified. Osama Krayem, also known as Naim El Hamed, helped preparing the attacks and is suspected of having bought the travel bags in which the explosives for the Brussels airport attack were hidden. CCTV images show him in the presence of Khalid El Bakraoui shortly before he committed the metro attack. Krayem’s DNA has also been found in several of the safe houses used in preparation of the Paris attacks. However, Krayem’s precise role in the Paris plot is unclear.⁷⁰ Before travelling to the territories controlled by the Islamic State, Krayem worked at the Malmö city

⁶⁹ Europol (2017): Press release, Information sharing in the EU has reached an all-time high, 30 January 2017, Accessible online: <https://www.europol.europa.eu/newsroom/news/information-sharing-counter-terrorism-in-eu-has-reached-all-time-high>.

⁷⁰ See <http://www.independent.co.uk/news/world/europe/osama-krayem-swedish-jihadist-linked-to-brussels-bombings-charged-with-terrorist-murder-in-paris-a6993236.html>.

council as a management intern, starting work in the spring of 2013. One year later, however, he suddenly disappeared. By January 2015, he had joined IS. He travelled back to Europe, passing through Greece posing as a migrant.⁷¹ Krayem was also linked to Paris attacker Salah Abdeslam. Abdeslam picked Krayem up from Ulm in Germany in a rented car on 3 October 2015. A second accomplice was Oussama Atar, better known as Abou Ahmed. He was the religious mentor for the El Bakraoui brothers and probably managed to escape to Syria.⁷² It was also reported that Khalid El Bakraoui made a cell phone call to a network member in Germany advising the attack was taking place. This call was traced, which resulted in the arrest of the network member in Germany.⁷³ Furthermore, just over 13 months after the Brussels attacks, eight more arrests were made in Barcelona in relation to the Brussels attacks.⁷⁴

Little is publicly known so far about the costs of the Brussels attacks but according to the Wall Street Journal the costs for the attacks have been estimated at EUR 3 000.⁷⁵ The fabrication of explosives seem to have been a major expenditure. Other costs included, car rental, a taxi from Schaerbeek to the airport. Khalid El Bakraoui owned a computer, which was later discovered in a dumpster. The perpetrators also used phones. According to the Belgian FIU, most of these items were paid for in cash. The arrested suspects in this case have also confirmed an intensive use of cash money, almost all their expenses were done in cash, with prepaid payment cards or by bank, transactions based on cash deposits. Paypal and other online payment systems were also frequently used.⁷⁶

On the income side, news reports mention that personal funds, welfare benefits and illicit revenues were the key means of income to fund the Brussels attacks. Khalid and Ibraim El Bakraoui are believed to have received respectively 28 000 US Dollar and 6 700 US Dollar in unemployment benefits. Although there is no proof that the benefits directly financed the attacks the head of the Belgian FIU is quoted as saying that the social welfare benefits provided them with livelihoods and indirect support for their terrorist activities.⁷⁷ Financing from external donors, such as the Islamic State, is believed to have been marginal.⁷⁸

⁷¹ See <http://www.telegraph.co.uk/news/2016/04/15/brussels-terrorist-suspect-featured-in-swedish-documentary-about/>.

⁷² See <https://www.politico.eu/article/paris-and-brussels-isis-terror-attack-plotter-who-got-away/>.

⁷³ See Lormel, Dennis, 2016, Lessons learned from the Paris and Brussels attacks, ACAMS, 29 March 2016, available at: <http://www.acamstoday.org/lessons-learned-paris-brussels-attacks/>.

⁷⁴ Završnik, Gašper and Paravicini, Giulia (2017) Spanish police arrest four in connection with Brussels attacks, Politico, 25 April 2017, available at: <https://www.politico.eu/article/spanish-police-arrest-four-in-connection-with-brussels-attacks/>.

⁷⁵ Maremont, Mark and Pop, Valentina (2016) Terrorist suspects in Europe Got Welfare Benefits While Plotting Attacks, Wall Street Journal, 4 August 2016, available at: <https://www.wsj.com/articles/terrorist-suspects-in-europe-got-welfare-benefits-while-plotting-attacks-1470350251>.

⁷⁶ La, J. (2017) Comment les terroristes du 22 mars ont financé les attentats ?, La Libre, 2 August 2017, available at : <http://www.lalibre.be/actu/belgique/comment-les-terroristes-du-22-mars-ont-finance-les-attentats-5980be80cd70d65d251f4e95>. See also : Belga, 2017, Les attentats de Bruxelles et Paris principalement financés par de l'argent cash, Sud Info, 2 August 2017, available at: <http://www.sudinfo.be/1899293/article/2017-08-02/les-attentats-de-bruxelles-et-paris-principalement-finances-par-de-l-argent-cash>.

⁷⁷ See Maremont and Pop, Idem.

⁷⁸ See La (2017).

Table 3.4 Financing of the Brussels attacks

Expenses	EUR	Income
Weapons, explosives	1 500*	Salary
Communication (phones, computer)	700*	Unemployment benefits
Other equipment: travel bags	300*	Other welfare benefits
Transport (taxi, travel from Syria)	500*	Drug trafficking
		Petty crime
		Support from ISIS
Total known/estimated costs	3 000	

* Estimations by author.

Case study 5

Berlin Christmas market attack – 19 December 2017

On 19 December 2017, the 24-year old Tunisian jihadist Anis Amri drove a hijacked truck into a crowd at the Christmas market on Berlin's *Breitscheidplatz*. During this attack, 12 people were killed and 55 were injured. After the attack, a 77-hour manhunt took place as Amri transited four European countries and he was ultimately shot during a random ID check in a suburb of Milan. The financing of the attack has not been subject of extensive media reporting. This can be explained by the fact that it was a low-cost attack carried out with a stolen vehicle.

A reconstruction of the expenses made before and after the attack shows that Amri was in the possession of a .22 caliber German-made Erma EP 552 gun with which he killed the Polish driver of the truck he had stolen and injured the Italian police officer during an identity control. It has been reported that these pistols can be bought on the black market for about 150 EUR.⁷⁹

After the attack, Amri left the heavy truck, leaving his ID papers inside the truck. He also lost his phone and wallet during his escape. From Berlin, he went to the border city of Emmerich (DE) by unknown means. In this city, he made use of an Internet café to erase his Facebook profile. Next, he was seen on camera in the nearby city of Nijmegen (NL). On 21 December, as attested by CCTV footage, he took either the train or a bus from Nijmegen to Amsterdam. It is unclear if he paid for tickets but if he did, bus tickets cost around EUR 7 and train tickets for this journey cost around 20 EUR.

A day later, he was identified on CCTV images at the Lyon Part Dieu station. It is believed that from Amsterdam he travelled to Lyon by bus with Flixbus, changing busses at the Brussels North train station.⁸⁰ The price of bus tickets for this journey is around 90-115 EUR and it is possible to pay in cash. At the Lyon train station, he bought a high-speed train ticket to Milan travelling via Chambéry (estimated price between EUR 70-125). This ticket was paid for in cash. In Chambéry CCTV cameras also recorded him. At this train station, he bought another ticket for a local train to Milan via Turin, again using cash (tickets EUR 60-100). Arriving at around 11 p.m. in Milan, he was caught on CCTV exiting Milan's main train station.

⁷⁹ See <http://www.dailymail.co.uk/news/article-4062050/How-terrorists-weapons-Anis-Amri-ISIS-jihadis-grab-150-euro-pistols-pool-6MILLION-illegal-weapons-flowing-heart-Europe-Balkans.html>.

⁸⁰ La Libre, Anis Amri a-t-il traversé la Belgique pour rejoindre Milan ?, 28 December 2016, available at : <http://www.lalibre.be/actu/international/anis-amri-a-t-il-traverse-la-belgique-pour-rejoindre-milan-586395c9cd70138bd4258775>. Also Sky, <http://news.sky.com/story/berlin-truck-attack-suspect-travelled-on-train-from-lyon-10708506>.

Two hours later, in the night of 23 December, Amri was shot after he opened fire on two police officers who asked for his ID during a random check at the station of Sesto San Giovanni – a suburb of Milan. At the time of his death, he carried a backpack containing a small knife, the Erma pistol, his train tickets, a free SIM card, a toothbrush, shaving foam and a few hundred to one thousand euros in cash.⁸¹ Other expenses that Amri might have made during his flight include food and beverages.

This analysis emphasizes that the costs of the Berlin Christmas market attack and the flight of Amri were very low and to the extent in which this information is available, payments were made in cash.

According to media, reporting several sources may have been used to finance the Berlin Christmas market attack. Anis Amri has a past of petty crime and drugs dealing. It has also been reported that upon arrival in Germany Amri held various jobs such as dishwasher in a restaurant and pizza delivery boy. For a period 2015 and early 2016, Amri sold perfume at the flea market in Dortmund.⁸² Some reports also claim that he committed welfare fraud. According to German officials, Amri was illegally registered under 14 aliases, which apparently enabled him to claim large amounts of welfare benefits.⁸³

Donations of supporters may have been another source of income. Anis Amri was a sympathizer of the Islamic State and was in contact with IS operatives in Libya. He was also part of the so-called Abu Walaa network that finances itself through stealing from the infidels through burglaries and with fraudulent loans.⁸⁴ The network is known to have sponsored the travel costs of recruits that wanted to travel to Syria to join IS with EUR 500 in cash. One of the network's members, Fifen Youssof, is also suspected of collecting 2 million EUR in donations for IS fighters in Syria and Iraq via their mosque in Hildesheim. Furthermore, the network raised money by signing contracts for mobile phones and tablets and reselling them while stopping to pay the monthly fees.⁸⁵ It is possible that Amri received cash from members of the Abu Walaa network.

Some media also made reference to cash Amri sent by postal mail to his 18-year old nephew in Tunisia under a false name. The money was meant to help him travel to Germany.⁸⁶ As demonstrated in previous attacks, such as the 9/11 attacks and the Manchester attack (below), it is not unusual for terrorists to return or donate money they don't need.

⁸¹ ABC7, Nephew of Berlin terror suspect Anis Amri, 2 others arrested in Tunisia, 24 December 2017, available at: <http://abc7chicago.com/news/nephew-of-berlin-terror-suspect-2-others-arrested-in-tunisia/1671741/>.

⁸² Die Zeit, An Attack is Expected, <http://www.zeit.de/politik/deutschland/2017-04/berlin-attack-christmas-market-breitscheidplatz-anis-amri/seite-4>.

⁸³ BBC, Berlin truck killer Amri 'had 14 identities' in Germany, 5 January 2017, available at: <http://www.bbc.com/news/world-europe-38516691>. Also: Die Zeit, An Attack is Expected, <http://www.zeit.de/politik/deutschland/2017-04/berlin-attack-christmas-market-breitscheidplatz-anis-amri/seite-4>.

⁸⁴ Abu Walaa is seen as the top representative of IS in Germany and its network is at least loosely connected to networks around other charismatic preachers in Europe, see: Heil 2017.

⁸⁵ Heil, 2017.

⁸⁶ The Guardian, Berlin market attack: Anis Amri's nephew arrested in Tunisia, 24 December 2017, available at: <https://www.theguardian.com/world/2016/dec/24/berlin-market-attack-anis-amris-nephew-arrested-in-tunisia>.

Table 3.5 Financing of the Berlin Christmas market attack

Expenses	EUR	Income
Weapons	150	Jobs in the informal sector
Communication (phone, internet café)	<100*	Drug dealing, theft
Back pack, small knife, personal items, food	<100*	Welfare fraud
Transport (bus, train)	250 – 360*	Possibly donations from supporters
Cash on hand	1 000	
Total known/estimated costs	1 600 – 1 710	

*Estimations by the author.

Case study 6

Manchester Arena attack – 23 May 2017

On 23 May 2017 approximately at 9.30 p.m. local time, a suicide bomber attacked an Ariana Grande show in the Manchester Arena. The attack was carried out with a powerful homemade nail-filled bomb that left 22 people and the attacker dead and about 120 others injured. While the 22-year old perpetrator, Salman Abedi, seemed to have been acting alone during the attack, it is believed he acted as part of a network and had been preparing the attack for over a year. After the attack, several arrests have been made in the UK, Libya and Germany. Suspects included his father, his two brothers and allegedly a dozen Manchester (suspected) terrorists such as Raymond Matimba.⁸⁷ ISIS claimed responsibility for the attack.

Prior to the attack, Abedi regularly travelled to Libya, the country of origin of his parents to which they returned to after Gaddafi was captured and killed in October 2011. These payments were unlikely to have been made in cash. Although it is known that Abedi held a British bank account, it is not publicly known who paid for the tickets and how. In Libya Salman Abedi was in contact with and probably also received training from ISIS related militants. One report states that operatives of the Katibat al-Battar al-Libi declare to have met Abedi. This is an ISIS special operations unit, originally formed by Libyan jihadis fighting in Syria in 2012, which attracted Belgian, French and Tunisian foreign fighters.⁸⁸ French intelligence services also reported that Abedi had been in Syria and several news reports state that he has been in contact with IS militants linked to Paris attacks ringleader Abdelhamid Abaaoud.⁸⁹

Returning to Manchester from Libya on May 18, the Greater Manchester Police has declared that he made the “core purchases” for the device detonated at Manchester Arena alone. In the four days prior to the attack, he has made multiple trips around Manchester with a blue suitcase. Three days before the attack Abedi withdrew 250 GBP in cash, which he used to buy a backpack (37 GBP) in central Manchester.⁹⁰ In April, prior to his trip to Libya, he went to two different DIY stores to buy nails and bolts (18 GBP). He also bought a battery to detonate the bomb (11-15 GBP). According to former

⁸⁷ Nazia Pariveen (2017) Manchester bombing: police say Salman Abedi did not act alone, 6 July 2017, available at: <https://www.theguardian.com/uk-news/2017/jul/06/manchester-bombing-police-believe-salman-abedi-did-not-act-alone>.

⁸⁸ See <http://www.independent.co.uk/news/uk/home-news/manchester-attack-bombing-salman-abedi-isis-libya-terror-training-militants-tatp-four-days-bomb-a7771391.html>.

⁸⁹ Dearden, L. (2017) Manchester attack: Salman Abedi ‘made bomb in four days’ after potentially undergoing terror training in Libya, The Independent, 3 June 2017, available at: <http://www.independent.co.uk/news/uk/home-news/manchester-attack-bombing-salman-abedi-isis-libya-terror-training-militants-tatp-four-days-bomb-a7771391.html>.

⁹⁰ See <https://www.thesun.co.uk/news/3661945/manchester-terror-attack-salman-abedis-66-bomb-bq-and-screwfix/>.

British army, officer and explosives expert Hamish de Bretton-Gordon, between 5 and 10 kg of TATP are needed for an explosion the size of the Manchester attack.⁹¹ TATP can be made in under a day using chemicals widely available on the high street.

To prepare the attack and assemble the bomb Abedi used three properties in the Manchester area. At his home address in Fallowfield, south Manchester, a bomb making workshop was found with additional chemical explosives, enough to make two or three more bombs. It is believed that Abedi first constructed the detonator, a small switchboard at his family home. During the six weeks before his trip, he rented an apartment – eight miles from his home – in a block of flats in Blackley, Manchester, for around 700 GBP in cash via local ads site Gumtree.⁹² He rented a third apartment in central Manchester, for at least the four days prior to the attack at a price of 75 GBP a night. In this apartment, Abedi mixed and primed his device and he is believed to have been in this apartment up to only three hours before he carried out his attack.⁹³ According to CCTV material Abedi arrived at the concert venue by public transport.

The financial investigation into Salman Abedi shows that he had sufficient funds to carry out the attacks. He opened a bank account one year before he carried out the attack. On this account, he received student loans and benefits which seemed to have been an important formal source of income. He allegedly received roughly 9 000 USD after enrolling in a business administration course at Manchester's Salford University in 2015. He continued to get funds throughout the next year even though he stopped attending classes. Other reporting claims that in total he received more than 18 000 USD in student loans and benefits. While some news reports claim that he was unemployed, one report mentions that he may have generated additional income with a job in a bakery at some point.⁹⁴

Table 3.6 Financing of the Manchester attack

Expenses	GBP	Income
Explosives (TATP)	500*	Student loans
Rent for apartments	1 000 + regular rent parental home*	Benefits
Backpack, suitcase, screws, nuts, nails, Yuasa 12-volt acid battery, metal container	250	Possibly employment
Phones for communication and as a detonating the device	100*	Possibly donations from laundered money
Travelling to Libya	400*	
Total known/estimated costs	2 250- 3 000	

* Authors own estimations.

⁹¹ See <https://www.thesun.co.uk/news/3661945/manchester-terror-attack-salman-abedis-66-bomb-bq-and-screwfix/>.

⁹² Mendick, Robert; Evans, Martin; Ward Victoria (2017) Exclusive: Manchester suicide bomber used student loan and benefits to fund terror plot, The Telegraph, 26 May 2017, available at: <http://www.telegraph.co.uk/news/2017/05/26/exclusive-manchester-suicide-bomber-used-student-loan-benefits/>.

⁹³ See <https://www.thesun.co.uk/news/3646577/manchester-bomber-salman-abedi-flat-pictures-preparations-bomb-attack-latest/>.

⁹⁴ Dearden, Lizzie (2017) Salman Abedi: How Manchester attacker turned from cannabis-smoking dropout to Isis suicide bomber, The Independent, 24 May 2017, <http://www.independent.co.uk/news/uk/home-news/salman-abedi-manchester-attacker-isis-terrorist-europe-islamist-suicide-bomber-arena-explosion-a7753541.html>.

Just days before the attack, Abedi reportedly wired 3 000 USD / 2 500 GBP to his younger brother Hashem in Libya. Hashem admitted he was fully aware of his brother's plans and now faces prosecution for helping him raising funds, arranging the logistics and providing the explosives needed for the attack. It is believed that Hashem travelled at least twice to Leipzig and Weissenfels in eastern Germany. The purpose of these trips seems to have been fundraising amongst three Libyan real estate agents who are currently being suspected of money laundering. According to law enforcement officials, the younger sibling was also plotting his own attack in the Libyan capital of Tripoli against the head of the UN Support Mission in Libya, Martin Kobler and the British ambassador in Libya, Peter Millett.⁹⁵ An older brother, Mohamed Younis Abedi is also held in custody in Libya as his credit card was allegedly used to buy components for the bomb.⁹⁶

Case study 7

Barcelona and Cambrils attacks – 17-18 August 2017

For several years, Spain has been spared from a major terrorist attack. This changed on 17-18 August 2017 when a series of events unfolded. It started on 16 August at around 11:00 p.m. with the accidental explosion of a house in Alcanar, a city 200 km south of Barcelona. Two of the suspected terrorists were killed in the explosion, the alleged ringleader, Imam Abdelbaki Es Satty, 45, and Youssef Aallaa. A third person, Mohamed Houli Chemlal, was injured and later arrested. The blast forced the terrorist cell to abandon their more ambitious plot – which included amongst others the destruction of the Sagrada Familia – and adopted an improvised plan – the van rampage.

Next day, on 17 August at around 4:50 p.m., Younes Abouyaaqoub drove a white rented van about 600m through the famous Ramblas. Thirteen pedestrians were killed and over 100 were injured. Reports suggest Abouyaaqoub then headed to the city's university area where he hijacked a white Ford Focus car and killed the driver with a knife. He then crashed through a police checkpoint, injuring two police officers, as he tried to leave Barcelona.

In the early hours of 18 August five other perpetrators, wearing fake suicide vests and armed with knives, drove a car (black Audi A3) into a crowd in Cambrils, a city 90 km from Barcelona, injuring seven people and killing one. The police shot down the five perpetrators (Said Aallaa, 18; Mohamed Hychami, 24; Omar Hychami, Moussa Oukabir, 17 and Houssaine Abouyaaqoub, 19). Younes Abouyaaqoub went on the run for a few days and was shot by the police on 21 August. Three other persons have been arrested in relation to the attacks: Salah el-Karib, 34, Driss Oukabir, 28, whose identity papers and credit card were used to hire the three vans were (two Fiat Talento and one Renault Kangoo) of which one was used for the Ramblas attack and Mohammed Aallaa, 27, the believed owner of the car used by the jihadists in Cambrils. The attack was claimed by ISIS-related news outlet Amaq as part of efforts to target states fighting in the US-led anti-IS coalition.⁹⁷ Sixteen people died.

⁹⁵ Walsh, Alistair, (2017) Manchester bombing: Salman Abedi's links to Germany probed by police, Deutsche Welle, 7 October 2017, available at: <http://www.dw.com/en/manchester-bombing-salman-abedis-links-to-germany-probed-by-police/>.

⁹⁶ BBC, Manchester bomber's brother faces trial in Libya, 31 August 2017, available at: <http://www.bbc.com/news/world-africa-41104450>.

⁹⁷ BBC, 2017, Barcelona and Cambrils attacks: What we know so far, available at: <http://www.bbc.com/news/world-europe-40964242>; Slawson, Nicola and Phipps, Claire (2017). What we know so far about the Barcelona and Cambrils terror attacks, The Guardian, 18 August 2017, available at: <https://www.theguardian.com/world/2017/aug/17/barcelona-attack-what-we-know-so-far>.

Although the attacks have taken place relatively recently and final investigative reports are not yet available, the following facts are known with respect to the financing of the Barcelona and Cambrils attacks. The terrorist cell illegally squatted the abandoned Alcanar house which they used as their bomb factory and taped the electricity illegally from the neighbouring houses.⁹⁸ The 120 gas canisters found inside the house and intended for their initial plan to attack the Sagrada Familia were either stolen or bought on the Internet and paid for with money earned with the resell of stolen jewellery. The estimated cost of the bought canisters is 1 200 EUR.⁹⁹ During the explosion, there was about 100 kg of the explosive TATP stored in the house.¹⁰⁰ Some of the chemical ingredients were stolen by one of the perpetrators in the factory where he worked.¹⁰¹ Younes Abouyaaqoub, sometimes accompanied by Mohamed Hichamy, also bought ingredients for TATP in at least three different Spanish cities.¹⁰² Three white vans were rented one hour before the Ramblas attack at a low-cost rental company. The rent per day for these vans is between 49€ and 59€.¹⁰³ The older brother of one of the Cambrils perpetrators bought the Audi earlier that same week. During the attack, the terrorists were armed with knives and fake suicide vests. It is unknown how much money was spend on communication costs (phones, computers) between the cell members for the preparation and coordination of the attacks. So far, there are no official estimations of the costs of the Barcelona and Cambrils attacks. Depending on what is included and excluded in the estimation, the attacks can be estimated between 2 150 EUR and 7 000 EUR.

For the moment, Spanish law enforcement officials believe that the terrorist cell was mainly self-financed. Some of perpetrators held seasonal jobs as fruit pickers. One worked in a factory and another suspected collaborator and potential financier (Salah El-Karib) owns a mobile phone shop.¹⁰⁴ Several perpetrators had a past in committing petty crime and recently some of them were involved in the theft and resell of jewellery and precious metals.¹⁰⁵ Recent reporting states that some of the perpetrators asked for credits in the weeks before the attacks.¹⁰⁶

There are however several links with terror cells elsewhere in Europe. Imam Es Satty has lived in Belgium for a while. Younes Abouyaaqoub and Omar Hichamy have travelled several times to Paris, Belgium, Switzerland and Austria. It is therefore not excluded that the perpetrators were part of a larger network or received help – financial or technical – while preparing their plot.¹⁰⁷ According to the

⁹⁸ Baquero, Antonio, Sànchez, Guillem, Vázquez, Angeles, 2017, Los terroristas no iban a suicidarse y planeaban varios días de atentados en Barcelona, el Periodico, 18 September 2017, available at: <http://www.elperiodico.com/es/politica/20170917/los-terroristas-del-17-a-no-iban-a-suicidarse-y-planeaban-varios-dias-de-atentados-en-barcelona-6292066>.

⁹⁹ Olmo, José Maria 2017, La célula del atentado compró las bombonas con dinero de la venta de oro y joyas, El Confidencial 21 August 2017, available at: https://www.elconfidencial.com/espana/cataluna/2017-08-21/atentado-barcelona-y-cambrils-bombonas-de-butano-con-dinero-y-joyas_1431388/.

¹⁰⁰ Escrivá, Angeles, 2017 Investigan si los terroristas de Barcelona eran un 'comando itinerante' del Estado Islámico, El Mundo, 4 September 2017, available at: <http://www.elmundo.es/espana/2017/09/04/59ac545f22601d48098b45af.html>.

¹⁰¹ Baquero, Antonio, Sànchez, Guillem, Vázquez, Angeles, 2017.

¹⁰² Recuero, Marisa, Alsedo Quico, Herraiz, Pablo 2017 Prisión para un tercer detenido por los atentados de Barcelona y Cambrils por ayudar a comprar material para los explosivos, El Mundo, 25 September 2017, available at : <http://www.elmundo.es/espana/2017/09/25/59c8ec0746163f251a8b4581.html>.

¹⁰³ Olmo, José Maria 2017.

¹⁰⁴ La Dépeche.

¹⁰⁵ Gene, Luis 2017 Robo y venta de joyas para financiar los atentados, El Periodico, 22 August 2017, available at <http://www.elperiodico.com/es/barcelona/20170821/robo-y-venta-de-joyas-para-financiar-los-atentados-6236259>.

¹⁰⁶ CCMA (2017) El CNI admet haver mantingut contactes amb l'imam de Ripoll, 17 November 2017, <http://www.ccma.cat/324/el-cni-admet-que-limam-de-ripoll-va-ser-confident-seu/noticia/2821739/>.

¹⁰⁷ Baquero, Antonio, Sànchez, Guillem, Vázquez, Angeles, 2017.

French police, Younes Abouyaaqoub and another jihadist drove the Audi A3 to Paris on a short weekend trip before the Barcelona attack.¹⁰⁸ Their motive for that is not clear, but they are known to have gone shopping and passed by the Eiffel tower.

The terrorist cell that carried out the Barcelona and Cambrils attacks worked with a low budget, adopting strategies (squatting, hijacking, theft) that allowed them to make virtually no costs at all. It is believed that they made many payments in cash generated from illegal activities such as selling jewellery and precious metals.

Table 3.7 Financing of Barcelona and Cambrils attacks

Expenses	EUR	Income
Knives, gas bottles, 100 kg TATP	< 2.000*	(Seasonal) employment
Communication	Unknown	Drug trafficking
Vehicles: 1 car hijacked, 1 car bought and borrowed and 2 vans rented	150 - 6 000*	Theft and resell of jewellery and precious metals
Rent	0	Possibly donations
Total known/estimated costs	2150 – 7 000	

*Estimation by the author.

Connection between terrorist financing and money laundering

An increasing connection of terrorist organisations with organised crimes can also be witnessed, e.g. in trafficking of drugs and precious materials, human trafficking, arms trade and counterfeiting (FFI, 2014).¹⁰⁹ This is illustrated in the case below.

Case study 8

Money laundering - terrorism financing nexus: an example from Hezbollah

Academic experts, international organisations and law enforcement agencies see increasing links between terrorism financing, money laundering and organised crime. In this context operation CEDAR – in which law enforcement agencies in France and the US collaborated offers an interesting case study. During the operation, connections between major international criminal activity by Shi'ite Islamist group Hezbollah and the financing of the groups military wing became clearer.¹¹⁰ Hezbollah was created in 1980 as an Iranian effort to unite a variety of militant Shi'a groups in Lebanon, has since grown, and established a covert global financial and logistical support network to carry out criminal and terrorist operations worldwide.¹¹¹

Operation CEDAR started from the arrest of a number of lower level cash couriers and drug traffickers that were believed to be related. In December 2012, an individual was arrested in France carrying 390.000 EUR in cash. Two years later, two other individuals were in caught during a raid in the

¹⁰⁸ Le Parisien, 2017, Moins d'une semaine avant les attentats, l'Audi A3 utilisée à Cambrils a déclenché un radar en région parisienne. Une information qui illustre le travail d'enquête tous azimuts mené en Europe, 21 August 2017, available at : <http://www.leparisien.fr/faits-divers/espagne-l-audi-a3-des-terroristes-de-cambrils-flashee-en-france-la-semaine-derniere-21-08-2017-7203903.php>.

¹⁰⁹ FFI (Norwegian Defense Research Establishment, 2014, "The financing of jihadi terrorist cells in Europe".

¹¹⁰ Based on Europol's answers to the questionnaire on potential introduction of cash payment restrictions.

¹¹¹ For a detailed description see: Levitt, Matthew (2013) Hezbollah, the Global Footprint of Lebanon's Party of God, Georgetown University Press, Washington D.C.

Netherlands during which 62 kg cocaine was found. They carried respectively 2 million EUR and 500 000 EUR in cash. In 2015, several other members of the cocaine trafficking network are identified in Germany, Belgium, Italy and Spain. In January 2016, Hamdi Zaher El Dine and Mohamad Nouredine, the Lebanon-based suspected leaders of a Europe-wide money laundering effort were arrested in Paris.¹¹²

The modus operandi of this money-laundering network consisted of Colombian drug cartels sending cocaine to Europe. After the drugs were sold in several EU countries, intermediary drug traffickers collected the money within each country and passed it on to a higher-level member of the network, Hassan T., who stored the money in France and in Germany. Next, Hassan asked money launderers to invest the money in luxury goods. For instance, in France, Oussama F. laundered the drug money by buying about 60 luxury cars yearly via car dealers that accept payments in cash. These cars – with a value of 80 000 to 140 000 EUR each – were then shipped to Lebanon via Belgium or France. In Germany the money was laundered by Ali Z. through the purchase of luxury watches, such as Rolex, with a value of 30 000 to 50 000 EUR. The empty boxes were sent via mail to Lebanon and the watches were transported by couriers wearing them while travelling to Lebanon. As such, 1.3 million EUR was laundered by Ali in four months.¹¹³ In total, the group bought 57 million EUR worth of high value watches alone in 2014. The dirty drug money had now become clean in Lebanon where the cars and watches are sold for a profit with a proportion of the money going to financing Hezbollah's military wing.¹¹⁴

As this example shows, cocaine trafficking generates important amounts of payments in cash. Although the link between these cash payments and a specific terrorist attack cannot be proven, thresholds to cash payments may constitute a barrier to the fundraising efforts of terrorist or terrorist organisations.

Conclusions

The case studies provide a number of insights, which are supported by available literature.

The case studies above were selected for being recent high-profile jihadist terrorist attacks on EU territory, leaving aside smaller plots such as knife attacks. The estimated costs of these attacks range between 1 710 EUR and 82 000 EUR. With most attacks situated on the lower end of this range and the 13 November Paris attacks being an outlier on the high end. This finding is consistent with the trend of decreasing costs of terrorist attacks since the 9/11 attacks. For instance, the costs of the Madrid attacks on 11 March 2004 are estimated around 10 000 EUR and those in on 7 July 2005 in London are estimated between 1 000 GBP and 8 000 GBP, a fraction of the estimated budget of 9/11 (400 000 USD – 500 000 USD). It is also in line with the findings of Oftedal who concluded that three quarters of the 40 plots she studied had an estimated cost of less than 10 000 USD.¹¹⁵

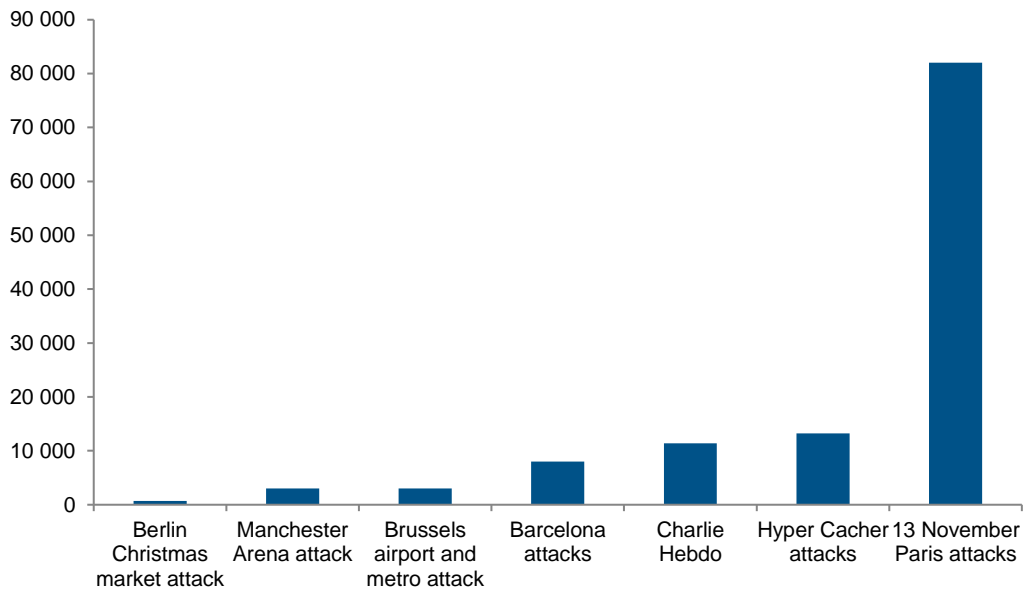
¹¹² Le Parisien (2016) Les services américains et français ont démantelé un réseau de blanchiment de l'argent de la drogue de Colombie, via un système de commerce de montres et de voitures de luxe destinées au Liban, 24 April 2016, <http://www.leparisien.fr/faits-divers/l-argent-sale-transforme-en-montres-et-voitures-de-luxe-24-04-2016-5741047.php>, US Treasury, 2016 Treasury Sanctions Key Hizballah Money Laundering Network, 28 January 2016, <https://www.treasury.gov/press-center/press-releases/Pages/jl0331.aspx>.

¹¹³ Idem.

¹¹⁴ Europol answers to questionnaire.

¹¹⁵ Oftedal, 2014, p. 3

Figure 3.1 Estimated cost (EUR) of recent terrorist attacks



*These numbers are the high-end estimations for each attack.

The case studies also showed what sources of income were used to finance the attack. Grossly these can be divided in legal sources of revenue (salary, savings, welfare benefits such as unemployment benefits, student loans), the fraudulent use or reception of legal sources of revenue (welfare benefits, consumer credits) and illegal sources of revenue (donations, drug trafficking, trade in counterfeit good and stolen objects). This is consistent with recent trends in terrorism financing as described by the FATF, FIUs and academic scholars. The following table shows how the methods (allegedly) used in the case studies correspond to the recent trends in terrorism financing as highlighted by Normark and Ranstorp and Oftedal.¹¹⁶

Table 3.8 Overview of financing methods used in the terrorist attacks

Method	Case
Salary	Berlin Christmas market attack Brussels attacks Manchester Arena attack Barcelona attacks
Savings	Charlie Hebdo attack 13 November Paris attacks
(Legitimate) business activity	Brussels attacks
Unemployment benefits	Charlie Hebdo attack Brussels attacks Berlin Christmas market attack
Social insurance benefits (fraud)	Brussels attacks
Student loan (fraud)	Manchester Arena attack
Loans / consumer credit fraud	Hyper Kacher attack
VAT and business fraud	-
Lease / Loans of SUVs and cars	Hyper Kacher attack
Charitable donations	-
Private donations (ISIS, supporters)	Charlie Hebdo attack

¹¹⁶ Normark and Ranstorp, 2015, pp. 12-18; Oftedal 2014.

Method	Case
	13 November Paris attacks Brussels attacks Berlin Christmas market attack Manchester Arena attack
Drug dealing	Hyper Kacher attack Brussels attacks Barcelona attacks
Selling counterfeit or stolen goods	Charlie Hebdo attack Hyper Kacher attack Barcelona attacks
Crime (other or non-specified)	Berlin Christmas market attack Hyper Kacher attack Brussels attacks

This overview includes all sources of income (including alleged sources).

Furthermore, the case studies provided some detail on the expenses made to prepare and carry out the attacks. In all case studies, the use of cash seemed to have been the preferred method of payment. These findings are in line with earlier findings by Oftedal who concluded: that “most jihadi attack cells in Europe have received support in cash. External support for the GIA Network (1995), the Strasbourg Cell (2000), the Beghal Network (2001), the Tawid Cell (2002), the Jyllands-Posten plot (2009), the Stockholm Cell (2010), and probably the two shoe-bombers (2001 and 2003) and the ‘underwear bomber’ (2009) was provided in cash”.¹¹⁷ Oftedal concludes that in almost all of these cases, cash was handed over in personal meetings between the terrorists and their supporters during the preparation phase of their plot rather than via money couriers.¹¹⁸

Although some expenses were made with bank or credit cards, for instance the rental of the vans in Barcelona, the amount of money that was involved in these transactions was too low to raise red flags. It can even be argued that renting a vehicle with a credit card is considered less suspicious than insisting on cash payment. It must also be highlighted that the items needed for a terrorist attack are not necessarily very costly. The only transactions of goods above 1 000 EUR were the purchase of fire weapons and explosives in the Charlie Hebdo attack, the Hyper Kacher attack and the Paris attacks, and possibly the purchase of the Audi A3 linked to the Barcelona and Cambrils attack. The weapons were bought on the black market and paid for in cash. It is so far unknown if the car was paid for by credit card or in cash. However, in itself this purchase may not have raised any alarm. Moreover, the purchase of a vehicle appears to be a rather uncommon modus operandi as in most cases the perpetrators have either rented, stolen or hijacked vehicles.

Two cardinal conclusions stand out.

First, it is clear that **cash played an essential role in recent attacks in Europe**. It is used to evade detection and remain under the radar of law enforcement. This does not mean that the perpetrators do not use other means of payment to receive or transfer funds to accomplices or to finance part of the logistics and preparation of the attacks. Sources of income such as welfare benefits and salary from employment in the formal economy are usually received via bank accounts. Likewise, some expenses such as airplane tickets or car rental usually require payment via a bank account. In

¹¹⁷ Oftedal 2014, p. 22.

¹¹⁸ Idem.

addition, even when cash is used for specific expenses, there might be an information trail – e.g. withdrawals from ATMs- that can be exploited by investigators.

Secondly, at the same **time the amounts involved are often – though not always – rather small**: typically less than EUR 1 000 per transaction. Depending on the detection systems within financial institutions, these small amounts might not raise red flags. Other financial activity – such as purchasing mobile phones, paying for rent or taking up a consumer credit for a car – are so common that they will raise no suspicion. Finally, it needs to be stressed that the case studies above focus on the direct costs of attacks – which can be defined more or less broadly. From a longer-term perspective, terrorist networks require funds for propaganda and all sorts of financial and logistic support. It is not excluded that the financing of these expenses can be of a more complex nature and involve the use of a wide range of payment and transfer methods, including cash.

3.2 Cash and money laundering

The international legal framework on the fight against money laundering is defined by the 40 recommendations of the Financial Action Taskforce (FATF), which was started in 1980 on the initiative of the G-7 summit in Paris – initially specifically as an initiative related to the international fight against narcotic trafficking ('war on drugs').¹¹⁹ Since then the FATF has developed its framework, gradually extended and fine-tuned its recommendations, incorporated in the recommendations, measurements in the fight against terrorist financing and the proliferation of weapons of mass destruction, and extended the list of 'predicate offences' underlying money laundering activities.¹²⁰

In the EU, the FATF recommendations have been implemented via four EU anti-money laundering Directives, of which the last was enacted on 25 June 2015.¹²¹ The definition of money laundering varies in each country. In general, money laundering is defined as the conversion or transfer, but also the possession and use of property (money) that is derived from criminal activity.¹²² Hence, spending ill-gotten money on for example luxury consumer goods is formally money laundering as well.

In the traditional model money laundering is defined as a three-stage process, involving, placement, layering and integration of illicit money. However, in reality there is a wide variety of money laundering methods, ranging from simple purchase of daily consumer goods to complex cross-border schemes in which corporate vehicles are misused to place ill-gotten money into the international financial system.

¹¹⁹ The FATF was conceived in the framework of the 1988 UN Convention against illicit traffic in narcotic drugs.

¹²⁰ Designated categories of predicate offences to money laundering are: participation in an organised criminal group and racketeering; terrorism, including terrorist financing; trafficking in human beings and migrant smuggling; sexual exploitation, including sexual exploitation of children; illicit trafficking in narcotic drugs and psychotropic substances; illicit arms trafficking; illicit trafficking in stolen and other goods; corruption and bribery; fraud; counterfeiting currency; counterfeiting and piracy of products; environmental crime; murder, grievous bodily injury; kidnapping, illegal restraint and hostage-taking; robbery or theft; smuggling; (including in relation to customs and excise duties and taxes); tax crimes (related to direct taxes and indirect taxes); extortion; forgery; piracy; and insider trading and market manipulation.

¹²¹ Directive (EU) 2015/849 of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC.

¹²² See Chapter 1.5 (definitions).

Types of relevant predicate offences

In the context of this study only money laundering activities that involve the use of cash money are of relevance. Money laundering may involve cash, but this is not always the case. On the contrary, many typologies, as for example described and analysed by the FATF, do involve laundering schemes of money that is already in the financial system. For example: certain types of large scale real estate fraud, VAT fraud, high level corruption, money laundering schemes that involve misuse of corporate vehicles, using trust and company service providers, money laundering through new payment methods, or trade based money laundering.¹²³ Nevertheless, it is widely noted that **cash is a facilitator for committing crimes and for concealing and laundering the proceeds of crime.**¹²⁴ Its anonymity gives no details either on the origin of the proceeds or on the beneficiary of the exchange.¹²⁵ This makes it harder for law enforcement to follow the audit trail.¹²⁶ Many suspicious transaction reports to national FIUs involve cash transaction or (cross-border) transportation of cash.¹²⁷

'Cash is still king' in many criminal activities.¹²⁸ Despite the steady growth on non-cash payment methods and the changing face of criminality (with a rise of cybercrime, online fraud and illicit online market places), criminal markets continue to generate large amounts of cash. This is particular true for the production and trade of illicit drugs. It is estimated that the annual turnover at the illicit drugs retail market in Europe (heroin, cocaine, cannabis, amphetamines, ecstasy) is about 20 to 30 billion euros per year (0,2 to 0,6% of the EU GDP).¹²⁹ The illicit drugs business is still overwhelmingly cash based¹³⁰ and is considered the most serious money laundering predicate crime.¹³¹ Other predicate offences that typically generate cash are smuggling of goods (alcohol, cigarettes), migrant smuggling, trafficking in human beings, illicit trade in weapons or arms, and certain types of corruption and tax fraud.¹³²

In addition, Europol ascertains that even when the underlying criminal activities do not generate cash in itself, cash may be an enabler at certain stages of the money laundering process¹³³ Europol presents in this context the example of cybercrimes such as phishing or hacking in which the proceeds are directly transferred from the victims account to the mule's account. As this leaves a trail that can be followed by investigators, mules tend to withdraw funds in cash as soon as possible and transfer this to their counterparts (for example via wire transfers).

¹²³ FATF 45 Methods and Trends Publications, <http://www.fatf-gafi.org/publications/methodsandtrends>.

¹²⁴ Ernesto U. Savona and Michele Riccardi (eds), *Assessing the risk of money laundering in Europe*. Final Report of Project IARM, Transcrime, 2017 (IARM 2017).

¹²⁵ Soudijn, M.R.J. and Reuter, P. Cash and carry: the high cost of currency smuggling in the drug trade. *Crime, Law and Social Change*, 66(3), 271–290, 2016.

¹²⁶ Riccardi, M., and Levi, M. (2017). *Cash and anti-money laundering*. In Colin King, Walker C. & Gurule J., *Handbook of Criminal and Terrorism Financing Law*. London: Palgrave Macmillan, 2017. Forthcoming; Europol, *Why cash is still king?* Den Haag: 2015.

¹²⁷ See Europol (2017), *From Suspicion to Action*. Converting financial intelligence into greater operational impact: Chapter 8. Accessible online at <https://www.europol.europa.eu/publications-documents/suspicion-to-action-converting-financial-intelligence-greater-operational-impact>.

¹²⁸ Europol, *Why cash is still king?* Den Haag: 2015.

¹²⁹ EMCDDA. (2016). *Technical Report: Estimating the size of main drug markets.pdf*. Lisbon: European Monitoring Centre for Drugs and Drug Addiction; Savona, E.U., and Riccardi, M., *From illegal markets to legitimate businesses: the portfolio of organised crime in Europe*. 2015.

¹³⁰ Concluded in several studies. Europol, *Why is cash still king. A strategic report on the use of cash by criminal groups as a facilitator for money laundering*, 2015. FATF, *Money laundering through the physical transportation of cash*, 2015. See also: Soudijn and Reuter 2016.

¹³¹ IARM 2017.

¹³² FATF, *Money laundering through the physical transportation of cash*, 2015.

¹³³ Europol 2015, p.10.

Table 3.9 Involvement of cash in illegal activities, a categorisation

Category	Types of predicate offences (examples)	Relevance of a cash restriction
Underlying criminal activity generates cash.	Illicit drugs, migrant smuggling, THB, smuggling of goods (tobacco), illicit trade in weapons, extortion.	Impact on certain types of expenses and money laundering activities.
Underlying criminal activity does not generate cash. Proceeds are and remain within the financial system.	For example real estate fraud, VAT fraud, credit card fraud, high level corruption, other forms of large-scale financial fraud, environmental crimes, insider trading and market manipulation.	Not relevant.
Underlying criminal activity does not generate cash. At some stage transfer in cash to break the paper trail, for money laundering and/or cross-border transportation purposes.	For example cybercrimes such as phishing or hacking.	Some impact. For example, when 'cash front businesses' are being used to mix money from illegal sources with money from legitimate sources.

Source: Ecorys 2017.

Findings from the supra-national risk assessment (SNRA)

The supra-national risk assessment (SNRA)¹³⁴ of the risks of money laundering and terrorist financing affecting the internal market and relating to cross-border activities, has shown that cash remains the most recurring means used for money laundering purposes, since it allows criminals to conceal their identity.

One of the issues identified is that **criminals exploit differences in legislation on cash transactions reports and limits on cash payments**. The differences between EU Member States legislations on cash limitations not only increases the vulnerability for the internal market, but also provides opportunities to circumvent controls in their country of origin by investing in cash intensive business in another EU Member State with no or a lower control on cash expenditures. In other words, the existence of cash payments limitations in some Member States, and their absence in other Member States, creates the possibility to bypass the restrictions by moving to another EU Member State.

According to the SNRA, **sectors exposed to a high level of cash transactions are at risk to money laundering**, in particular economic operators accepting payments in large value denominations (EUR 500 and EUR 200 banknotes). Cash intensive businesses are for example: bars, restaurants, constructions companies, motor vehicle retailers, car washes, art and antique dealers, auction houses, pawnshops, jewelleries, textile retail, liquor and tobacco stores, retail/night shops, gambling services. Cash intensive business may be used to launder (large amounts of) cash, by claiming that the funds originate from economic activities or by justifying its origin based on fictitious economic activities. The SNRA concludes that cash intensive businesses are favoured by criminal organisations to launder proceeds of crime.

¹³⁴ SWD(2017) 241 final, Report from the Commission to the European Parliament and the Council on the assessment of the risks of money laundering and terrorist financing affecting the internal market and relating to cross-border activities.

For businesses not submitted to AML/CFT obligations, such as many of the cash-intensive businesses, awareness of money laundering risks may be low or neglected. However, if cash-intensive businesses are aware of the risks of being utilised for money laundering purposes, they have no possibility to control the legitimate source of money. They do not know how to manage the risks and have no tools to control and detect suspicious transactions. The result is that the number of STRs coming from cash-intensive businesses are low.

The SNRA concludes that for cash payments, **thresholds are perceived as more efficient and less burdensome than imposing customer due diligence measures** in cash intensive businesses. It should however be noted that cash intensive businesses may be set-up or acquired for money laundering purposes, in which case legal businesses may circumvent the cash limitations. Hence, active enforcement of cash controls is crucial.¹³⁵

Risk sectors

Cash-intensiveness of businesses is identified as one of the risk factors for money laundering by the recently published IARM study.¹³⁶ The IARM project has developed an exploratory methodology for assessing the risk of money laundering at geographic area level and at business sector level. The methodology was tested in three pilot countries (Italy, the Netherlands and the United Kingdom).

One of the main conclusions is that cash-based economies and sectors are vulnerable to money laundering. For example, in Italy bars and restaurants are identified as the economic sector with highest estimated money laundering risks. This is partly due to their high cash-intensiveness, but also to other factors such as irregular labour, opacity of business ownership and relatively high levels of organised crime infiltration. Other risk sectors in Italy are service businesses (such as repair services, personal service activities like massage parlours, beauty centres and spas, security and investigation companies and fiduciary services), the entertainment sector (gambling and gaming, beach facilities, leisure activities like for example racecourses and sporting associations). The high risk of travel agencies and tour operators is also explained by the high cash-intensiveness but also to the vulnerability to criminal infiltration.

It is important to note that cash-intensiveness is only one factor that contributes to the vulnerability of a business sector to money laundering. Levels of organised crime infiltration, opacity of business ownership and profitability of the business are also factors that contribute to money laundering risks. For example in the Netherlands the business sector with highest money laundering risk is casinos, gambling and gaming businesses as it shows evidence of organised crime infiltration, a high cash intensity and opacity of beneficial ownership. In addition, legal prostitution, art and entertainment activities, hotels, bars and restaurants rank highly due to a combination of factors.

Table 3.10 Risk factors and risk businesses for money laundering

Italy	Netherlands
Risk factors: <ul style="list-style-type: none"> • Organised crime infiltration; • Tax evasion and underground economy; • Cash-intensiveness; • Opacity of business ownership; • Business profitability. 	Risk factors: <ul style="list-style-type: none"> • Cash intensiveness; • Opacity of business ownership; • Business profitability.

¹³⁵ Europol 2015.

¹³⁶ IARM 2017.

Italy	Netherlands
Sectors with highest money laundering risks: <ul style="list-style-type: none"> • Food and beverage service activities; • Repair of computers and personal/household goods; • Other personal service activities; • Travel agency tour operator and related activities; • Gambling and betting activities; • Creative arts and entertainment activities; • Education; • Fishing and aquaculture; • Other professional scientific and technical activities; • Manufacture of coke and refined petroleum products. 	Sectors with highest money laundering risks: <ul style="list-style-type: none"> • Gambling and betting activities; • Accommodation; • Creative, arts and entertainment activities; • Security and investigation activities; • Repair of computers and personal/household goods; • Travel agency, tour operator and related activities; • Other personal service activities; • Public administration and defence; social security; • Sports, amusement and recreation activities; • Food and beverage service activities.

Source: IARM 2017.

Money laundering and direct expenditures of cash

Not all proceeds of criminal activities re-enter the regular economy. A part will **remain within the criminal economy**, by reinvesting cash in criminal activities, including the purchase of drugs or for example weapons or payment of accomplices or partners for the delivery of services. Proceeds of crime are also hoarded in small and large amounts of cash (stash houses) and remain as such outside the legal economy. Finally, cash may be spent on illegal consumption, such as the use of drugs or illegal gambling.

Within the regular economy, the following categories of expenses of illicit income may be observed.¹³⁷

- Consumption: daily consumption;
- Consumption: (luxury) apparel and activities (restaurants, holidays, other leisure);
- Investment in real estate;
- Investment in businesses;
- Investment in financial assets.

Part of the proceeds will be spent on consumption in the legal economy, which may be divided in **daily consumption, luxury clothing and lavish life style activities** (restaurants, entertainment, and travel). The involved expenses will largely fall under any cash restriction threshold, and will not be impacted by this measure.

A study by the Matrix Knowledge Group (2007)¹³⁸ among over individuals in prison convicted of serious drug-related offences identified that the overwhelming majority described spending profits on themselves, either funding lavish lifestyles or simply “paying the mortgage”. A further breakdown on expenditure patterns reveals that illicit income is also reinvested in illicit activities, spent on drugs or sent abroad, invested in property and other assets, laundered through legitimate businesses (Table 3.11).

¹³⁷ See for example Slot, B and S. Yikona, ill-gotten money and the economy, World Bank, 2011. B. Slot and L. de Swart, Aard en omvang van criminele bestedingen, WODC, (forthcoming).

¹³⁸ Matrix Knowledge Group, The illicit drug trade in the United Kingdom (2nd edition), Home Office 2017.

Table 3.11 Profit expenditure patterns of (convicted) drug dealers in the UK

	Often and sometimes	Never	Non-response	Total
Spent on daily consumption or 'lifestyle'	70	5	29	104
Reinvested in drug trafficking	49	7	48	104
Invested in property or other assets	37	29	38	104
Laundered through legitimate business	21	39	44	104
Spent on drug habit	28	10	56	104
Sent overseas	16	48	40	104

Source: Matrix Knowledge Group, The illicit drug trade in the United Kingdom (2nd edition), Home Office 2017.

Illicit proceeds may also be spend on durable and luxury consumer goods (in particular vehicles, but for example also boats, jewellery and art) with the purpose of personal consumption or consumption by relatives, or with the purpose of money laundering. An example of the latter objective is the investment in expensive watches or cars with the objective that to transfer and sell it in another country (see example below). Europol confirms that a method favoured by criminals to dispose of cash generated by their activities is the purchase of high value goods and properties.¹³⁹ It is in this category of expenses and money laundering schemes that is directly impacted by a cash restriction.

Second-hand cars in Germany

The criminals' modus operandi involved the use of cash couriers traveling by car to pick up dirty cash all over Europe, followed by the use of trade-based money laundering techniques to forward the collected assets to the Middle East: expensive second-hand cars were purchased in Germany and subsequently exported to Iraq, where the goods were ultimately resold in exchange for cash. The organised crime group then made use of Money Service Businesses and unregulated financial channels (the Hawala system) to integrate and further transfer funds to the regular financial system, thus leaving virtually no paper trail evidence for law enforcement investigators.¹⁴⁰

Other expenditures, such as investment in real estate and legitimate businesses are largely covered by the current AML/CFT regime (customer due diligence and reporting suspicious transactions) – to the extent that investments are facilitated by legal professionals who comply with AML/CFT regulations. Under-the-table payments (cash) will remain under the radar.

Investments in real estate and legitimate businesses are a common form of money laundering. For example, Kruisbergen and Kleemans found in a sample of 150 criminal cases in the Netherlands (drugs, human trafficking and smuggling, weapons, fraud, money laundering), 87 cases in which the proceeds of crime were invested in real estate, 113 cases with investment in businesses and 124 cases with investments in real estate and/or businesses.¹⁴¹ Real estate ranges from simple to very luxury, in particular houses and apartments (for own use or relatives, or to rent) but also commercial real estate. Businesses have in most cases a direct link or ownership to the criminal and his relatives. However, these investments do not necessarily involve cash transactions. According to Europol, typical real estate investment schemes are characterised by the under or over-valuation of property,

¹³⁹ Europol 2015.

¹⁴⁰ Source: Europol inputs to questionnaire with DG HOME.

¹⁴¹ E.W. Kruisbergen E.W., E.R. Kleemans en R.F. Kouwenberg Wat doen daders met hun geld? Uitkomsten van de Monitor Georganiseerde Criminaliteit, Justitiële Verkenningen, WODC, 1, 2015.

back-to back loans which may or may not involve financial institutions (whereby criminals lend themselves money to make purchases) or mortgage schemes.¹⁴² Kruisbergen and Kleemans also found that **investments in financial assets** were extremely rare in the 150 analysed cases.

As discussed before, cash is used as an enabler for money laundering - in particular in facilitating cross-border movements of cash, but also via so called 'cash front businesses' (such as restaurants, garages, car washes, nail bars, tanning salons and other forms of service oriented businesses) that provide a cover for the source of inexplicable quantities of cash.¹⁴³ These businesses may be started for this purpose or, more commonly, acquired by organised criminal groups. A cash restriction may have an impact on money laundering via cash front businesses for expenses above the threshold – if compliance to the cash restriction is actively enforced.

Magnitude of impacts

The extent to which the proceeds of crime are spent via cash payments on durable and luxury consumer goods is not known. Some information may be derived from the Netherlands, which is the only EU country with a declaration obligation for cash payments. In the Netherlands traders of high-value goods are obliged to report every transaction involving EUR 15 000 of cash and more. They are also obliged to report suspicious transactions below this threshold. As a result, FIU-Netherlands receives over 4000 to 5000 reports from dealers in gemstones, art and antiques, vessels, vehicles and other dealers in high value goods (Table 3.12)

Table 3.12 Transaction reports received by FIU-Netherlands from dealers in high-value goods

	2014	2015	2016
Gemstones and jewellery	412	512	396
Art and antiques	7	2	4
Vessels	58	41	49
Vehicles	3 871	3 969	5 041
Other	30	90	62
Total	4 378	4 614	5 552

After investigation, transaction reports may be identified as 'suspicious'. These reports are shared with law enforcement and other investigative authorities. The number of suspicious transaction reports varies very much per year, between a few hundred to over thousand(s).

Table 3.13 Transaction reports received by FIU-Netherlands from dealers in high-value goods identified as suspicious

	2014	2015	2016
Gemstones and jewellery	136	71	39
Art and antiques	3	9	17
Vessels	3	3	2
Vehicles	411	174	2 029
Other	0	1	0
Total	553	258	2 087

¹⁴² Europol 2015.

¹⁴³ Europol 2015.

Data from FIU-Netherlands reveal that: Cash from illicit origins is being spent in the legal economy via purchases of high-value goods (money laundering); There are particular risks in the purchase of vehicles and, to a lower extent, gemstones and jewellery: A declaration obligation for cash transactions may provide valuable law enforcement information.

Conclusion

Many criminal acts are perpetrated with the goal of generating a profit for the individual or group that carries out the act. Money laundering is the processing of these criminal proceeds to disguise their illegal origin, so that the resulting money appears legal and can be spent in the real economy.

It is clear that cash transactions play an important part in money laundering even though not all cash transactions may be impacted by a cash restriction.

A restriction or declaration obligation will remove anonymity of a transaction and hence will complicate money laundering via the purchase of high-value goods. Cash transaction play an important role in money laundering. This is relevant for crimes that generate large amounts of cash (in particular drugs). A cash restriction will have an impact on specific categories of illegal spending and money laundering schemes: in particular those where the purchase of high-value goods is involved. The overall value of these transactions, and the impact of a cash restriction on money laundering in general, cannot be quantified.

3.3 Cash and tax evasion

Tax evasion can be defined as the illegal non-payment to the government or jurisdiction to which it is owed by a person, a company, trust or other organisation who should be a taxpayer in that place.¹⁴⁴ There are two types of tax evasion: committed and the passive tax evasion. The main difference is that in the latter case both sides involved in the transaction (the buyer and the seller) prefer to using cash in order to not to report a transaction and to benefit from a lower price resulting from evaded tax payments, whereas in the first case only the buyer decides to not register the payment.¹⁴⁵

Whereas cash may play a role in tax crimes (in particular in “petty” cash evasion by businesses and private individuals), it is definitely not the only form of tax evasion, with larger tax evasion schemes often being cash-less making use of offshore jurisdictions. The correlation between cash and tax evasion has been subject to numerous academic studies and debates and there is no general academic consensus as to whether cash does or does not have an impact on tax evasion. Some argue that tax evasion can be better explained by institutional and economic factors.¹⁴⁶ Other studies suggest that cash usage does have a negative impact on tax evasion,¹⁴⁷ and that the use of electronic payments such as debit and credit cards reduces VAT tax evasion, because they build a trail for the

¹⁴⁴ Tax Justice Network: The cost of tax abuse. A briefing paper on the cost of tax evasion worldwide, November 2011, Accessible online: <https://www.taxjustice.net/wp-content/uploads/2014/04/Cost-of-Tax-Abuse-TJN-2011.pdf>.

¹⁴⁵ Ernst & Young: Reducing the Shadow Economy through Electronic Payments, April 2017, P.1: Accessible online: [http://www.ey.com/Publication/vwLUAssets/Report_Shadow_Economy/\\$FILE/REPORT_ShadowEconomy_FINAL_17.pdf](http://www.ey.com/Publication/vwLUAssets/Report_Shadow_Economy/$FILE/REPORT_ShadowEconomy_FINAL_17.pdf).

¹⁴⁶ See: Takala, Kari/ Viren, Matti: Is Cash Used Only in the Shadow Economy? Madzharova, Boryana: T.

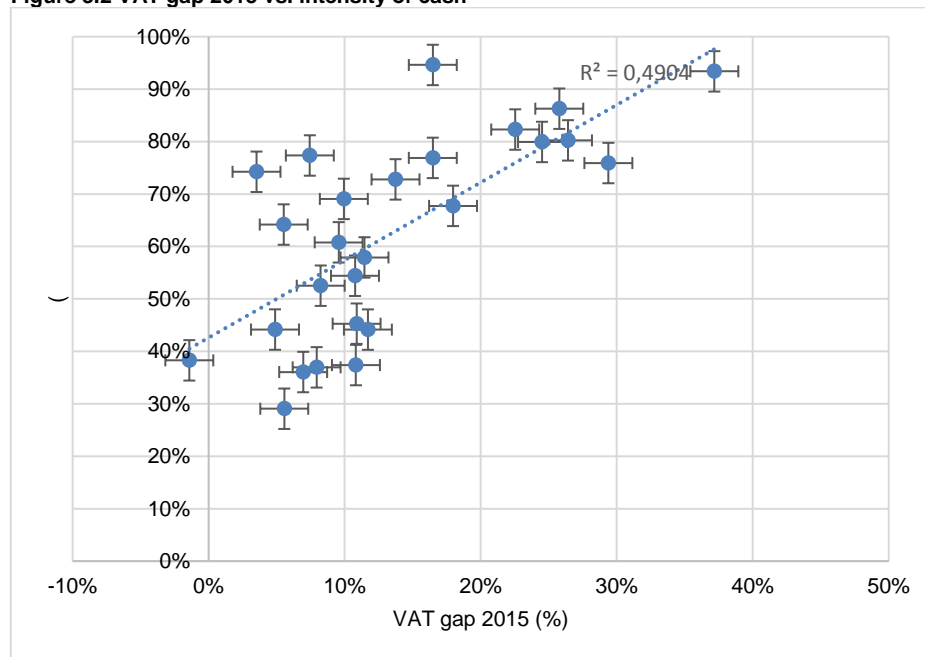
¹⁴⁷ Madzharova, Boryana: The impact of cash and card transactions on VAT collection efficiency, Accessible online at: https://www.bundesbank.de/Redaktion/EN/Downloads/Tasks/Cash_management/Conferences/2014_09_16_the_impact_of_cash_and_card_transactions_on_vat_collection_efficiency.pdf?__blob=publicationFile.

underlying transactions.¹⁴⁸ In yet another study the authors present evidence supporting this claim for Europe, showing a negative relationship between VAT evasion and the payments with credit and debit cards and therefore recommend to subsidise the use of credit cards and debit cards for payment.¹⁴⁹

An indicator to measure the size of tax evasion is a country's VAT gap. The VAT gap is defined as the difference between the VAT total tax liability and the amount of VAT actually collected.¹⁵⁰ The lost tax revenues from VAT evasion have been estimated at almost 160 billion EUR a year for the EU.¹⁵¹ It should be noted that this definitely is not at all related to the use of cash as VAT evasion can take many shapes and forms.

Figure 3.2 shows the VAT gap 2015 and the cash intensity in the EU Member States. In general there seems to be a positive correlation between cash intensity of an economy and the VAT gap, although the correlation itself is not very strong ($R^2 < 0,5$). As such it cannot be said that high cash intensity of an economy causes a high VAT gap. Clearly, there are more factors explaining the VAT gap. This is nicely illustrated by the case of Austria, which has a rather low VAT gap compared to other EU Member States despite its high level of cash usage. Moreover, in light of this study, it is not said that the introduction of a cash restriction will have a high impact on the cash intensity (and hence VAT gap) as the cash payment affected are only a (very) small part of all cash transaction in society.

Figure 3.2 VAT gap 2015 vs. intensity of cash



Sources: Ecorys analysis based on European Commission (2016): 'Study and Reports on the VAT gap in the EU-28 Member States: 2016 Final Report', TAXUD/2015/CC/131/; ECB Paper series: No 137 /September 2012, 'The social and private costs of retail payment instruments', **Cash intensity is measured as volume percentage of cash payments.

¹⁴⁸ Immordino, Giovanni, Flaviano Russo, Francesco: Center for Studies in Economics and Finance: WORKING PAPER NO. 445, 'Cashless Payments and Tax Evasion', June 2016, Accessible at: <http://www.csef.it/WP/wp445.pdf>.

¹⁴⁹ Ibid.

¹⁵⁰ European Commission (2016), 'Study and Reports on the VAT Gap in the EU-28 Member States: 2016 Final Report', TAXUD/2015/CC/131.

¹⁵¹ Ibid.

National tax evasion policies in the European Union

There is a rather diverse approach to tax evasion in Europe. The current situation in the European Union consists of different legislations and policies. Measures and penalties can vary depending on the type of problem (passive or committed tax evasion). The following section illustrates the divergent measures in some Member States.

In **Sweden**, most businesses do not use cash to a large extent, which is why tax evasion is not a prominent issue. However, there are some exceptions. Undeclared labour is the main concern of authorities when it comes to tax evasion. Newly arrived immigrants who are unable to set-up a bank account are often engaged in construction or other sectors without being declared. This activity requires large amounts of cash, so that it is not easily traceable by the authorities. These not declared payments and other similar transactions are often performed via small exchange offices specialised in such services instead of banks.

The **Italian** Tax Authority (Agenzia delle Entrate) has put in place many initiatives to fight tax evasion. On the one hand, the Italian Tax Authority is taking actions to discourage cash usage; on the other hand, it is implementing the digitalisation of tax collection and billing systems. Moreover, the authority is gradually improving the process of communication with merchants and professionals: for instance, since 2017, all the invoices should be digitally transmitted to the central authority.¹⁵²

Two major initiatives are already in place:

- With regard to the housing sector, the Italian system envisages tax deductions for renovation and repair work, provided that individuals pay by bank transfer¹⁵³;
- For B2C transactions, since 2016 merchants and professionals have been obliged to install point-of-sale terminals and to accept credit/debit cards for all payments above five euros.¹⁵⁴ Nevertheless, there is no evidence of the impact of this provision, since the rule does not envisage any sanction. Recently, attention was paid on a governmental proposal to fine (up to 30 EUR) those merchants that do not comply with the above mentioned mandatory requirements.¹⁵⁵

Tax evasion is one of the major problems of the **Greek** economy, which existed before the financial crisis and persists. In the recent years, cash restrictions as well as several measures, have aimed at reducing tax evasion in Greece. According to the IMF, tax evasion remains a major issue to be addressed by the Greek government. Tax evasion is particularly high for self-employed professionals and related to VAT tax evasion as presented in the figures below.

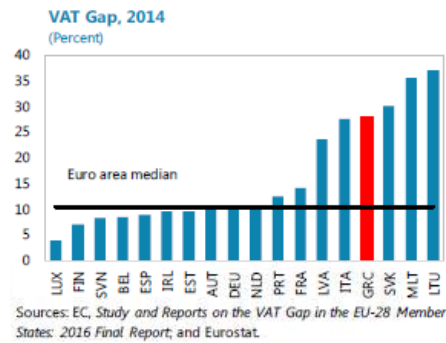
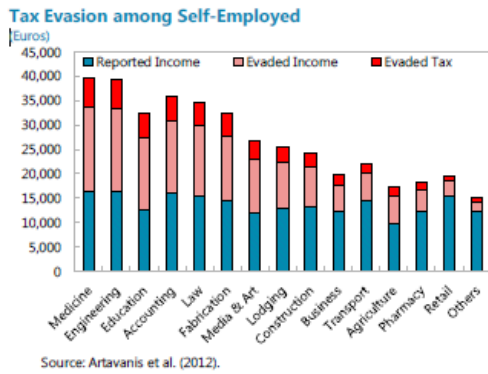
¹⁵² According to the Legislative Decree 22 October 2016 no. 193 (Law 225/2016), as of 2017, all the invoices must be transmitted every six months to the Agenzia delle Entrate via a telematic system.

¹⁵³ According to Article 16 bis of d.P.R. no. 917/1986, 50% of deduction (up to 96 000 EUR) is applied to renovation and repair works.

¹⁵⁴ See Article 15 of Legislative Decree no. 179/12 and Law no. 208/2015.

¹⁵⁵ See <http://www.ilsole24ore.com/art/norme-e-tributi/2017-09-19/pos-obbligatorio-sanzioni-fino-30-euro-210052.shtml?uuid=AEQpQoVC>.

Figure 3.3 Tax evasion in Greece



Source: IMF.

In **Spain**, the law 7/2012 had its most important impact in terms of the reduction of tax evasion, in line with the original objective of the policy-makers. The existence of a considerable shadow market (estimated to reach one fourth of the GDP) and the related evasion of taxes constitute a significant problem, which impairs the public finances of the country. The national Taxation Agency estimates the existence of 30.000 taxpayers suspected fraudsters. The law also prescribed new obligations to report all assets and rights held outside Spain, a measure that affected intensely the expatriate community.

The results of the fight on fiscal fraud rose to EUR 14.88 billion, improving by 14.9% the results of the previous year and 20.8% those of 2014. Another tangible result is constituted by the fall of the circulation of high-size banknotes. These results have been accomplished primarily because of an increase in the inspection activities, which rose to 108 338 in 2016, compared to 107 508 in the previous year.

3.4 Diverging cash restrictions and displacement of illegal activities

As detailed in Chapter 1, there are large differences between national cash payment restriction regimes in place in the European Union. Eleven Member States have no cash payment restriction of any kind at the moment. Seventeen Member States do have a cash payment restriction, however these differ between one another with regard to their thresholds, the way they are enforced and penalties are applied, as well as in their scope.

These diverging cash payment restrictions exist in the context of the European Union's single market in which individuals are able to move freely between one Member State and another. This freedom also extends to those engaging in illegal activities. Both terrorists and criminals may seek to exploit differences between national measures, moving their illegal activities and/or the illicit cash to jurisdictions where there is no or a less stringent cash payment restriction. This undermines the effectiveness of the existing national measures and allows criminals to continue their illegal activities.

A number of examples have been encountered of activities being displaced between countries in order to avoid the cash payment restriction in the neighbouring country. Some of these have been detailed in recent Europol reports, others were introduced in the country case studies or can be found in literature.

It should be noted that, where otherwise (seemingly) legal transactions are concerned, it is hard to prove whether the displacement took place because it involved an illegal activity, or whether there were legitimate reasons for moving the activity to a neighbouring country. That being said, in a number of examples illustrated below the legitimate reasons seem far-fetched, indicating a high likelihood that in fact the main reason was to avoid detection.

Belgium > Netherlands

The Dutch public prosecutor has filed charges against a Belgian second-hand car dealer, who founded a company in the Netherlands to handle sales in cash of his Belgian cars. This was done solely to avoid the Belgian cash payment restriction.¹⁵⁶

France > Belgium

The Belgian authorities have indicated that when France lowered its cash payment restriction threshold for gold dealers, it saw a remarkable upsurge of French companies – operated by French nationals – moving to Belgium. When Belgium decided to also lower its cash payment restriction for gold sales, these companies moved again to the Netherlands, where there is a less stringent regime regarding cash payments for gold.¹⁵⁷

Terrorist financing

As shown earlier in this section, cash is used in a number of completed terrorist attacks, however individual cash transactions involve relatively small amounts of money. Even though some transactions may have taken place in other countries than the attack, the available information seems to indicate that this is triggered rather by other factors than diverging cash restriction regimes across Europe.

Money laundering

As with illegal activities in general, concrete numbers on the size of this phenomenon are hard to come by. However, the FATF estimates that globally cash smuggling across borders accounts for ‘between hundreds of billions and a trillion US dollars’ of money laundering per year.¹⁵⁸

A specific example of money laundering has been recorded by Europol:

France > Belgium

Europol analysed an EU-wide money laundering scheme in which French cannabis profits were used to buy gold (high-value purchase) in Belgium, which at the time did not have a cash payment restriction for gold. This gold was then exported out the EU to the United Arab Emirates, to be made into jewellery that was sold in India. These now seemingly legal profits were then integrated into the financial system via money transfers. About 170 million EUR was collected yearly in this fashion. The role of professional enablers is also highlighted as crucial: professionals in sectors that deal with substantial amounts of cash may wittingly or unwittingly facilitate placement, layering and integration of large sums of illegal cash.¹⁵⁹

¹⁵⁶ Source: Dutch Public Prosecutor’s office.

¹⁵⁷ Source: Workshop with government representatives, and Belgian country study.

¹⁵⁸ FATF (October 2015), ‘Money Laundering Through the Physical Transportation of Cash’. FATF Report.

¹⁵⁹ Source: Europol (2015), Why cash is still king.

Recently, a study by the German Financial Intelligence Unit¹⁶⁰ has revealed that Germany is becoming increasingly popular with money-launderers. According to the study, cash derived from illegal transactions is increasingly brought to Germany from other countries that have cash limits. The German finance ministry claimed the existence of a 'suction' effect. While limits were introduced in many countries to counter money laundering, they have been resisted in Germany because of fears they may hasten the phasing out of cash – something that is vehemently opposed across the country.

The Federal government assumes, that due to the lack of harmonized in the EU internal market incriminated funds from countries with cash restrictions (e.g. France and Spain) are regularly transported by so-called cash couriers to countries without cash restrictions and are used for cash purchase of high-value goods (such as cars, watches).

Neighbouring countries > Germany

The German Bundeskriminalamt (BKA) and Zollkriminalamt (ZKA) have highlighted the movement of money laundering activities to Germany. In various neighbouring and close proximity EU Member States (for example, France, Belgium, Italy and –albeit not in close proximity- Spain), restrictions on the cash payment possibilities have already been introduced in the commercial sector. These restrictions prohibit a cash acquisition of cars and construction machinery and penalise them. This is signalled as increasingly causing incriminated cash from these countries to be sent to Germany in order to make high-value purchases.

Regular incidents are already reported from France. In the context of investigations pending there, transports of incriminated money from the drug trade to Germany can be ascertained. In Germany, the funds are invested in (luxury) vehicles. The purchase of vehicles on the German market is according to the French authorities mainly due to the possibility of full cash payment in Germany. In these cases, economic reasons are to be excluded in the light of the current market situation: vehicles are generally more expensive in Germany than in France, Spain or Italy.¹⁶¹

Tax evasion

Finally, tax evasion might be connected to cash transactions that move from one country to another as a result of cash restrictions. Sometimes tax evasion is linked to other illegal activities as is shown in the below example.

France > Switzerland

Another Europol-illustrated case revealed a connection with **tax evasion** and a distortionary effect towards Switzerland: cash from gained from cannabis dealing in Paris was given to European citizens with Swiss bank accounts wishing to evade taxes. In return, these individuals debited equivalent amounts to the drug dealers, via a complex network of shell companies. Via this route, high value assets were purchased as a way to integrate the funds in the real economy. This case shows both **money laundering** and tax evasion seeking the jurisdictions where they are least likely to be detected.¹⁶²

¹⁶⁰ See Financial Intelligence Unit (2016), Jahresbericht 2015, at: https://www.bka.de/SharedDocs/Downloads/DE/Publikationen/JahresberichteUndLagebilder/FIU/Jahresberichte/fiuJahresbericht2015.pdf?__blob=publicationFile&v=3.

¹⁶¹ Source: interviews and written inputs from German federal police and customs authorities.

¹⁶² Source: Europol (2015), Why cash is still king.

These cases illustrate the relative ineffectiveness of a patchwork of national cash payment restrictions in effectively tackling illegal activities.

3.5 Diverging cash restrictions and the internal market

A well-functioning Internal Market requires the maintenance of a level playing field across EU Member States. It would not be possible to achieve this when having largely varying legislation at Member State level. Distortions to the functioning of the Internal Market may affect consumers as well as businesses.

There is significant divergence across EU Member States on cash payments restrictions. There are 17 Member States with cash payments restrictions in place, which show substantial differences between them in varying thresholds, sectors considered and sometimes different thresholds for residents and non-residents. In addition, the Netherlands has opted for a declaration obligation rather than a prohibition on high-value cash payments as is in place in the other Member States with a cash restriction.

The national cash payments restrictions can have various effects on consumers and merchants. In fact, there are three broad possible actions, they can choose to:

- Switch to alternative payment methods, which would leave the revenues unaffected;
- Cancel the transaction, which would reduce the revenues of merchants in the Member State that introduced the cash payment restrictions; and
- Move the transaction to a merchant in another Member State that has less or no cash payments restrictive restrictions in place.

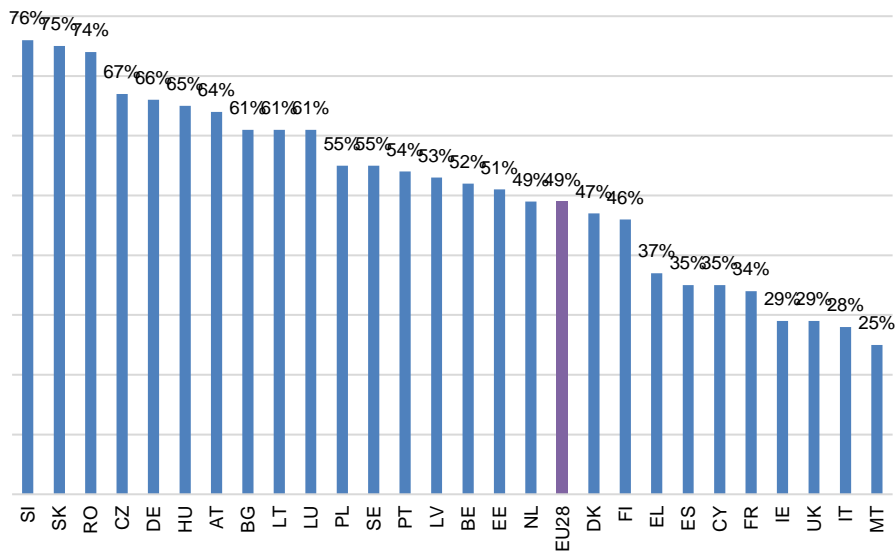
In the examination of the effects on the internal market the focus will be on third option, activity moving from one Member State to another. The euro area presents a unique challenge in the case of cash thresholds. Given the relative ease with which people and move capital in the single currency area, diverging cash thresholds are not expected to fully remove the transaction itself, but mainly lead to movements between merchants cross-border.

The impact of cash payments on sales and revenues differs between Member States. The restrictiveness of the cash payments restrictions, availability of alternative means of payments and the acceptance of the cash abroad seem to be the main drivers of these differences. With the merchants in euro area Member States with most cash restrictive cash payment restrictions and least alternative payments methods broadly available losing most activity at the benefit of merchants in euro area Member States with less restrictive or no cash payment restrictions.

Cross-border purchases

An initial assessment of the impact of the national cash payment restrictions is made based on the changes in the cross-border purchases. Indeed, the hypothesis is that when a country introduces cash payment restrictions, more of the residents will travel to other Member States to purchase goods and services.

Figure 3.4 Respondents who have purchased goods or services in other MS and have paid in cash



Source: Special Eurobarometer 373 – Retail Financial Services (2011).

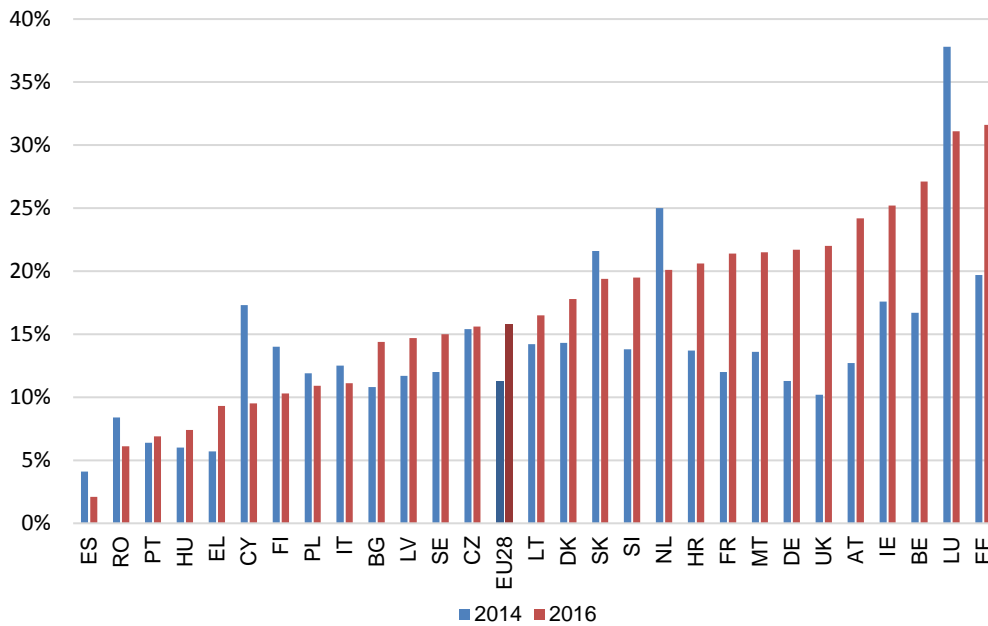
The latest data available on cross-border purchases do not allow to make a distinction between payment methods. But according to a survey held by the European Commission¹⁶³ in 2011, half of the people who bought products in other EU countries used cash to make their purchases. Cash was the most common payment method in 16 Member States with a relatively high percentage having used this means in Slovenia (76%), Slovakia (75%) and Romania (74%). On the other hand, in Malta only 25% of those who purchased a product in another country paid in cash, as did 28% of those in Italy and 29% of those in Ireland and the United Kingdom. In the meantime, the payment behaviour might have partially changed given the general trend towards more electronic payments, but it is likely that still a large share of the cross-border purchases is performed in cash.

Looking at the more recent results of a survey conducted by the European Commission¹⁶⁴ on the level of cross-border purchases by EU consumers held in 2016, offline trade within the EU28 has increased by 4.5% from 2014 to 2016, from 11.3% in 2014 to 15.8% in 2016 of respondents saying that they have purchased any goods or services through channels other than the Internet from a retailer or service provider located in another EU Member State. It should be noted that in these cases payments could have been made in cash or by card, or using another means of payment.

¹⁶³ See European Commission, Special Eurobarometer 373 Retail Financial Services 2011.

¹⁶⁴ See European Commission, Survey on Consumers Attitude towards cross-border trade and consumer protection 2016.

Figure 3.5 Offline cross-border purchases in the EU (2014-2016)



Source: European Commission, 2016.

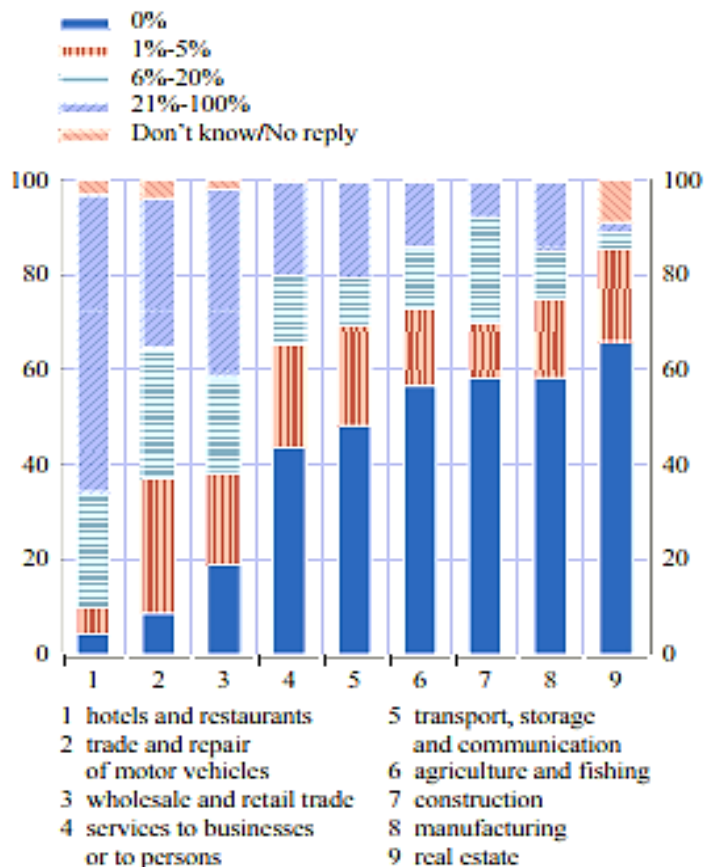
Comparing the level of cross-border purchases in the two years (i.e. 2014 and 2016) with the cash restrictions imposed around that time, shows that **in the Member States in which the restrictions have become more restrictive (e.g. Belgium, Bulgaria, Denmark, France, Greece) the cross-border purchases increased**, while in Member States that have loosened their cash payments restrictions such as Italy a decrease in the level of offline cross-border purchases was noted. In turn, some of the border countries of these Member States noted a decrease in the cross-border purchases such as the Netherlands and Luxembourg. However, given the large increase in other Member States as well and the limited number of observations further research is required.

Evidence of distortions in selected sectors and Member States

The existing evidence on changes in (volume of) cash transactions due to cash payment restrictions is limited. The sectors that have to accept high-value cash payments are potentially most susceptible to the national cash payment restrictions. But since the limited data available on cash dependence across sectors does often not include the transaction amounts, a first assessment is made based on the general dependence on cash, literature review and interviews with stakeholders.

Starting with the cash dependence across sectors, Figure 3.6 shows that hotels and restaurants obtained in 2008 the greatest share of their annual turnover in cash. In fact, over half of the businesses in these sectors get more than half of their income in cash. The wholesale and retail trade follows, with 28% of companies receiving more than half of their turnover in cash. The distribution of cash income in the trade and repair of motor vehicles sector is similar to that for the overall wholesale and retail trade (which does not include the trade and repair of motor vehicles), even though a larger share of the motor vehicles sector seems to receive part of their income in cash.

Figure 3.6 Proportion (%) of annual turnover in cash



Source: ECB household survey, 2011 (survey held in 2008).

Cash-reliance in Germany

Germany relies heavily on cash, more than many other European Union Member State.¹⁶⁵ There is a clear perception of cash being safe – or at the very least safer than other payment methods. A YouGov survey found as 72% of German respondents said they believe it is safer to pay in cash. With an increase in smartphone penetration, Germany is seeing a slew of alternate payment forms built around mobile payments and digital wallets. Yet, cash remains the preferred option for routine purchases.

A proposal from the government to ban cash payments of more than EUR 5000 that somewhat reduced the opportunities for arbitrage and the financing of terrorism have been met with general opposition of political parties that claim that such measures are an attack on data protection and privacy.¹⁶⁶ The severe resistance led to a rejection of the proposal.

Jewellery sector in Belgium

The Belgian jewellery sector indicated to be particularly affected by cash restrictions. The current threshold for cash payments in place in the country stands at EUR 3 000. The Belgian jewellers are often dependent on cash as a mean of transaction.

¹⁶⁵ ECB (2017): 'The use of cash by households in the euro area', ECB Occasional Paper No. 201. Accessible online: <https://www.ecb.europa.eu/pub/pdf/scpops/ecb.op201.en.pdf>.

¹⁶⁶ See: <https://www.theguardian.com/world/2016/feb/08/german-plan-prohibit-large-5000-cash-transactions-fierce-resistance>.

The differences in cash restrictions among EU Member States have had profound repercussions on the jewellery sector. The restriction of EUR 3 000 is one of the strictest in the region and it has led to a significant competitive advantage of foreign jewellers in other EU member states such as the Netherlands and Germany, but also non-EU countries such as Switzerland.

The interviewee estimates that lost revenues due to cash restrictions could amount up to 30% for some jewellers. Customers who upon notification of the threshold are unable to pay via cash or other means due to technical difficulties explain some of this drop. These customers reduce selected items to not meet the threshold or use this fact in negotiations of the price.

However, some customers threaten to take their business elsewhere and also do so in practice. The Netherlands is the primary recipient of these customers. These jewellers take advantage of their competitive advantage and even pro-actively advertise the lack of restriction in the Netherlands. This internal market effect can be illustrated by the decrease in revenues due to the sales of jewels in combination with stable repair work at Belgian jewellers. The Dutch interviewees confirmed the shift of sales of jewels from Belgium to the Netherlands.

In addition to that, the AML law in Belgium is quite strict, especially in the Belgian diamond industry, and Belgium is a frontrunner when it comes to compliance and transparency. Compliance initiatives in foreign diamond trade centres do exist, and this creates a more level playing field. Nonetheless, the Belgian requirements are in general more restricted than the neighbouring countries. In this respect, Belgian authorities have seen evidence that the imposition of cash thresholds has displaced money laundering from Belgium to elsewhere.¹⁶⁷

Other displacement effects in Belgium

The Belgian Federal Public Service for the Economy conducted an investigation into the second-hand car-sector in 2014 and found that the largest number of infringements concerned illegal cash payments (47%) followed by mileage fraud and non-respect of legal guarantee obligations (both 18%).¹⁶⁸

According to the European Council for Motor Trades and Repairs (CECRA), the effect of the current differences in legislation on cash payment limits between Belgium and the Netherlands, is that there is distortion of competition within the Internal Market. Some Belgian garages have even opened a subsidiary in the Netherlands to continue to be able to accept cash.

The second hand cars dealers were signalled as a group that was affected in several other Member States as well, including Bulgaria and Italy.

In addition, there are a few examples in the casino industry and high-end furniture stores of foreign customers coming to the Netherlands to conduct their transactions in cash. These should be characterised as displacement effects, which would disappear if the legal framework were harmonised.

¹⁶⁷ See for example <https://nltimes.nl/2017/07/31/dutch-man-arrested-belgian-money-laundering-investigation>. See also Sands P., Campbell H., Keating T. and Weisman B. (September 2017), Limiting the Use of Cash for Big Purchases. Assessing the Case for Uniform Cash Thresholds. RUSI Occasional Paper. See <https://rusi.org/publication/occasional-papers/limiting-use-cash-big-purchases-assessing-case-uniform-cash-thresholds>.

¹⁶⁸ See https://www.europe-consommateurs.eu/fileadmin/user_upload/eu-consommateurs/Etudes_ECC/Cross_Border_car_purchase/PDF_EN/JOINT-PROJECT_AUTO_REPORT_europe.pdf.

Retail and tourism in France

After the terrorist attack of 2015, France has introduced a EUR 1 000 limit to cash payments, but in order to minimise the potential harm to tourism, the threshold for foreign visitors (non-residents) was set at EUR 15 000. Distortions particularly impinge the activity of retail sub-sectors such as luxury shops, jewellery and large high-end department stores.

France: Displacement of luxury goods sales

The decision to lower the thresholds has created significant distortions of competition between France and the competing European capitals, which have mainly introduced vigilance thresholds but no prohibition. France, with 82.6 million visitors a year, remains the first tourist destination in the world, it is only the 4th in terms of expenditure per visitor. A recent study showed that the cash restriction for non-residents of 15 000 euros led to a cancellation of the sale in 34% of cases.

Source: French country study

Border areas are particularly problematic for retailers. It has been observed that customers prefer to shop in another country, which does not have cash payment restrictions or implements less stringent restrictions. A growing share of the French tourist population consists of non-Europeans from countries such as China, Russia, Brazil and Middle East, which have shopping as one of the main objectives of their trip. According to a recent study cited by the jewellery and clock making association, these categories of tourists have the habit of paying in cash, mention shopping as a key element of their stay. For example 44% of Chinese indicate that it is a determining factor in their choice of destination. Moreover, during their trips they often stay for only a couple of days in one place to move on to other European cities, which allows them to shop between different national regimes.

In turn, the different limitations between residents (EUR 1 000) and non-residents (EUR 15 000) are perceived as discriminatory towards the residents.

A more extensive data analysis of the distortion of the Internal Market for the different sectors discussed in this section can be found in the next section, where an econometric assessment is made covering:¹⁶⁹ i) Retail sale of watches and jewellery in specialised stores; ii) Real estate agencies; iii) Gambling and betting activities; iv) Hotels and similar accommodation; and, v) Sale of cars and light motor vehicles.

Econometric assessment

The interviews have shown that several economic operators, mostly in countries already exhibiting strict cash restrictions (e.g. Belgium and France), see negative effects of cash restrictions on their sectors (vehicle dealers, jewellery, hotel and café, real estate and gambling sector). To verify the claim of shifting revenues due to cash restrictions an analysis based on firm-level data has been carried out.

In a panel regression, annual turnover data (in logarithmic form) is set as the dependent variable and the explanatory variable are cash restrictions that are introduced or tightened. These cash restriction are expressed as dummy variables, which take the value of 1 if a policy has been introduced during a specific year and otherwise take the value of 0. This method should show if cash restrictions had an impact on turnover in the analysed sectors.

¹⁶⁹ Based on the NACE codes. See Section 2.2 and Annex II.

The working hypothesis is that the introduction/strengthening of a national cash payment restriction in the home country (see home dummy in Table 3.14) has a negative impact on the turnover. The neighbouring country or countries (border country dummy) should exhibit the opposite sign, in other words a cash restriction in the border country should led to more business at home.

The baseline OLS panel regression is:

$$\log(\text{Turnover})_i^t = \alpha + \beta \text{Home Dummy}^t + \beta \text{Border_countryDummy}^t + \beta \text{GDP growth}^t$$

Table 3.14 shows the results of the regression analysis with three specifications.¹⁷⁰ Moving from specification (1) to (3), each time additional factors are taken into account that otherwise might obscure the results. Therefore, the last specification (3) is the most telling.

The coefficients have the expected signs, that is, stronger GDP growth is associated with higher turnover. Likewise, a new or tighter cash restriction at in the home country reduces turnover and a restriction in border country brings additional business and therefore increases turnover. These results hold for all specifications but only in the last are they all statistically significant.

Table 3.14 EA panel regression results: Cash restrictions effect

Variables	(1) turnover (in log)	(2) turnover (in log)	(3) turnover (in log)
GDP growth	1.449	2.308***	2.632***
	(0.904)	(0.826)	(0.828)
Home dummy	-0.00141	-0.0411*	-0.0470**
	(0.0328)	(0.0224)	(0.0231)
Border country dummy	0.0505	0.0503	0.0523*
	(0.0352)	(0.0308)	(0.0298)
Constant	7.407***	5.641***	5.613***
	(0.0943)	(0.0716)	(0.0675)
Observations	621,260	621,260	621,260
R-squared	0.280	0.899	0.900
Fixed Effects	country, year, sector	firm year	firm year*sector
Clusters	107	107	107

Robust standard errors in parentheses *** p<1%, ** p<5%, * p<10%.

Note: Regression results based on Amadeus data. Standard errors clustered on country and year level.

Specifically, the regression analysis (3) shows a strong positive impact of GDP growth on turnover, in line with the existing literature. **Cash restrictions in the home country have a small but statistically significant negative effect on turnover in high value goods and service sectors, whereas a restriction in a neighbouring country has the opposite effect of a similar magnitude on high value goods and service sectors, both around 5%.** The robustness checks do not alter these general findings.¹⁷¹

¹⁷⁰ In the first specification (1) all listed variables are included in the regression but additional country, year and sector fixed effects have been included to account for persistent differences across countries, years and sectors. In the second specification (2) the regression is repeated but additional introducing firms fixed effects thereby eliminating the cross-firm impact on the results. In the last specification (3) an additional fixed effect is introduced to correct for sector specific determinants in a given year.

¹⁷¹ For example excluding extreme (log) turnover from our sample, i.e. the top and bottom 1%, reduces the dummy coefficients slightly but the overall relationship and significance remains robust.

The regression results in Table 3.14 are valid for the sample of firms located in the euro area. This selection was done since the impact should be largest for the euro area because customers can more easily buy goods and services in other euro Member States without having to convert currencies. Running the same regression for all EU Member States the results become less significant and slightly weaker, which could be explained by the limited acceptance of the local currency across the borders and potential additional transaction cost associated with the exchange of currency (e.g. casino visitors who have to cross the border to gamble).

Overall, the results, particularly for euro area countries, show support for the claim that cash restrictions have an impact on displacement of turnover from one country to another in case of diverging cash restriction. This statement holds both for domestic cash restrictions and those from neighbouring countries, with the former having a negative and the latter a positive impact on the turnover of cash intensive sectors one might conclude that national cash restrictions distort the internal market.

3.6 Why is this a problem for the EU?

The nature of the problems sketched above is supra-national and takes place across borders. The lack of coordination between EU Member States and the resulting divergences in cash payment restriction regimes weaken national measures, thereby making national measures less effective. In addition, issues affecting the Internal Market can only be addressed at the EU level.

A need and justification for the EU to act in this field can originate from three aspects, assuming expected impacts are substantial and proportionate:

- Impact on combatting terrorist financing;
- Impact on combatting money laundering
- Impact on tax evasion;
- Impact of the EU measure on eliminating current distortions in the Internal Market.

4 Policy objectives

Following on the problems described and analysed in the preceding chapters, the applied intervention logic for this initiative is described in the table below. It translates these into policy objectives that an EU initiative would seek to achieve.

The intervention logic reflects the two legs of the study, viz. the combating of illegal activities (terrorist financing, money laundering and tax evasion) and the level playing field in the Internal Market: (i) EU action would address obstacles to the Internal Market that have resulted from divergent practices and create an uneven playing field; (ii) The policy intervention should bolster the effectiveness of the AML/CFT framework at EU level, as divergent national measures create loopholes that can be exploited for terrorist financing and money laundering as well as other illegal activities. This is further detailed in the Logical Framework below.

Table 4.1 Logical Framework elements for an EU measure on cash payment restrictions

Logical Framework elements	
Need	There is a need for enhanced prevention of cash being used for illegal purposes, as large scale payments in cash are used by terrorists to sustain their illegal activities and cash functions as 'the raw material of most criminal activity'. Current national limits can hamper businesses and citizens and may hence create distortions in the Internal Market.
Objectives	<ul style="list-style-type: none"> • The general objectives are to: ensure a high level of security to the EU and its citizens, and to ensure a well-functioning Internal Market; • There are two intertwined specific objectives for the introduction of EU-wide cash payment restrictions: enhanced prevention and detection of terrorism financing and other illegal activities; and (creation of an EU level playing field (avoidance of distortions in the internal market); • This translates into the following operational objective: Equip law enforcement (and the judiciary) with the necessary toolkit to detect, investigate and prosecute terrorism financing and other illegal activities by creating more transparency in payments.
Inputs	Future legislation on an EU measure on cash payment restrictions, to be specified.
Activities	The implementation of cash payments restrictions on the EU level, through: <ul style="list-style-type: none"> • A ban on cash payments above a certain level; or • A declaration obligation regarding cash payments above a certain level.
Outputs	Harmonised legal EU framework with a (maximum) upper limit defined for cash payments.
Results	<ul style="list-style-type: none"> • Enhanced detection of terrorist financing and other illegal activities; • Enhanced prevention of terrorist financing and other illegal activities; • Enhanced cooperation between EU national authorities.
Impacts	<ul style="list-style-type: none"> • Decreased means available for terrorist organisations and terrorist attacks, and hence lower level of terrorism; • Decreased means available for other illegal activities; • Less tax evasion; • Enhanced level playing field in the Internal Market.

5 Policy options

To tackle the problems outlined in the previous chapter, different policy options can be implemented; from maintaining the status quo (no action), adopting a non-regulatory approach, to the regulatory option of implementing a binding EU measure.

In designing policy options, it is important to start defining the baseline option as a comparison base, which is formed by maintaining the status quo. Regarding the regulatory options, the two main categories of options are prohibiting cash payments a certain threshold through an EU legislative instrument (and thereby forcing the use of non-anonymous payment instruments) and the imposition of a declaration obligation (reporting) of cash payments to the competent authorities, thereby removing the anonymity from high value cash payments. Please note that none of the options considered aims for a complete abolishment of cash payments.

The parameters of the policy options are discussed in the next section.

5.1 Parameters of policy options

5.1.1 *Prohibition versus declaration*

To implement a cash payment restriction, two different approaches can be envisaged. On the one hand, a prohibition on cash payments (above a certain limit) can be instituted. This would mean that traders in high-value goods and services would no longer be allowed to accept high-value cash payments, so that customers would need to use alternative means of payment.

On the other hand, a declaration obligation for cash payments (above a certain limit) can be instituted. In this case, high-value cash payments for goods and services would still be allowed, but these would have to be reported to the relevant Financial Intelligence Unit (FIU), together with relevant information about the person performing the transaction. In effect, it removes the anonymity associated with cash payments from these high-value transactions. Under such a declaration obligation, all payments above the designated threshold would have to be reported, independent of whether there is any suspicion regarding this activity.

In the current situation, 16 countries have a prohibition on cash payments above a threshold level in place, whereas only one (the Netherlands) has a declaration obligation for cash payments above a threshold (differentiated by type of entity) in place.

5.1.2 *Level of thresholds*

Regarding both options, various threshold levels are possible and it is important that the threshold levels to be researched are set at an appropriate level. Based on the current EU and national legislation in place, this impact assessment has taken into account three threshold levels:

- EUR 10 000;
- EUR 5 000;
- EUR 1 000.

These values broadly reflect the lower and higher level thresholds currently in place within the EU.¹⁷² These reflect current limits in place under other cash and/or AML/CFT legislations (EUR 10 000 for the Cash Controls Regulation as well as the 4th AML Directive) and the middle and lower limits in place nationally (e.g. EUR 1 000 for FR).

5.1.3 *Persons concerned*

The scope of any measure could include all persons on the territory, or distinguish between residents and non-residents. Currently, some of the national cash payment restrictions explicitly exempt non-EU residents from their measures or apply higher thresholds to these groups.

This is the case in France, where non-residents face a restriction on cash payments above EUR 15 000, as opposed to residents who are not allowed to pay EUR 1 000 or above in cash. In Croatia, residents face a limit of EUR 13 800, where non-residents have one of EUR 15 000. In Italy, non-residents are exempted from the EUR 3 000 cash payment limit applied to nationals.

These exemptions for non-residents are in place to counter negative economic effects on tourism (with the exception of Croatia, where the measure for non-nationals is set at an easily understandable level in euros). This shows that there is a (perceived) trade-off between positive effects on combating illegal activities on the one hand, and potential negative effects on tourism on the other.

In the remainder of Member States with a cash payment restriction, both residents and non-residents face the same limitations.

5.1.4 *Transactions concerned*

Any policy measure could relate to business-to-business transactions (B2B), business-to-consumer transactions (B2C), and consumer-to-consumer transactions (C2C). In the status quo, national cash payment restrictions relate to B2B and B2C transactions: all countries explicitly exempt C2C transactions from their measures.

Regarding the B2C transactions, a number of countries apply differentiated rules to specific sectors, which may be more lenient or more strict. It is therefore a question whether an EU restriction or declaration should apply to all cash transactions, be limited to certain business sectors or business partners, or apply differently to different sectors (i.e. should there be exemptions?).

Logically, for any cash payment restriction to have effect, it would need to involve both the B2B and the B2C transactions. Government already regulates these transactions in some way or another. With C2C transactions, this is not self-evident. For our purposes, the useful or uselessness of including C2C transactions under the scope of a cash payment restriction depends not only on the effect it would have on the problems identified, but also practically on the extent to which it would be enforceable.

EU Member States with cash payment restrictions have two reasons for excluding C2C transactions: they are deemed to be private matters between citizens (economic freedom argument) and they are deemed to be impossible to monitor effectively (enforceability argument).

¹⁷² Moreover, these values are in line with suggestions from businesses in certain Member States and Europol as expressed in two informal surveys conducted by the European Commission.

The reasons why C2C transactions are explicitly exempted in the current national cash payment restrictions raise doubts about the feasibility of including them in a potential EU measure.

5.1.5 *EU wide measure or national variation*

Different variations are possible regarding whether such a restriction or declaration should be the same within the entire EU or vary per Member State. However, to address the problems identified any measure would have to apply across the EU: logically the issues arising from diverging national restrictions cannot be solved by continuing these divergences, as they are the heart of the problem. As such, we have excluded these variations in our study.

5.2 Overview of policy options

Based on the pre-analysis of the parameters we will distinguish the following main options:

- Maintaining the status quo (baseline);
- Non regulatory measures;
- Option 1: Prohibition;
- Option 2: Declaration obligation.

Each of the options may be divided in sub-options (Table 5.1) which we will discuss in the analysis – wherever relevant for assessing the impacts.

Table 5.1 Identified policy options

Policy options	Variations (sub-options)
Option 1. Prohibition	Threshold level EUR 1 000, EUR 5 000, EUR 10 000 All businesses versus exceptions All citizens versus exemptions for non-EU citizens
Option 2. Declaration obligation	Threshold level EUR 1 000, EUR 5 000, EUR 10 000 All businesses versus exceptions All citizens versus exemptions for non-EU citizens

Preliminary discussion of the options

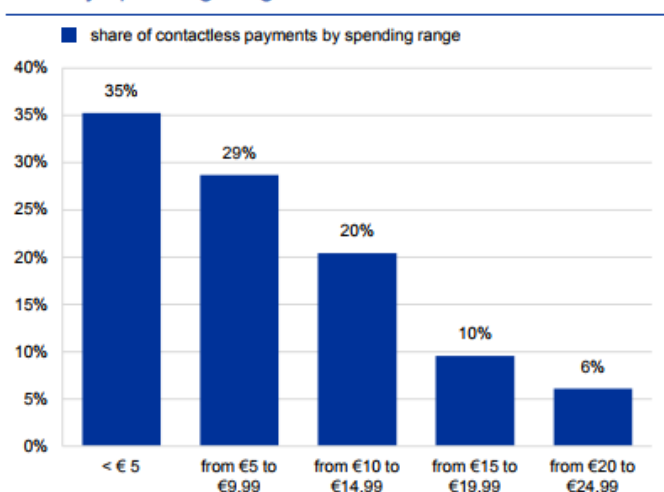
Maintaining the status quo

In case no EU action is taken, the current situation remains and evolves ‘naturally’. Although it is impossible to predict future developments and policy decisions without any available information on parameters in the Member States, differences between national regimes regarding cash payments, with some countries having no restrictions whereas others do will remain. For those that do, jointly they represent a landscape of diverging cash payment regimes with differentiated thresholds, and in some cases exceptions to the applicability of a restriction. In general, the landscape is not static and may evolve. As been for the past five years, more countries may decide to adopt national cash payment restrictions, and Member States that already have one, may decide to lower or raise the threshold.

In addition, a gradual though persistent evolution towards the use of alternative means of payments shall continue. Customer payment preferences are already pointing into this direction. Data from the ECB's 2016 household survey reveals that on average 43% of respondents in the euro area would prefer to pay by card or by another non-cash method of payment if given the choice, while only 32% would choose to pay in cash.¹⁷³ A quarter of the respondents reported having no preferred method of payment. These results are in contrast with the actual use of cash and non-cash methods presented in earlier chapters, which indicates that 79% of all POS payments were carried out using cash.

In addition, technological progress is rapidly changing payment patterns. One example that stands out is the fast adoption of contactless payments in many euro area countries. In 2016, approximately 1% of all payments at the POS consisted of contactless payments amounting up to EUR 25. Up to 35% of these payments were for amounts lower than EUR 5 and up to 65% of them for amounts lower than 10 EUR.¹⁷⁴ In view of the fast uptake of contactless payments in some countries in recent years and considering that in many countries, the roll-out of payment cards and payments terminals is still on-going, this technology could have a huge market potential once the infrastructure is fully rolled out. In addition and particularly relevant to the study at hand, is the finding that in 2016 81 % of contactless POS transactions were below 25 EUR. Taking into account the fact that cash is mainly used for small amount transactions, contactless payment technology might significantly impact future payment patterns towards a higher share of cashless payments.¹⁷⁵

Figure 5.1 Use of contactless payment cards up to EUR 25 in the euro area by spending range
 Use of contactless payment cards up to €25 in the euro area by spending range



Source: Sources: ECB and De Nederlandsche Bank.

In addition, further technological progress that cannot be foreseen now, could lead to a substitution of cash with another means of payment that offers anonymity, such as development of Distributed Ledger Technology (DLT, also known as 'blockchain').

Non-regulatory measures

This option mirrors the baseline scenario, although in this case the EU could proceed with non-regulatory measures in the case of money laundering and tax evasion. This would aim at stimulating

¹⁷³ ECB (2017), Occasional Paper Series: The use of cash by households in the euro area.

¹⁷⁴ ECB (2017): Occasional Paper Series: The use of cash by households in the euro area.

¹⁷⁵ Ibid.

a shift towards non-cash payments of payments of high-value transactions. This could include policies to make non-cash means of payments cheaper and more attractive, or organising a publicity campaign around the drawbacks of using cash for high-value payments while illustrating the benefits of alternative means of payments.

In the light of the above, the options maintaining the status quo (baseline scenario) and non-regulatory policies will not be further analysed for the three impacts terrorism financing, money laundering and tax evasion.

Throughout the impact assessment, the analysis shall focus on Option 1: Prohibition and Option 2: Declaration obligation. These are briefly touched upon below.

Option 1: Prohibition

In this scenario, cash payments above a threshold level would be prohibited at the European level. This would be a harmonised limit, meaning that the restriction is instituted at this level across the European Union and that neither lower nor higher thresholds are allowed.

Option 2: Declaration obligation

In this scenario, cash payments above a threshold level would have to be declared to the relevant (national) FIUs throughout the European Union. As it would be a harmonised limit, the restriction is instituted at this level across the European Union and neither lower nor higher thresholds are allowed.

6 Impact assessment

6.1 Introduction

Each of the different policy options will be assessed along the same types of impacts. These span from impacts on combating illegal activities to impacts on the level playing field of the Internal Market, but also include the costs associated with implementing the policies (for businesses and governments) and the impacts they may have on consumers and (specific groups of) citizens:

- Impacts on terrorist financing;
- Impacts on money laundering;
- Impacts on tax evasion;
- Impacts on the Internal Market;
- Enforcement costs;
- Revenue effects;
- Compliance costs;
- Impacts on economic freedom and privacy;
- Impacts on vulnerable groups.

Impacts on terrorist financing

Impacts on terrorist financing would mainly result from making it more difficult to use cash to finance terrorist activities. It should be noted that this may also occur indirectly, for example by limiting other illegal activities such as money laundering which makes it harder to use illegal cash proceeds in the financing of terrorism.

Impacts on money laundering

At EU level, impacts on money laundering stemming from an EU measure can occur through two channels:

1. By enacting an EU cash payment restriction, money laundering undertaken in countries that hitherto had no national cash payment restriction measures are brought within scope. The increased overall level of supervision and enforcement – both prevention and detection and prosecution of suspicious transactions – can thereby combat the risk factors that promote money laundering in the EU;
2. By enacting an EU cash payment restriction, the possibility for criminals to seek the most lenient jurisdiction is taken away as the legal framework across the EU is harmonised.

Assessments of these impacts are made based on available evidence from literature and studies at the country level, and are supplemented by interviews with law enforcement professionals conducted during the 10 country studies. In addition, with regard to the effects on terrorist financing, options are analysed for what difference they would have made in these case studies.

The impact of the cash payments restrictions is not always as large as could be expected based on the rules. Hence, the cash restrictions and declarations are not always respected (enforcement is problematic), which reduces the effectiveness of the measures as well as leads to distortion of the Internal Market (Europol, 2015).¹⁷⁶ In fact, to be able to prosecute cases of suspicious transactions,

¹⁷⁶ Europol (2015), Why is Cash still King?, A strategic report on the use of cash by criminal groups as a facilitator for money laundering, European Police Office, 2015.

most law enforcement authorities (60% of respondents to a Europol questionnaire) are required to demonstrate the underlying criminality that generated the profits.

Impacts on tax evasion

In case of a mutual consent or agreement to evade tax, neither a declaration obligation nor cash restrictions have an impact on tax evasion. If no mutual agreement exists, a declaration obligation would have an impact on tax evasion, if the seller decides to declare a payment made by the buyer above the agreed threshold.

As indicated in Table 6.1, cash payment restrictions would have an impact on tax evasion, if either the buyer sticks to the cash restriction or the seller does not accept a cash payment above a certain threshold.

Table 6.1 Tax evasion impact matrix

Consent	Prohibition	Declaration obligation
Mutual consent on evading tax.	No impact.	No impact.
No consent on evading tax.	Either buyer or seller or both are law-abiding.	Seller is law-abiding.

Source: Ecorys.

Internal Market

The granularity of most payments related data is limited. In the same vein, relevant data on other effects (digital developments, new payment means, etc.) are limited. This makes it difficult to obtain hard evidence on the overall distortion of the Internal Market. Therefore, the analysis has been carried out at a sector level, looking at the impact of the cash limits on the economic activity of specific industries that are characterized by high cash intensity. The selection of the sectors originates from the available payments data and interviews.

In the absence of a counterfactual, 'hard' evidence on the distortion has been obtained from time series (i.e. over period of time). In the countries where the cash restrictions have been introduced time series give a good indication of the impact, looking at the difference between the payment transactions some time before and after the introduction to correct for the transition effects.

The data analysis has been based on a mix of literature review and thorough collection of data available, which is an essential step for a well-grounded and evidence-based analysis. More specifically, the desk research and data collection includes a thorough revision of different sources, covering official documents of the EU and of Member States, secondary sources from policy and academic texts, national and international datasets. In particular the study has taken a close look at the existing studies and literature, available statistical data, and available reports from European Commission as well as existing evaluations of the AML/CFT directives and law enforcement authorities and Europol. In addition, the opinion of stakeholders has been taken into account to acquire more accurate qualitative insights on the issues.

Position papers of stakeholder groups representing companies in cash reliant sectors often pointed to the negative effect of cash restriction on high-value transactions on revenues. Some clients may be fully deterring from the sale or purchase by restrictions while others seek alternatives via the black market or they take their business somewhere without cash restrictions. During many of the conducted interviews with economic operators and governmental agencies, interviewees have reiterated the concerns of that diverging cash restrictions in the EU lead to market distortions. Quantifying the turnover decline due to this competitive advantage of non-restricted markets is challenging. The numerous written stakeholder statements are in many cases partial. Some

interviewed stakeholders could show evidence of declining turnover during years when cash restrictions were introduced and they suspect that some part of this business to have moved to neighbouring countries with lower or no restrictions.

In order to confirm that this market distortion indeed takes place a detailed dataset of firm level metrics has been composed. The Amadeus database is best placed to offer such data depth and the required geographical coverage across all EU member states. The database allows to select companies by sector, size, business type and detailed geographical location and track their revenue over time. The time-series also contain firms that are no longer operating, which can be of importance to the planned analysis, as it may be the case that market exits are, to some extent, driven by the imposition of cash restrictions.

Revenue effects

This has been assessed in the context of the assessment of current distortions in the Internal Market (see chapter 3.5). It comprises an assessment based on the Amadeus data analysis supplemented by inputs from stakeholders consulted in the course of the country studies and the stakeholder workshop with economic operators.

Enforcement costs

This criterion refers to the costs associated with ensuring that the policy measure is enforced. This may entail for example the FTE working in the FIU, manpower needed to conduct on-the-spot visits of businesses to check their books, but also the costs of prosecuting and convicting violations of the rules.

These data are gathered through available national studies and interviews with government authorities and law enforcement professionals. The enforcement costs are compared / ranked in terms of which has the highest enforcement costs and which is lowest.

Compliance costs

This criterion refers to the costs for businesses associated with ensuring that the policy measure is implemented. This may entail for example investments in ICT (to facilitate alternative means of payment), training of personnel in the relevant legislation, and in the case of a declaration obligation, producing reports on cash payments to be transferred to the FIU.

These data are gathered through available national studies and interviews with representatives from businesses. The compliance costs are compared / ranked in terms of which has the highest compliance costs and which is lowest.

Economic freedom and privacy

Under this heading, it is assessed to what extent economic freedom is impacted by cash restrictions. In order to achieve this, the distinct characteristics of different payment choices are analysed, taking into account the extent to which individuals will be affected by each of the thresholds examined. In the case of privacy, the relevant rules and obligations that payment service providers have to comply with are presented as well as evidence supporting whether non-cash payment instruments can provide the similar protection of privacy as cash. Privacy rights may be at risk if alternatives to cash are less effective in applying privacy requirements. Inputs from desk research and interviews (through the country studies) are used for this analysis as well as interviews with European organisations.

Vulnerable groups

It is first assessed in terms of whether the options imply any limitations on these rights. If it is assessed that the options do impose a limitation, an analysis is made whether the option is necessary and proportional. In other words, if the option imposes a limitation, it should be discarded unless there are no other options that are less intrusive to achieve the same means.

6.2 Terrorism financing

Terrorism financing is different from other criminal activities such as money laundering. Whereas money laundering schemes aim to conceal the money obtained through criminal activities, terrorism financing seeks to conceal the purpose to which funds will be out, irrespective of whether these funds derive from legal or illegal sources.

Those payments that are already being conducted on the black market will not be affected: buying of illegal firearms, forbidden chemicals, hacks of security systems. These are already illegal and therefore any limitation to these payments would not be applicable. A cash payment restriction could have an impact on the (seemingly) legal transactions that are conducted in cash by terrorists to remain anonymous. Similarly C2C (consumer-to-consumer) transaction would not be affected as they would fall outside the scope of a new measure.

Sales that may be affected could include for example purchases of bomb-making materials (household chemicals, metals, mechanical tools) but also those related to transport (car / van rentals) or accommodation (rent paid in advance).

The key for terrorist financing however is that a cash payment restriction would remove the anonymity of these – otherwise innocuous – transactions.

6.2.1 *Prohibition (option 1) versus declaration (option 2)*

Option 1: Prohibition

Taken into account the relatively small amounts of money used to carry out the attacks described in the case studies, the origins of this money and the expenses, it appears that either banning cash payments exceeding 10k or 1k (or, for that matter adopting a declaration obligation) will not have a significant effect on the financing of these type of terrorist attacks.

This is corroborated by the findings from the country studies, with law enforcement professionals stressing that in most cases cash-based terrorist financing involves typically relatively small amounts of cash, which are distributed over a number of transactions.

Nevertheless, the last case study (on Hezbollah's activities) is important as it broadens the scope from looking at money used for a specific attack to the long-term funding of a terrorist organisation. The case of large scale money laundering related to the military branch of Hezbollah dramatically alters the picture in the sense that the amounts of money involved are exponentially higher than the amounts needed of a terrorist attack. Moreover, the central premise of the scheme is the purchase of goods with a value of more than 10k (luxury watches and cars) in cash. In this case, both a ban of cash payments over 1k and over 10k would render the money laundering operation much more cumbersome. Probably less effective but still relevant, the introduction of declaration obligations, either for cash payments above 1k or of 10k, would provide some traceability of these purchases and increases the likeliness of detection – especially with respect of the volumes found in this example (several dozens of luxury cars and over a hundred luxury watches per year).

There are some indirect effects, as high-value traders and other businesses become more aware of the risks posed by terrorist financing.

Belgium: More alertness on risks of terrorist financing

The Belgian authorities view their cash payment restriction – set at 3 000 EUR – too high to be effective for directly combating terrorist financing. A lower threshold is deemed to be too costly for society and for those tasked with supervising it. Nevertheless, a side-effect of their current threshold is that financial institutes and notaries are more alert in the case of cash payments. Suspicious transactions can already be declared under the 4th AML Directive, but because of the cash-specific national measure, reporting entities more easily report suspicious activity. This is a more indirect effect. The Belgian authorities stress that a measure needs to be accompanied by cash checks at the borders by customs.¹⁷⁷

Bulgaria: Higher quality reporting

The Bulgarian State Agency for National Security indicated that terrorism financing mostly occurs through 'cash couriers', the physical smuggling of cash. The Financial Supervision Commission has stated that its cash payment restriction (set at EUR 3 000) has led to high quality reports about suspicious transactions, to more cases related to TF and ML being uncovered, and to a lower risk of high value cash payments being used for criminal activities.¹⁷⁸

Threshold level

Given the analysis of the nature of terrorist financing, limited direct impacts are expected on the size of the problem across the different policy options. At the lowest limit of EUR 1 000, some indirect effects are expected as the shift to alternative means of payment will lead to more intelligence about transactions in general, including those conducted in relation to terrorist financing cases.

Option 2: Declaration obligation

An important effect of a declaration obligation is a rise in the number of reports to be received and analysed by the Financial Intelligence Unit. A European cash payment declaration obligation would thereby aim at increasing the intelligence available to law enforcement professionals.

Mirroring the expected impacts for a prohibition, taken into account the relatively small amounts of money used to carry out the attacks described in the case studies, the origins of this money and the expenses, adopting a declaration obligation is not expected to have a significant effect on the financing of these type of terrorist attacks.

6.2.2 Main findings

Findings from desk research and interviews with EU Member State authorities and law enforcement representatives (as part of the country studies) indicate that the likely impact of a cash payment restriction on combating terrorist financing is limited. Amounts involved are so small, that the threshold levels would have to be set at an exceedingly low level. This is corroborated by the case study analysis.

In the researched terrorist financing cases, neither a cash payment restriction nor a declaration obligation would have a significant impact. Most importantly, generally the amounts involved in the

¹⁷⁷ See Belgian country study.

¹⁷⁸ Ibid.

transactions are too small to be detected by a measure at either of the three researched threshold levels. This is corroborated by expert opinions sought in view of the country studies.

Moreover, they often involve activities that are already illegal (procuring firearms, for example) and thus will not be further affected, or activities that would otherwise be considered as 'normal' activity (renting a truck, for example) and would not necessarily raise any suspicions.

6.3 Money laundering

As mentioned in the previous section, money laundering is different in kind from terrorism financing, although a certain overlap may be possible, as terrorist groups may also be involved in organised criminal activities.

Cash is inherently related to money laundering, for crimes that generate large or smaller amounts of cash, such as the production and trade of illicit drugs in particular, and other crimes such as migrant smuggling, THB, smuggling of goods (tobacco), illicit trade in weapons or extortion. Cash is less or not relevant to money laundering for crimes that generate money that is already in the financial system (like many types of fraud and certain forms of large scale tax evasion – many so called 'white collar crimes'). However, there are also examples of crimes in which money is taken from a bank account and transferred in cash in order to break the paper trail (for example cybercrimes such as phishing or hacking).

Cash from criminal activities flows into the legal economy via various channels. Placement of large amounts of cash into a bank or other financial institution has become increasingly difficult as result of to the FATF Recommendations (specifically Recommendations 10, 11 and 20 concerning customer due diligence and reporting suspicious transactions). Other channels of placement are via direct consumption and investment of cash into the legal economy. Investments of cash in financial assets, legitimate businesses and real estate are, as with placement in the financial system. Mostly covered by the current AML/CFT regime (customer due diligence and reporting suspicious transactions).

A cash restriction or declaring obligation has an impact on a specific category of expenses: high value goods. Other expenses, like more daily expenditures and even expenditures on clothing and leisure activities will fall below any threshold (even a EUR 500 threshold). Table 6.2 highlights that a cash restriction or declaring obligation will have an impact on specific spending and money-laundering categories of illegally generated cash.

Table 6.2 Impact of cash restrictions on various expenditure categories (cash)

Expenditure category	Impact of cash restriction	Explanation
Financial assets	No	Covered by the current AML/CFT regime
Businesses	No	Covered by the current AML/CFT regime
Real estate	Limited	Covered by the current AML/CFT regime
High-value consumer goods	Yes	
Apparel and leisure activities	Limited	Predominantly below (any) threshold
Daily consumption	No	Below (any) threshold
Savings (cash)	No	Illegal economy
Invested in illegal economy	No	Illegal economy

Source: Ecorys 2017.

6.3.1 *Prohibition (option 1) versus declaration (option 2)*

Option 1: Prohibition

An important consequence of a prohibition is that it will complicate direct expenditures of dirt money on high-value goods and services.

Italy: Effectiveness of restriction

The Italian central bank Banca d'Italia performed an econometric analysis of the anti-money laundering effects of the EUR 1 000 cash payment restriction that was in place in Italy until December 2015. It concluded that the measure was effectively curtailing the illicit use of cash in Italy.¹⁷⁹

An EU-wide measure will prevent the displacement effect that is now observed in neighbouring countries with and without a restriction. A common theme of the country studies is that a unified approach would prevent 'forum shopping' by criminals to the countries where no restrictions are in place.

France > Belgium and benefits of harmonised measure

In Belgium, the Ministry of Economy noticed that money laundering activity increased after France instituted a tougher restriction, and that subsequently their cash payment restriction has had a preventive effect on money laundering activities in Belgium. An EU-wide restriction would counter these displacement effects. An EU measure would also save time in conducting investigations where cross-border activities are involved.¹⁸⁰

Expert opinion sought during the case studies and expert workshops confirms that an EU measure on cash payment restrictions have a positive effect in the combat against money laundering by increasing the intelligence available to law enforcement, increasing the traceability of transactions.

An EU-wide restriction may also lead to displacement of money laundering to outside the EU:

France: Impacts on cross-border activities

French authorities, who already enforce a cash payment prohibition at a threshold of EUR 1 000, indicated that the most important cash-based money laundering schemes they occur already rely on international networks which collect cash from smugglers, drug dealers and fraudsters, and transport this cash across EU borders (physical smuggling). This indicates the importance of viewing any measure as part of a broader system in which cash controls at the borders are also in place.¹⁸¹

Threshold level

The lower the threshold the larger the impacts will be. The extent to which a lower threshold will have a larger impact cannot be quantified, as there are no data on (cash) expenditures of criminal money on high-value consumer goods.

Option 2: Declaration obligation

As an alternative to a resection, a declaration obligation would have the advantage that it will generate transaction reports to the national FIUs and hence will provide intelligence to law enforcement and national security.

¹⁷⁹ See: Italian country study.

¹⁸⁰ See: Belgian country study.

¹⁸¹ See: French country study.

The Netherlands is the only country in the EU with such a declaration obligation for dealers of high-value goods. Table 6.3 below illustrates the development of declarations received from high-value traders by the Dutch FIU. It should be noted that in the Dutch FIU-system is based on 'unusual transactions'. In case of cash transaction, every transaction above EUR 15 000 (and car dealers above EUR 25 000) should be reported to the FIU. The FIU will analyse these reports and make a selection of 'suspicious transactions' that will be transferred to the law enforcement authorities. This indicates that over the past eight years, between 259 to 2 097 reports of suspicious cash transactions have been transferred and linked to law enforcement databases. As such, the suspicious transactions may provide valuable intelligence on which the police may start a criminal investigation or use the intelligence in combination with other sources in running investigations.

Table 6.3 Developments in declarations (unusual and suspicious) by high-value traders, NL

	2010	2011	2012	2013	2014	2015	2016
Unusual transactions	4 203	3 957	5 228	5 381	4 379	4 614	5 552
Deemed suspicious	418	477	250	560	533	258	2 087

Source: FIU Netherlands.

A number of cases analysed by the Dutch FIU show the effects of this measure:¹⁸²

Netherlands: Cash purchase of a Ferrari

A man entered the showroom of a car dealer in the Netherlands and bought a nice second-hand car. In this case, the term 'occasion' may be more fitting than 'second-hand', as he bought a Ferrari – not an everyday transaction. Even less common was the fact that the buyer paid the purchase amount of EUR 108 000 in cash. The car dealer declared this sale to FIU-Nederland, as he was obliged to do. The remarkable purchase and means of payment were investigated. It soon became apparent, that no legitimate income had been established for the man for years. He had furthermore been involved with the police several times for large crimes against property. This was sufficient to transfer the case file to the police.

Financial investigation by the police showed that next to the purchase, the man had also spent a fortune on the casino, squandered an inheritance of his girlfriend and in addition had 'parked' 100 grand with his father. The financial investigators looked at the spending pattern of the man, which led to the observation that he had spent 300 grand above what he would have been able to spend normally. In short, enough to arrest the man for money laundering. The Ferrari and the money 'parked' with the father were confiscated. The man will have to explain himself in front of a judge soon.¹⁸³

In theory, adopting an EU obligation to declare cash transactions above a certain level would lead to a significant increase in reports made to the FIU and thereby generate intel on illegal activities, which may aid in detection and prosecution of crime and terrorism. However, in practice two main issues arise, which would need to be dealt with for an EU declaration obligation to be effective:

¹⁸² See FIU-Nederland (2017), Casuïstiek [Dutch]. Accessible online at <https://www.fiu-nederland.nl/nl/wetgeving/casuïstiek?&page=4>.

¹⁸³ Source: FIU Netherlands.

First of all, compliance should be at substantial level. Europol recently noted that underreporting is one of the weaknesses in the current AML/CFT system.¹⁸⁴ Across Europe, the number of reports sent to the various FIUs is considerably lower than what one would theoretically expect based on available data on money laundering. Under a uniform declaration threshold, many more transactions would need to be reported on than is currently the case. Monitoring and enforcement of such a measure is considered by some experts to be difficult and expensive.¹⁸⁵

Secondly, the resulting reports should be effectively used as intelligence, information or evidence in money laundering investigations. This will require proper analysis and capacity to do this. A key indicator here is the conversion rate, which is the percentage of reports that lead to further analysis, actual investigation, potentially even successful prosecution. According to Europol, this conversion rate in the European Union has hovered between 10 to 13% since 2006.¹⁸⁶

Expert opinions gathered during the country studies indicate that the effectiveness of a declaration on cash payments is limited if there is no possibility to identify the origin of the money.¹⁸⁷

Discussion of parameters

Persons concerned

Cash payment restriction exemptions for non-residents, have been introduced with the aim of dampening the potential negative effects on tourism. Europol's analysis of STRs¹⁸⁸ showed that non-residents are the subject of about 75% of STRs, thereby suggesting that a large part of the financial activity deemed suspicious is conducted by foreigners. Analysis of the country reports shows that these exemptions are considered to be untenable by most involved law enforcement professionals, as they allow for relatively easy circumvention of any restriction.

To maximise the impact on money laundering and terrorism financing, no exemptions should be allowed for non-residents. Exemptions will decrease the expected impact of a cash restriction or declaration obligation.

Transactions concerned

All cash payment restrictions in place currently exempt C2C transactions. The key mechanism to address illegal activities via a cash payment restriction relies on removing anonymity from transactions and increasing transparency. Consequentially, all things held equal, the more transactions are brought under the scope of any measure, the more effective it is likely to be in combatting illegal activities.

¹⁸⁴ See Europol (2017), *From Suspicion to Action. Converting financial intelligence into greater operational impact*. Accessible online at <https://www.europol.europa.eu/publications-documents/suspicion-to-action-converting-financial-intelligence-greater-operational-impact>. Europol's analysis of STRs received in the framework of the 3rd AML Directive (under which suspicious transactions need to be reported to the FIU) showed that around 178.8 billion EUR worth of suspicious financial transactions were reported in 2014 (most recent numbers available, based on inputs from 10 FIUs). This falls far short of the suspected sums involved in money laundering, indicating a lack of reporting and/or opportunistic behaviour by money launderers who place their funds in countries that seem to be more lightly controlled. In particular, across the EU high-value goods dealers and bureaux de change – which are often cash-intensive businesses – are noted for levels of reporting lower than would be expected based on the revenue streams involved.

¹⁸⁵ See for example France country study.

¹⁸⁶ With the exception of 2013, where Italian figures were inflated due to the retroactive processing of a backlog of reports.

¹⁸⁷ See for example Bulgaria country study.

¹⁸⁸ See <https://www.europol.europa.eu/publications-documents/suspicion-to-action-converting-financial-intelligence-greater-operational-impact>.

However, based on the explicit exemptions of C2C transactions in current national regimes, and on the interviews with a variety of law enforcement professionals, there are strong doubts about the enforceability of a measure that would include all transactions above any of the threshold levels between consumers.

A few sectors stand out because they are often singled out explicitly in national measures. In the current situation, money transfers are a category of operators that face stricter rules than the overall cash payment restriction in place in Italy and the Netherlands. Belgium applies a threshold of zero for cash payments in real estate and in the metal sector.

It is crucial that any exceptions to the general threshold level are applied equally across the EU to avoid unwanted loopholes.

6.3.2 *Main findings*

For combating money laundering, the adoption of both a ban and a declaration obligation are expected to have a positive impact on the fight against money laundering. A restriction will prevent or complicate the expenditure of cash on high value goods. A declaration obligation will have a deterring impact and may provide law enforcement with intelligence. The effectiveness of a declaration obligation will depend on the levels of compliance by high-value dealers and the extent to which the reports are actually analysed and effectively used as intelligence, information or evidence in money laundering investigations.

Both in case of a restriction and a declaration obligation, the principle is that the lower the threshold the more difficult money laundering is being made. Therefore, the most effective threshold is the lowest researched, namely that of EUR 1 000. Exceptions for foreigners will under both options, severely limit the impact of a measure,

6.4 Tax evasion

When assessing the possible impact of a cash restriction on tax evasion, some limitations need to be borne in mind.

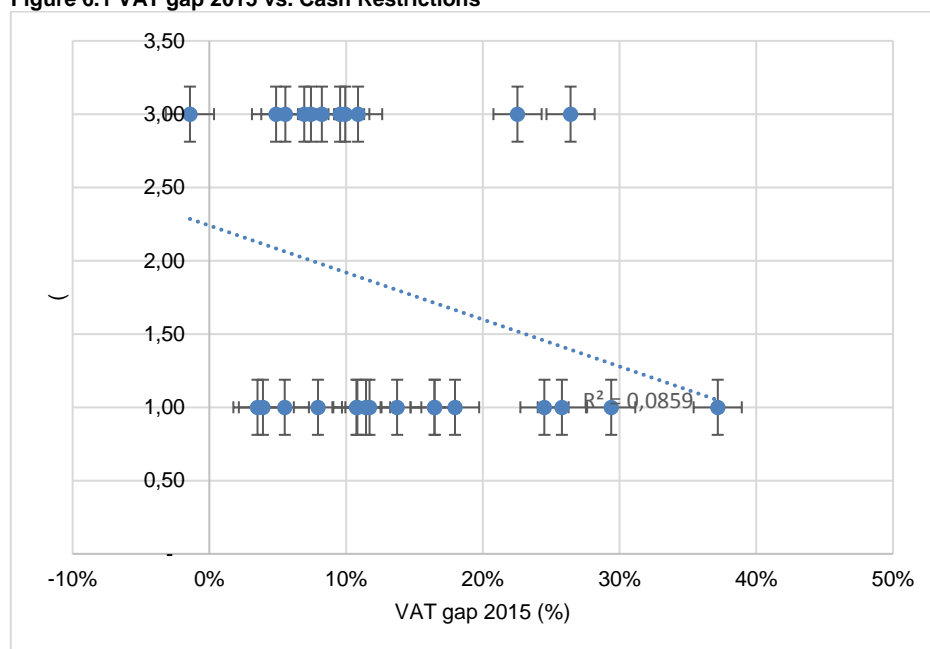
First of all, the fact that a large proportion of tax evasion activities are not likely to be affected by a cash payment limit and consequently no reduction or prevention of such activities should be expected in the event of an EU-wide introduction of a cash payment limit. For example, non-cash payment instruments allow a fast transnational transfer of book money. This feature however also plays an important role in tax evasion. Revelations from the recent past (e.g. Paradise Papers, Panama Papers, Swiss Leaks) show, for example, that, with the aid of mailbox companies in the so-called offshore markets, large amounts of money are collected and hoarded on foreign bank accounts. Experts estimate that mailbox companies are used largely for tax evasion in the so-called tax havens. Financial flows which are moved with (non-restricted) non-cash payment instruments and are used for tax evasion cannot, however, be directly captured by a cash payment limit. A significant part of the tax evasion would therefore not be affected.

Secondly, prominent cases of tax evasion are illicit work or the purchase of products or services on the black market. These activities are, without doubt, also settled with cash. However, if the persons involved in a transaction are aware of an illegal execution of the transaction, as it should be the case with illicit work, it seems unlikely that these persons refrain from using cash due to a cash payment limit. An actual reduction of these tax evasion cases would again only be expectable if at least one

of the persons involved in a transaction is law-abiding and the corresponding cash payment thus is not made. The mutual tax evasion participants would remain unaffected due to their advantages of not reporting transactions. As a conclusion, in case of mutual consent, tax evasion regulatory measures do not work. This problem needs to be tackled with other measures such as increasing labour controls at building sites and find other innovative approaches to fight the black market. Studies have shown that positive incentives can have a higher effect than cash payment restrictions. Impacts can only be assessed for the area of tax evasion in which only the business underreports the cash, while the buyer is often unaware of it. Even in this scenario, the impacts on tax evasion remain limited.

This is further illustrated by the relation between the VAT gap (as a proxy for tax evasion) and the current existence of cash restriction in EU Member States. As shown in the graph below there is no clear correlation between the existence of a cash restriction and the VAT gap.

Figure 6.1 VAT gap 2015 vs. Cash Restrictions



Sources: Ecorys analysis based on European Commission (2016), 'Study and Reports on the VAT gap in the EU-28 Member States: 2016 Final Report', TAXUD/2015/CC/131/; ECB Paper series: No 137 /September 2012, The social and private costs of retail payment instruments.

6.4.1 *Prohibition (option 1) versus declaration (option 2)*

Option 1: Prohibition

Although cash plays an important role in tax evasion, the effects of cash on tax evasion are controversial. Whereas there appears to be a weak correlation between cash usage (cash intensity) of a country and the VAT gap, this relation is not clear-cut. Moreover, it is unlikely that a cash prohibition will have a strong impact on the cash intensity of a country as large cash payments form only a very small percentage of the total of cash transactions.¹⁸⁹ For example, almost two-thirds of the transactions conducted at POS in euro area countries 2016 were below 15 EUR. Another two-thirds of all POS transactions took place in shops for purchases of day-to-day items, as well as in restaurants, bars and cafés. In addition, there is no evidence that tax evasion is significantly lower in countries with a cash restriction.

¹⁸⁹ ECB (2017), Occasional Paper Series: The use of cash by households in the euro area.

However, the results from the country study analysis indicate that some countries, which already introduced cash payment restrictions, do see some positive effects. For example, the French FIU pointed out that the activities, which are the most impacted by cash payment restrictions, are tax evasion and money laundering. In Greece, cash restrictions have shown some effects on the levels of tax evasion. On one side, tax evasion has been made more difficult, as cash (as the main anonymous payment method in Greece) become scarcer and a swift to digital payments obliges businesses to declare many of their transactions. In Bulgaria, government authorities with existing cash payment restriction have observed an improved data exchange and cross-border cooperation, e.g. with regard to fake invoices from abroad at levels beyond the domestic cash thresholds. It becomes harder to underreport revenues or pay out profits without paying dividend tax. Bulgarian government authorities furthermore indicated that cash payment restrictions help to uncover cross-border cases and may stimulate swifter and easier cooperation of authorities within the EU. Two further cases from the country studies indicate that a cash prohibition can have positive effects on small-scale tax evasion.

Tax evasion: Backdated cash operations

Faced with discrepancies in the balance sheets as a result of underreported transactions, some companies create backdated cash operations, which 'explain away' the differences. A cash payment prohibition or declaration obligation above a certain threshold would mean more fictitious operations need to be created to stay under the threshold level.

Source: Bulgarian country study

Tax evasion: Fake income statements

Afghani citizens living and making business in Germany, but not wanting to declare their income. To explain the sources of their small income to tax authorities, they feigned documents claiming they have received a credit from a family member abroad in cash and deposited it in their bank account.

One main conclusion can be drawn from the analysis: While positive impact in terms of reducing tax evasion might exist, the overall impacts of a prohibition remain limited. In general, tax evasion can only (very) partially be explained by the availability of cash.

Option 2: Declaration Obligation

A declaration obligation would even have a more limited effect compared to a prohibition, because in case of a declaration obligation only one party (the seller) needs to break the law for cash evasion to occur. However, at least the incentive to comply with the law might increase through the threat of fines.

Discussion of parameters

Persons concerned

The analysis of persons concerned follows the same logic as cash payment restrictions and illegal activities.

Cash payment restriction countries that have exemptions for non-nationals, have introduced these mainly with the aim of dampening the potential negative effects a restriction could have on tourism. Europol's analysis of STRs¹⁹⁰ showed that non-residents are the subject of about 75% of STRs, thereby signalling that most financial activity deemed suspicious is conducted by foreigners. (Suspicious reports are further investigated and may or may not result in a money laundering

¹⁹⁰ See <https://www.europol.europa.eu/publications-documents/suspicion-to-action-converting-financial-intelligence-greater-operational-impact>.

prosecution.) Analysis of the country reports shows that these exemptions are held to be untenable by most involved law enforcement professionals, as they allow for relatively easy circumvention of any restriction.

To maximise the impact on tax evasion, no exemptions should be allowed for non-nationals. Conversely, if exemptions are allowed, this would decrease the expected impact of the measure.

Transactions concerned

All cash payment restrictions in place currently exempt C2C transactions. The key mechanism to address tax evasion activities via a cash payment restriction relies on removing anonymity from transactions and increasing transparency. Consequentially, all things held equal, the more transactions are brought under the scope of any measure, the more effective it is likely to be in combatting tax evasion.

However, based on the explicit exemptions of C2C transactions in current national regimes and on the interviews with a variety of law enforcement professionals, there are strong doubts about the enforceability of a measure that would include all transactions above any of the threshold levels between consumers.

In case of a higher threshold, there should be a possibility to institute a lower threshold for money transfers, which are consistently flagged as operators with a high risk for being abused for conducting tax evasion.

6.4.2 *Key findings*

Even though scientific views differ on the subject, cash restrictions may have a (limited) effect on tax evasion. However, it should be noted that in general tax evasion is rather explained by other factors than solely by the use of cash. It also does not capture larger tax evasion schemes, which do not depend on cash at all. If a measure were introduced, the introduction of a cash payment prohibition makes more sense than introducing a declaration obligation. In the case of a commercial transaction in which tax evasion occurs, the person who evades taxes likely is the party that receives money (i.e. the seller side). Assuming that the seller has to give a declaration, it appears unlikely that in the case of a cash payment above the corresponding threshold level, a declaration will be made if the seller at the same time has the intention to evade taxes. In this scenario, the threshold level of the declaration is irrelevant since the intrinsic motivation stays the same irrespective if the declaration is high or low.

On the contrary, with cash payment prohibition, the responsibility always lies with the buyer and with the seller, instead of only with the seller who might already be dishonest by underreporting his income to the tax authorities. For the same reason, cash payment prohibitions are the preferred option in countries that have neither a cash payment prohibition nor a declaration obligation yet.

A high ban would not fulfil the purpose of reducing tax evasion. Even a threshold of 1 000 EUR is most likely going to be too high, because the vast majority of tax evasion cases concerns small amounts and would not be affected. The lower the threshold value, the more cash-settled commercial payments are likely to be affected by a cash payment limit. To sum up, to be effective, despite the limitations of the measure, the threshold should be as low as possible.

6.5 Impacts on other criminal activities

Next to impacts on terrorist financing, money laundering and tax evasion two additional side-effects can be identified:

1. A prohibition on high-value cash payments makes it less useful to walk around with large amounts of cash on hand and would also decrease the amount of cash being gathered at cash-intensive businesses. This could indirectly have a beneficial effect on robberies of persons and businesses, as there is less 'loot' to be gotten;
2. Making the use of cash impossible for high-value payments could increase the reliance on (banking) system infrastructures, which occasionally face technical problems making it temporarily impossible to pay by (credit)card. Depending on the threshold level, this effect may be marginal. In order to deal with this, adequate counter-measures would need to be in place, or exceptions need to be made where cash is allowed in case of temporary system outages.

Belgium: Fewer robberies

The national cash payment restriction in Belgium has meant a boon for Dutch jewellers at the expense of their Belgian counterparts. However, the Belgian restriction did not only have negative effects on the jewellery there. A representative from the jewellery sector also indicated that the cash payment restrictions had as a positive side-effect that the number of jewellery robberies has declined, as the amount of cash in the registers has declined.¹⁹¹

Netherlands: Cash pay-outs at Holland Casino¹⁹²

Holland Casino takes additional precautionary measures for customers who are entitled to a pay-out of EUR 5 000 or above. Their winnings are either transferred directly to their bank account, or an appointment is made that the winnings can be collected on another day, so that the customer does not have to walk home with large amounts of cash. This is done to avoid robberies.

6.6 Internal Market

Any potential EU measure would seek to address current distortions in the Internal Market that result from diverging national cash payment restrictions.

Cash intensive industries in Belgium

The Belgian jewellery federation has indicated that they prefer an EU measure restricting cash payments over the current situation, because they lose revenues to their Dutch competitors. They also noted that they face some additional costs in providing alternative means of payment. On balance, they would prefer a cash payment prohibition over a declaration obligation, which involves too many administrative costs.

Like the jewellery industry, the Belgian motor trades and repairs industry is negatively affected by current cash payment restrictions in Belgium, as they lose revenues to Dutch competitors.¹⁹³

¹⁹¹ See country study Belgium.

¹⁹² See country study the Netherlands.

¹⁹³ See country study Belgium, stakeholder workshop.

6.6.1 *Prohibition (option 1) versus declaration (option 2)*

Option 1: Prohibition

If an EU-wide ban were introduced, Internal Market distortions would be fully addressed. Indeed, the harmonisation of cash payment restrictions (ban or declaration obligation) would result in the abolition of the displacement effects from countries with national cash payment restriction to countries without restrictions and the creation of a level playing field.

Option 2: Declaration obligation

If an EU-wide ban were introduced, Internal Market distortions would be fully addressed. Indeed, the harmonisation of cash payment restrictions (ban or declaration obligation) would result in the abolition of the displacement effects from countries with national cash payment restriction to countries without restrictions and the creation of a level playing field.

Discussion of parameters

Persons concerned

To address distortions of the Internal Market, the key element is that any measure is harmonised across the EU. In this sense, effects are consistent whether exemptions for non-nationals are allowed or not.

Transactions concerned

The same logic as for persons concerned: whether there are exceptions for certain sectors does not have an impact as long as a measure applies to the EU as a whole.

6.6.2 *Key findings*

Impacts on combating current distortions in the Internal Market are determined by whether a measure is applied consistently across the EU. Any of the analysed EU measures would deliver the same effects, namely fully addressing the Internal Market distortions analysed in Section 3.5.

6.7 **Revenue effects**

A possible effect of cash payment restrictions is that buyers will simply cancel the transaction, because they do not wish or are not able to adopt an alternative means of payment. For the information that is available about revenue effects, it is difficult to disentangle the [displacement of sales to neighbouring countries from annulment of specific sales altogether](#), although the econometric assessment in Section 3.5 provides evidence regarding the former category.

Regarding the latter category, very limited information is available to determine whether current cash payment restrictions had any effects on total revenues.¹⁹⁴ The econometric assessment performed in Section 3.5 ‘explains away’ much of the revenue effects that have been witnessed as a consequence of national cash payment restrictions, hinting that overall revenue effects are limited.

¹⁹⁴ These inputs were requested during a stakeholder workshop with economic operators conducted on October 10, 2017. Representatives indicated it is very difficult to provide data on these effects.

6.7.1 *Prohibition (option 1) versus declaration (option 2)*

Option 1: Prohibition

A cash payment ban could have an impact on sales of high-value goods and lead to revenue losses.

This may be the case if:

- No alternative means of payment is available, at the same cost to consumers as cash;
- Buyers have significant privacy concerns that override their wish to buy a good or service;
- The person conducting the transaction wants to hide it from the authorities because the purchase of the specific merchandise/service is illegal.

Impacts on sales in the latter category should not be treated as a genuine negative revenue effect, as they involve transactions that involve illegitimate activities and should therefore not have taken place in any case.

This may then affect especially the cash-intensive sectors in countries where cash use is significant, trust in the system is low, and/or alternative means of payment are unavailable or more costly than cash.

Regarding the costs of alternative means of payment, in most EU countries, the majority of buyers do not pay in cash for high value purchases, limiting the potential for impacts. That being said, impacts may be higher in case of a lower threshold, although justified calculations cannot be made currently.

Sales to non-EU tourists

A particularly salient category of buyers for cash payment restrictions is non-EU tourists, who come to the EU to buy luxury goods and high-fashion items. These insist on paying cash for different reasons: they may want to obscure their purchases from their own government, they may incur higher costs if they pay with credit card, or they may prefer cash for other reasons. For this foot-loose category, displacement of potential sales to neighbouring (non-EU) countries is likely if a cash payment prohibition is adopted.

Without further evidence available on the impacts of cash payment restrictions currently in place, it is not possible to conclude there will be a significant effect on total revenues.

Cash-processing industry

Indirectly, revenue effects may be expected along the cash-processing industry as less high-value payments in cash would ultimately likely also decrease the demand for cash in the overall economy. This comprises for example companies in cash technology, cash transport and cash production sectors.

Option 2: Declaration obligation

Under this scenario, in contrast to the prohibition option, all cash payments are still allowed, even if they need to be reported to the FIU if they surpass the chosen threshold. There is therefore no need to refrain from a sale because of higher transaction costs.

Revenue effects should therefore be limited to those cases in which:

- Buyers have significant privacy concerns that override their wish to buy a good or service;
- The person conducting the transaction wants to hide it from the authorities because it is illegal.

Impacts on sales in the latter category should not be treated as a genuine negative revenue effect as they involve transactions that involve illegitimate activities and should therefore not have taken place in any case.

Regarding the former category, the majority of customers already do not pay in cash for high value purchases, limiting the potential for impacts. That being said, impacts may be higher in case of a lower threshold, although justified calculations cannot be made currently.

Discussion of parameters

Persons concerned

In the current situation, three countries with cash payment restrictions have explicitly exempted or applied higher thresholds to non-residents, to negate potential negative revenue effects. It may therefore be hypothesized that a smaller negative impact can be expected on revenues if non-residents are exempted.

However, as no data is available on either the revenue effects of current cash payment restrictions nor the size of (cash) sales to non-European tourists, it is not possible to estimate the potential effects of exempting this category from an EU measure. (It was noted in the French country study, that the differentiation of limitations for residents and non-residents is perceived as being discriminatory.).

Transactions concerned

Revenue effects only pertain to businesses, therefore impacts on this category are not affected by the in- or exclusion of C2C transactions.

The consequences of applying differentiated (higher) thresholds for specific cash-intensive industries cannot be estimated due to lack of appropriate data.

6.7.2 *Key findings*

Limited data and evidence is available on the size of revenue effects due to current cash payment restrictions. As the categories of transactions affected under the varying thresholds are already predominantly not done in cash, the potential effects are limited.

6.8 Enforcement costs

The impacts on enforcement costs vis-à-vis the status quo depends – apart from the choice for a prohibition or declaration obligation regime – heavily on the threshold level. The lower the threshold, the more transactions are affected and the more activities need to be monitored. The next paragraphs therefore split out the impacts for the three levels under investigation.

6.8.1 *Prohibition (option 1) versus declaration (option 2)*

Option 1: Prohibition

Enforcement costs under this option relate primarily to law enforcement and public prosecutors as well as the courts, who would need to prevent, detect, investigate and prosecute violations. To enforce a prohibition, in-person inspections of dealers in high-value goods need to take place. Not enough data is available on the costs associated with current cash payment restrictions to provide reliable quantifiable estimates.

Businesses may receive visits of inspectors, who check their accounts and look if there have been cash payments above the threshold. An alternative measure can be to send ‘mystery shoppers’ who try to pay in cash, thereby establishing which economic operators are willing to violate the cash payment restriction. In the current situation, countries with cash payment restrictions often rely on risk assessments to determine which economic operators to check (more) regularly.

Belgium: Risk-based enforcement

In Belgium – cash payment prohibition above EUR 3 000, with exceptions for real estate and the metals sector which both have a total ban on cash payments – the standard procedure is that the ministry sends inspectors to economic operators to check their accounts and detect cash transfers above the threshold. The economic operators are chosen based on a risk assessment. Sectors that exhibit high cash reliance and which tend to have large value transactions are the main targets. For Belgium, these are the real estate sector, second-hand car sellers, diamond traders, jewellery, gold traders, leisure (hotel) and casinos.¹⁹⁵

An additional effect for those countries that already have cash payment restrictions is that cross-border investigations will be made easier, as less time needs to be spent on determining where a transaction took place.

EU measure: Efficient cross-border investigations

The Belgian authorities indicated that an EU measure would enable them to easier pursue cross-border violations, which is important for Belgium as the neighbouring countries, in particular, the Netherlands, currently have laxer restrictions and therefore create the incentive for transactions to be shifted across the border. The authorities would prefer a common threshold of the existing Belgium one as it has proven to be effective and efficient. A lower restriction would be too irksome for the citizens. Consequently, such an EU-wide restriction would be very beneficial to Belgium, though they acknowledge that the benefit for other member states may be lower and more costly since they would need to adapt their system and staffing. The Belgian Ministry of Economic Affairs, on the other hand, may be able to reduce their workload, primarily due to fewer cases that would require a check on the location where the cash transaction took place – if the threshold was completely harmonised.¹⁹⁶

Threshold level

Ban high (10k)

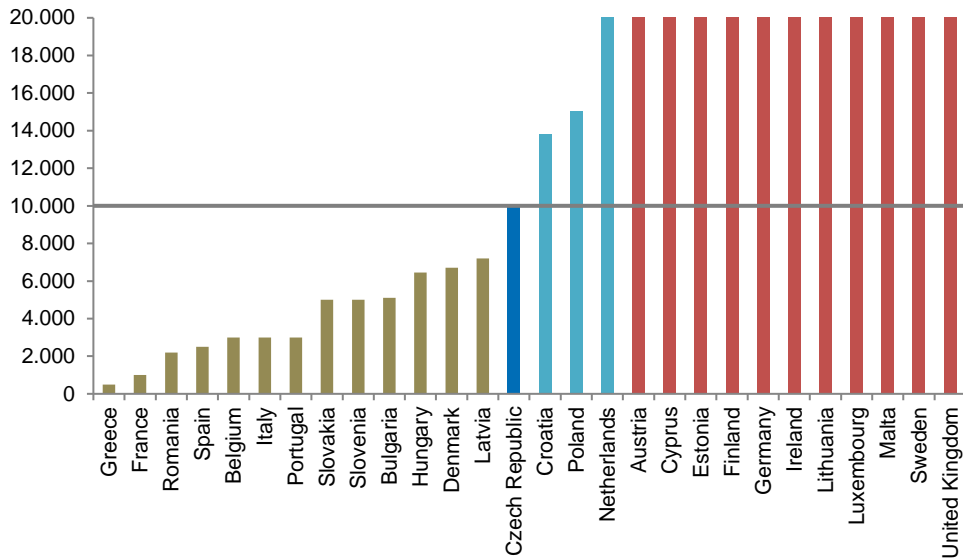
Figure 6.2 and table 6.4 show the effects if a ban were instituted at the EUR 10 000 threshold level. Under a harmonised prohibition on cash payments above EUR 10 000, 14 countries would face a stricter regime in regard to cash payments, and would have to either institute a new, or adapt a current cash payment restriction. On the other hand, 13 countries would need to reverse cash payment restrictions that are already in place and implement a more lenient regime. Only the Czech Republic does not have to adapt its threshold level.

The Netherlands would have to adapt its current regime of mandatory cash payment declarations to a prohibition on cash payments above the threshold level.

¹⁹⁵ Source: Country study Belgium.

¹⁹⁶ Source: Country study Belgium.

Figure 6.2 Effect of ban at 10k threshold



Source: Ecorys and CEPS.

NB1. The Netherlands has a declaration obligation for cash payments differentiated by trader type (EUR 2 000 for money transfers, EUR 15 000 for high value traders, EUR 25 000 for car dealers).

NB2. Countries indicated in beige need to raise their threshold, countries indicated in light blue need to adopt a more restrictive threshold, countries indicated in red need to adopt a new measure.

Table 6.4 Effect of ban at 10k threshold

LOWER	Amount	NEW MEASURE	RAISE	Amount
Croatia	< 3 800 EUR	Austria	Latvia	> 2 800 EUR
Poland	< 5 000 EUR	Cyprus	Denmark	> 3 300 EUR
Netherlands*	< 5 000 EUR	Estonia	Hungary	> 3 550 EUR
		Finland	Bulgaria	> 4 890 EUR
		Germany	Slovenia	> 5 000 EUR
		Ireland	Slovakia	> 5 000 EUR
		Lithuania	Portugal	> 7 000 EUR
		Luxembourg	Italy	> 7 000 EUR
		Malta	Belgium	> 7 000 EUR
		Sweden	Spain	> 7 500 EUR
		United Kingdom	Romania	> 7 800 EUR
			France	> 9 000 EUR
			Greece	> 9 500 EUR

Source: Ecorys and CEPS.

* The Netherlands will most likely institute a EUR 10 000 limit as part of its transposition of the 4th AML Directive (see country report).

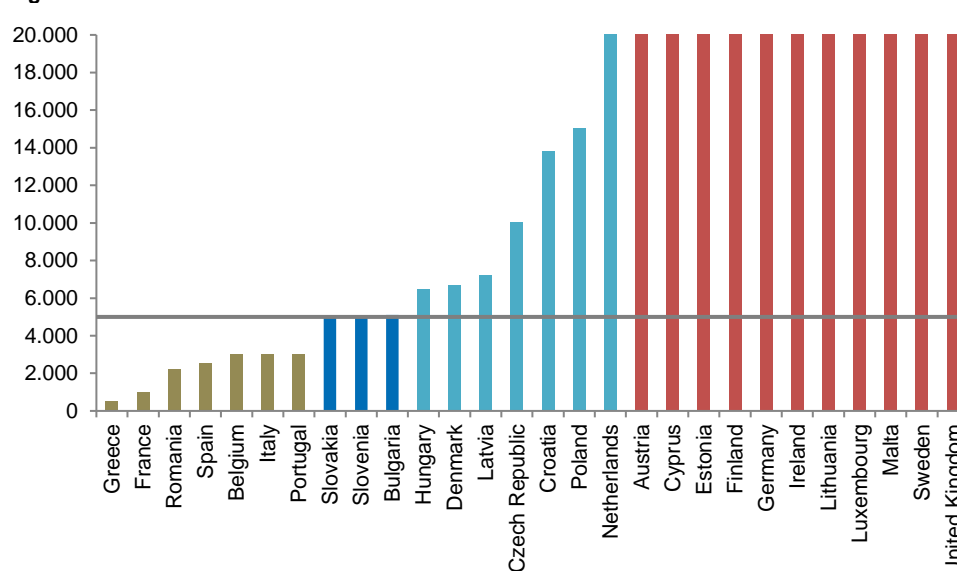
In this scenario, **additional enforcement costs will be incurred by the 14 countries** that either have higher thresholds or no thresholds in place at this moment, as they need to enforce restrictions on more transactions than currently is the case. **Thirteen countries would face lower enforcement costs** for the same reason: less transactions fall under the scope of the restriction.

At EU level, total additional enforcement costs may indeed be very limited under this scenario.

Ban intermediate option (5k)

Figure 6.3 and table 6.5 show the effects if a ban were instituted at the EUR 5 000 threshold level. Under a harmonised prohibition on cash payments above EUR 5 000, 19 countries would face a stricter regime in regard to cash payments,¹⁹⁷ and would have to either institute a new, or adapt a current cash payment restriction.

Figure 6.3 Effect of ban at 5k threshold



Source: Ecorys and CEPS.

NB1. The Netherlands has a declaration obligation for cash payments differentiated by trader type (EUR 2 000 for money transfers, EUR 15 000 for high value traders, EUR 25 000 for car dealers).

NB2. Countries indicated in beige need to raise their threshold, countries indicated in light blue need to adopt a more restrictive threshold, countries indicated in red need to adopt a new measure.

Table 6.5 Effect of ban at 5k threshold

LOWER	Amount	NEW MEASURE	RAISE	Amount
Netherlands*	< 10 000 EUR*	Austria	Portugal	> 2 000 EUR
Poland	< 10 000 EUR	Cyprus	Italy	> 2 000 EUR
Croatia	< 8 800 EUR	Estonia	Belgium	> 2 000 EUR
Czech Republic	< 5 000 EUR	Finland	Spain	> 2 500 EUR
Latvia	< 2 200 EUR	Germany	Romania	> 2 800 EUR
Denmark	< 1 700 EUR	Ireland	France	> 4 000 EUR
Hungary	< 1 450 EUR	Lithuania	Greece	> 4 500 EUR
Bulgaria	< 110 EUR	Luxembourg		
		Malta		
		Sweden		
		United Kingdom		

Source: Ecorys and CEPS.

* The Netherlands will most likely institute a EUR 10 000 limit as part of its transposition of the 4th AML Directive (see country report).

On the other hand, seven countries would need to reverse cash payment restrictions that are already in place and implement a more lenient regime. Slovenia and Slovakia would not have to adapt their threshold level. The Netherlands would have to adapt its current regime of mandatory cash payment declarations to a prohibition on cash payments above the threshold level.

¹⁹⁷ Bulgaria would have to lower it slightly (by 110 EUR).

In this scenario, additional enforcement costs will be incurred by the 19 countries that either have higher thresholds or no thresholds in place at this moment, as they need to enforce restrictions on more transactions than currently is the case. Seven countries would face lower enforcement costs for the same reason: less transactions fall under the scope of the restriction.

Belgium: Manpower enforcing cash payment limit

To enforce Belgium’s EUR 3 000 cash payment limit, the Ministry of Economy employs eight inspectors, which in full-time equivalence represent five workers. The workload has slightly declined (in terms of cases to process). This is owing to the deterrence effect of the numerous inspections that took place when the restrictions were implemented in 2012 and 2014. The credible threat of being discovered by the inspections has led to fewer attempts to use cash in transaction beyond the legal threshold.

The FIU has 50 employees dealing with the around 25 000 reports coming in each year but only ½ person in full-time equivalence is needed to process the cases dealing with cash restrictions.¹⁹⁸

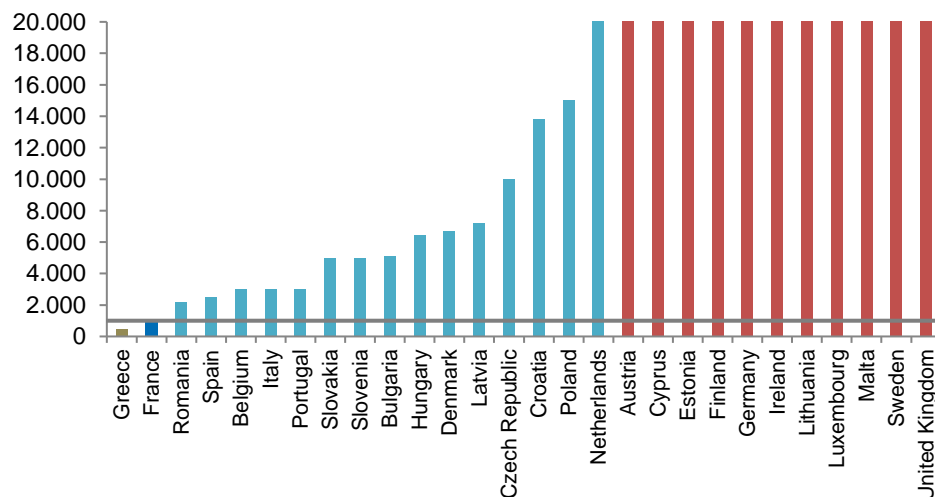
Based on the Belgian example, total expected additional enforcement costs at EU level would seem to be relatively limited, though not insignificant.

Ban low (1k)

Figure 6.4 and table 6.6 show the effects if a ban were instituted at the EUR 5 000 threshold level. Under a harmonised prohibition on cash payments above EUR 1 000, 26 countries would face a stricter regime in regard to cash payments, and would have to either institute a new, or adapt a current cash payment restriction.

On the other hand, Greece would need to raise its cash payment restriction by EUR 500. Only France would not have to adapt its threshold level. The Netherlands would have to adapt its current regime of mandatory cash payment declarations to a prohibition on cash payments above the threshold level.

Figure 6.4 Effect of ban at 1k threshold



Source: Ecorys and CEPS.

NB1. The Netherlands has a declaration obligation for cash payments differentiated by trader type (EUR 2 000 for money transfers, EUR 15 000 for high value traders, EUR 25 000 for car dealers).

NB2. Countries indicated in beige need to raise their threshold, countries indicated in light blue need to adopt a more restrictive threshold, countries indicated in red need to adopt a new measure.

¹⁹⁸ Source: Belgian country study.

Table 6.6 Effect of ban at 1k threshold

LOWER	Amount	NEW MEASURE	RAISE	Amount
Netherlands*	< 14 000 EUR	Austria	Greece	> 500 EUR
Poland	< 14 000 EUR	Cyprus		
Croatia	< 12 800 EUR	Estonia		
Czech Republic	< 9 000 EUR	Finland		
Latvia	< 6 200 EUR	Germany		
Denmark	< 5 700 EUR	Ireland		
Hungary	< 5 450 EUR	Lithuania		
Bulgaria	< 4 110 EUR	Luxembourg		
Slovenia	< 4 000 EUR	Malta		
Slovakia	< 4 000 EUR	Sweden		
Portugal	< 2 000 EUR	United Kingdom		
Italy	< 2 000 EUR			
Belgium	< 2 000 EUR			
Spain	< 1 500 EUR			
Romania	< 1 200 EUR			

Source: Ecorys and CEPS.

* The Netherlands will most likely institute a EUR 10 000 limit as part of its transposition of the 4th AML Directive (see country report).

In this scenario, additional enforcement costs will be incurred by the 26 countries that either have higher thresholds or no thresholds in place at this moment, as they need to enforce restrictions on more transactions than currently is the case. Greece and France countries would face lower or equal enforcement costs as they currently have this or a lower threshold level.

As the number of potential transactions – as well as businesses dealing with these transactions – rises exponentially when moving from a EUR 5 000 to EUR 1 000 threshold, enforcement costs are expected to rise significantly. This is corroborated by findings from the country reports.

Option 2: Declaration obligation

Enforcement costs under this option relate primarily mainly to financial oversight, as supervisors need to determine whether businesses are underreporting. To a more limited extent law enforcement and public prosecutors as well as the courts need to make additional costs for investigating and prosecuting violations. In-person inspections of dealers in high-value goods may also need to take place.

Though strictly speaking not directly enforcement, a related cost that is essential to realising any impact under this policy option comprises investments in the Financial Intelligence Unit in charge of processing the generated declarations and initiating investigations.

Furthermore, to enforce a declaration obligation, investments in awareness campaigns are needed to address the issue of underreporting by businesses. Not enough data is available on the costs associated with current cash payment restrictions to provide reliable quantifiable estimates.

For these reasons, generally speaking, higher costs are associated with effectively enforcing a monitoring and declaration obligation regime than with a cash payment restriction.

NL: Manpower involved in declaration regime

In the Netherlands – the only country with a current declaration obligation in place - the costs for supervision and enforcement of the whole AML/CFT regime are traceable to some extent in a number of reports. In total, at least 191 FTE across four supervising entities – excluding the police – are tasked with monitoring compliance with the relevant AML/CFT regulations.

Of those, 63 FTE are located at the Dutch FIU which analyses the transactions declared by reporting entities. In 2016, about 11% of received unusual transaction reports related to cash payments, and cash payments were involved in 88% of the transactions declared suspicious by the FIU.¹⁹⁹

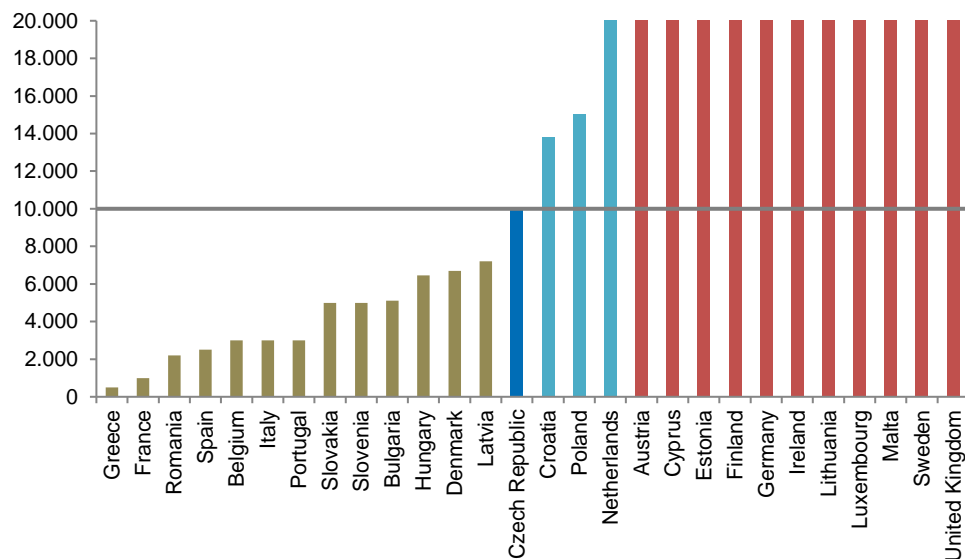
Threshold level

Declaration obligation high (10k)

Figure 6.5 and table 6.7 show the effects if a declaration obligation were adopted for cash payments of EUR 10 000 and above. In this scenario, 14 countries would face a stricter regime in regard to cash payments, and would have to either institute a new, or adapt a current cash payment restriction.

On the other hand, 13 countries would need to reverse cash payment restrictions that are already in place and implement a more lenient regime. Only the Czech Republic does not have to adapt its threshold level.

Figure 6.5 Effect of declaration obligation at 10k threshold



Source: Ecorys and CEPS.

NB1. The Netherlands has a declaration obligation for cash payments differentiated by trader type (EUR 2 000 for money transfers, EUR 15 000 for high value traders, EUR 25 000 for car dealers).

NB2. Countries indicated in beige need to raise their threshold, countries indicated in light blue need to adopt a more restrictive threshold, countries indicated in red need to adopt a new measure.

¹⁹⁹ Source: Country report the Netherlands.

Table 6.7 Effect of declaration obligation at 10k threshold

LOWER	Amount	NEW MEASURE	RAISE	Amount
Croatia	< 3 800 EUR	Austria	Latvia	> 2 800 EUR
Poland	< 5 000 EUR	Cyprus	Denmark	> 3 300 EUR
Netherlands*	< 5 000 EUR	Estonia	Hungary	> 3 550 EUR
		Finland	Bulgaria	> 4 890 EUR
		Germany	Slovenia	> 5 000 EUR
		Ireland	Slovakia	> 5 000 EUR
		Lithuania	Portugal	> 7 000 EUR
		Luxembourg	Italy	> 7 000 EUR
		Malta	Belgium	> 7 000 EUR
		Sweden	Spain	> 7 500 EUR
		United Kingdom	Romania	> 7 800 EUR
			France	> 9 000 EUR
			Greece	> 9 500 EUR

Source: Ecorys and CEPS.

* The Netherlands will most likely institute a EUR 10 000 limit as part of its transposition of the 4th AML Directive (see country report).

In this scenario, additional enforcement costs will be incurred by the 14 countries that either have higher thresholds or no thresholds in place at this moment, as they need to enforce restrictions on more transactions than currently is the case.

In addition to adapting to a new threshold level, all Member States with a cash payment restriction (n = 16) with the exception of the Netherlands, would need to adapt their cash payment restriction from a ban to a declaration obligation regime.

For this reason, thirteen countries could face lower enforcement costs because less transactions fall under the scope of the restriction, but this effect is (partially) offset by additional investments needed in moving from a cash payment prohibition regime to a declaration obligation.

Netherlands: Few transactions above EUR 10 000

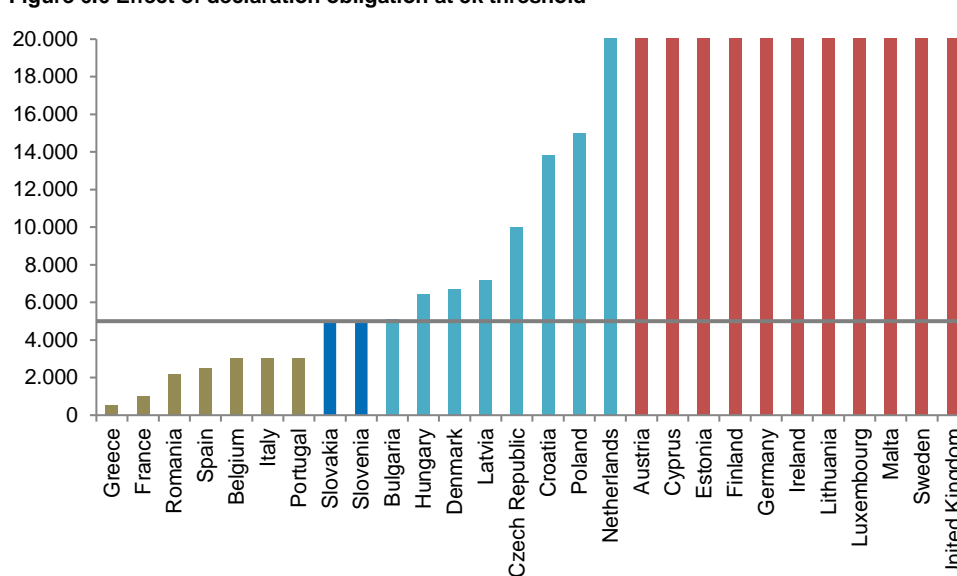
In 2016, 9% of all of the transaction reports received by the Dutch FIU concerned transactions of EUR 10 000 and above. It is unclear how many of these involved cash payments.²⁰⁰

In this scenario, additional enforcement costs are expected to be very limited.

²⁰⁰ See Country report the Netherlands.

Declaration obligation intermediate (5k)

Figure 6.6 Effect of declaration obligation at 5k threshold



Source: Ecorys and CEPS.

NB1. The Netherlands has a declaration obligation for cash payments differentiated by trader type (EUR 2 000 for money transfers, EUR 15 000 for high value traders, EUR 25 000 for car dealers).

NB2. Countries indicated in beige need to raise their threshold, countries indicated in light blue need to adopt a more restrictive threshold, countries indicated in red need to adopt a new measure.

Under a harmonised prohibition on cash payments above EUR 5 000, 19 countries would face a stricter regime in regard to cash payments,²⁰¹ and would have to either institute a new, or adapt a current cash payment restriction. In this scenario, the Netherlands would have to adapt its current regime of mandatory cash payment declarations to a prohibition on cash payments above the threshold level. On the other hand, seven countries would need to raise their cash payment restriction threshold. Slovenia and Slovakia would not have to adapt their threshold level.

Table 6.8 Effect of a declaration obligation at 5k threshold

LOWER	Amount	NEW MEASURE	RAISE	Amount
Netherlands*	< 10 000 EUR*	Austria	Portugal	> 2 000 EUR
Poland	< 10 000 EUR	Cyprus	Italy	> 2 000 EUR
Croatia	< 8 800 EUR	Estonia	Belgium	> 2 000 EUR
Czech Republic	< 5 000 EUR	Finland	Spain	> 2 500 EUR
Latvia	< 2 200 EUR	Germany	Romania	> 2 800 EUR
Denmark	< 1 700 EUR	Ireland	France	> 4 000 EUR
Hungary	< 1 450 EUR	Lithuania	Greece	> 4 500 EUR
Bulgaria	< 110 EUR	Luxembourg		
		Malta		
		Sweden		
		United Kingdom		

Source: Ecorys and CEPS * The Netherlands will most likely institute a EUR 10 000 limit as part of its transposition of the 4th AML Directive (see country report).

In this scenario, additional enforcement costs will be incurred by the 19 countries that either have higher thresholds or no thresholds in place at this moment, as they need to enforce restrictions on more transactions than currently is the case.

²⁰¹ Bulgaria would have to lower it slightly (by 110 EUR).

In addition to adapting to a new threshold level, all Member States with a cash payment restriction (n = 16) with the exception of the Netherlands, would need to adapt their cash payment restriction from a ban to a declaration obligation regime.

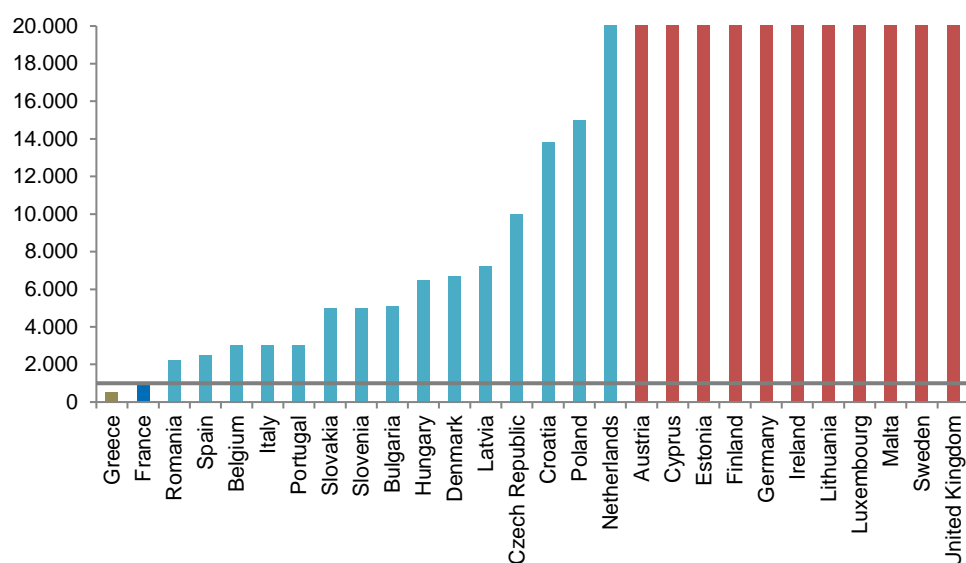
Seven countries could face lower enforcement costs because less transactions fall under the scope of the restriction, but this effect is (partially) offset by additional investments needed in moving from a cash payment prohibition regime to a declaration obligation.

In this scenario, expected additional enforcement costs are relatively moderate.

Declaration obligation low (1k)

In this scenario, cash payments above EUR 1 000 would have to be declared to the relevant (national) FIU throughout the European Union. As it would be a harmonised limit, the restriction is instituted at this level across the European Union and neither lower nor higher thresholds are allowed.

Figure 6.7 Effect of declaration obligation at 1k threshold



Source: Ecorys and CEPS.

NB1. The Netherlands has a declaration obligation for cash payments differentiated by trader type (EUR 2 000 for money transfers, EUR 15 000 for high value traders, EUR 25 000 for car dealers).

NB2. Countries indicated in beige need to raise their threshold, countries indicated in light blue need to adopt a more restrictive threshold, countries indicated in red need to adopt a new measure.

Under a harmonised declaration obligation for cash payments above EUR 1 000, 26 countries would face a stricter regime in regard to cash payments, and would have to either institute a new, or adapt a current cash payment restriction. On the other hand, Greece would need to raise its cash payment restriction by EUR 500. Only France would not have to adapt its threshold level.

Table 6.9 Effect of declaration obligation at 1k threshold

LOWER	Amount	NEW MEASURE	RAISE	Amount
Netherlands*	< 14 000 EUR	Austria	Greece	> 500 EUR
Poland	< 14 000 EUR	Cyprus		
Croatia	< 12 800 EUR	Estonia		
Czech Republic	< 9 000 EUR	Finland		
Latvia	< 6 200 EUR	Germany		
Denmark	< 5 700 EUR	Ireland		
Hungary	< 5 450 EUR	Lithuania		
Bulgaria	< 4 110 EUR	Luxembourg		
Slovenia	< 4 000 EUR	Malta		
Slovakia	< 4 000 EUR	Sweden		
Portugal	< 2 000 EUR	United Kingdom		
Italy	< 2 000 EUR			
Belgium	< 2 000 EUR			
Spain	< 1 500 EUR			
Romania	< 1 200 EUR			

Source: Ecorys and CEPS.

* The Netherlands will most likely institute a EUR 10 000 limit as part of its transposition of the 4th AML Directive (see country report).

In this scenario, additional enforcement costs will be incurred by the 26 countries that either have higher thresholds or no thresholds in place at this moment, as they need to enforce restrictions on more transactions than currently is the case.

In addition to adapting to a new threshold level, all Member States with a cash payment restriction (n = 16) with the exception of the Netherlands, would need to adapt their cash payment restriction from a ban to a declaration obligation regime.

Greece could face lower enforcement costs because less transactions fall under the scope of the restriction, but this effect is (partially) offset by additional investments needed in moving from a cash payment prohibition regime to a declaration obligation.

For this reason, enforcement costs are expected to be relatively significant under this scenario.

Discussion of parameters

Persons concerned

Exemptions for non-nationals complicate enforcement measures, as a loophole is created that can be exploited by businesses as well as criminals.

Transactions concerned

Enforcement of B2B and B2C transactions should be based on a risk-assessment that enables prioritisation. The inclusion of C2C transactions, though theoretically interesting for combating illegal activities, is deemed to be unenforceable by the law enforcement professionals interviewed in the country studies.

6.8.2 Key findings

It is not possible to sufficiently quantify the current enforcement costs associated with implementing the cash payment restrictions currently in place in most of the Member States. A calculation of additional enforcement costs associated with an EU measure in different forms is therefore not possible. The data that is available suggests that enforcement costs are rather limited, especially when seen in perspective of the total costs associated with enforcing the broader EU AML/CFT framework.

It is clear that both the type of measure and the threshold level greatly determine consequences for expected additional enforcement costs. Taking into account that 16 countries currently have a cash payment prohibition in place, *ceteris paribus*, a declaration obligation regime is more costly to implement than a prohibition.

Furthermore, adopting a threshold of EUR 10 000 is expected to create very limited or even no additional costs at EU level, as investments needed by countries without a current restriction are offset by less capacity needed for enforcement in those countries currently enforcing a lower threshold, as they need to supervise fewer transactions.

6.9 Compliance costs

6.9.1 Prohibition (option 1) versus declaration (option 2)

Option 1: Prohibition

In the case of the introduction of cash payment prohibition for the cash intensive industry, no significant increase of compliance costs is to be expected. On the contrary, compliance costs would decrease in the form of less reporting being necessary. Although limited systematic data is available, in most countries high value goods are not being paid in cash. The only difficulties might be expected in explaining to customers why cash is not accepted. Even in the case of Germany as a country with one of the highest cash usages in Europe, only 2 % of the population is paying goods over 100 EUR in cash.²⁰²

Option 2: Declaration obligation

If a declaration obligation would be introduced, cash-intensive sectors which currently only have to file STRs above a certain threshold would have to face significant compliance costs. The same holds true for businesses, which are currently not obliged to file any report. In the case of The Netherlands, the expected transposition of the 4th AML Directive, a declaration obligation at EUR 10 000 would add zero additional costs due to the already existing *de facto* declaration obligation. On top of it, it can be expected that additional resources and training will occur for the businesses.

However, in certain cash-intensive industries, both a declaration obligation or a cash payment restrictions would have a recognizable effect as illustrated in the case study below.

²⁰² ECB (2017): 'The use of cash by households in the euro area', ECB Occasional Paper No. 201. Accessible online: <https://www.ecb.europa.eu/pub/pdf/scpops/ecb.op201.en.pdf>.

Dutch Casino industry: Reporting-related compliance costs

The Dutch Casino “Holland Casino” the sole legal provider of casinos in the Netherlands, indicates it expects to generate set at generate about 50% more declaration reports if the threshold for declaring would be lowered to EUR 10 000. This would rise exponentially if the limit were lowered to EUR 5 000 or EUR 1 000.²⁰³ This translates into 221 hours a year spent on declarations on objective indicators, as opposed to about 150 hours a year now.

Compliance costs however be replaced with costs for ensuring that all cash transactions above the threshold chosen, are transferred digitally. In the case of The Netherlands, pay-outs below EUR 5 000 are usually done in cash. The casinos would have to spend a significant amount of additional time in ensuring these pay-outs are done digitally. It was stressed that for casinos, transferring money whose origin is unknown (and cannot be verified) to customers involves more risk than paying them out in cash, as transfers in the name of Holland Casino may lend a veneer of legitimacy to the money. To counter that, Holland Casino would have to invest heavily in due diligence measures.²⁰⁴

If the threshold is set lower as it is currently the case in Greece (500 EUR), more payments are affected and businesses can have higher compliance costs as indicated in the case study below.

Greece: Costs of payments

Credit card fees, which range from 0.7% to 2.5% have been rising and the costs of POS terminals necessary for accepting credit cards entail a minimum cost of EUR 150, in several cases, businesses need more expensive ones in order to accept all credit cards, or several units. On the contrary, benefits from cash restrictions are the digitalisation of transactions helps SMEs with various operations such as client relations, management (e.g. stock management). Cash restrictions in combination with the financial crisis may lead businesses to pre-mature bankruptcy or severe problems with maintaining their operations. In Greece during the years of the financial crisis, freezing of assets (e.g. bank accounts) occurs even for small debts. As a result, if businesses are forced to use the banking system for the majority of transactions, thus having no or limited cash reserve, they would not manage to survive even for short periods until their assets are unfrozen. Greek business associations report that freezing and seizures of assets occur in an unregulated manner, without respecting the minimum required funds for running a business (e.g. salaries, daily operations).²⁰⁵

Discussion of parameters

Persons concerned

The main group of people who would be affected from cash payment restrictions are business owners in cash intense sectors. As shown in the above case studies, their compliance costs could increase in case of a ban or a declaration depending on their business model.

Transactions concerned

The transactions affected would be B2B and C2B. C2C transactions are explicitly excluded from a ban or a declaration, which is why no compliance costs would occur.

²⁰³ Country study the Netherlands.

²⁰⁴ Country study the Netherlands.

²⁰⁵ Country study Greece.

6.9.2 Key findings

The effects on compliance costs can be expected to be minimal for the majority of businesses, as not many cash transactions are being conducted at the various threshold levels are to a large extent already digitalised. For the group of cash transactions that would be affected, the consequences for compliance costs depend heavily on the type of measure that would be instituted, as well as on the threshold level as well as on the concerned industry sector.

If a declaration obligation would be introduced, cash-intense sectors which currently only have to file STRs above a certain threshold would have to face significant compliance costs. The same holds true for businesses, which are currently not obliged to file any report. In the case of the introduction of cash payment prohibition for the cash intensive industry, no significant increase of compliance costs is to be expected. On the contrary, compliance costs would decrease in the form of less reporting being necessary. Although limited systematic data is available, in most countries high value goods are not being paid in cash.

6.10 Economic freedom and privacy

Economic freedom

The Heritage Foundation defines as economic freedom the fundamental right of every human to control his or her labour and property. For the measuring of their economic freedom index, they include four pillars, which are rule of law, government size, regulatory efficiency and open markets. Under the last pillar, the notion of financial freedom is included, which entails “the availability of diversified savings, credit, payment, and investment services to individuals”.²⁰⁶ The notion of economic freedom is based on the assumption that individuals and organisations know best their preferences and make informed decisions based on those (e.g. when choosing a means of payment). Meaning that, economic freedom is hampered when certain payment instruments are not available or not accessible by individuals or organisations due to state or other interventions.

In the case of payment instruments, the most popular ones are presented in Table 6.10, these include cash, bank cards, mobile payments etc. Each instrument is associated with unique characteristics and limitations. For instance, cash can provide anonymity, security, reliability, safe haven and 24/7 availability, however no remote payments can be performed with cash, and it is less efficient to use cash for high value payments. Table 6.10 furthermore presents an evaluation of the attributes associated with each of the presented payment instruments.

The different attributes included in the table are the following:²⁰⁷

- **Legal tender**, according to the TFEU banknotes issued by the ECB and national central banks are the only such notes to have the status of the legal tender.²⁰⁸ The creditor is obliged to accept a payment made in those;
- **Anonymity** refers to the inability to trace back and identify the parties that participated in a transaction, or other information about the transaction. Cash is characterised as the only completely non-traceable payment instrument, however also prepaid cards and virtual currencies that use encryption are offering anonymity;
- **Security**, relates to the level of risk or exposure of a payment instrument to fraud (i.e. forgery, theft of payment details) or other risks (i.e. pickpockets). A number of protective actions are being

²⁰⁶ See Miller, Kim (2017), 2017 Index of Economic Freedom, The heritage Foundation.

²⁰⁷ Definitions are based on: Cash Report Europe 2016: G4S and Payments Advisory Group analysis, 2016.

²⁰⁸ See Consolidated version of the Treaty on the Functioning of the European Union, Article 128 (ex Article 106 TEC).

applied in most of the payment methods such as anti-forgery and authentication measures. However, all payment instruments entail some security risks;

- **Safe haven** is the level of resistance of a payment instrument to market failures and financial crises. As the value of cash is only linked with central banks, in cases of bank bankruptcies or seizures of financial assets in periods of financial crises, cash would not be affected to the extent that most payment instruments may be affected;
- **Remote payments**, relate to whether the payment instrument enables distant transactions. Cash unlike most of the alternative payment instruments require both parties of a transaction to be physically present at the Point of Sale (POS);
- **Ease for high value payments**, is the perceived facility to conduct large payments (e.g. above EUR 5 000) through each payment instrument. Large volumes of banknotes are required for conducting high value payments, thus cash are perceived as burdensome in comparison to bank cards or bank transfers, when it comes to high value payments;
- **Availability** is the frequency of acceptance of payment instruments at different POS. For instance, specific infrastructure is needed for the acceptance of bank cards, while cash as the legal tender must always be accepted;
- **Reliability** refers to whether a payment instrument relies on a specific infrastructure. As mentioned above, a cash transaction can be conducted without electricity, or any specific infrastructure, this is not the case for other payment instruments, which rely on those.

On top of these attributes, different payment methods entail different transaction costs which are on average lower for cash, however according to ECB,²⁰⁹ such costs are linked with the popularity and use of each payment instruments. For instance, in Sweden where card transactions are the most common payment instrument the cost of bank cards is lower than cash.²¹⁰ Other factors that may affect the use of different payment instruments are perceived convenience, ease of use, ease of management of expenses and efficiency of each payment instrument as well as other limitations such as credit limits.

Moreover, besides weighting the advantages and disadvantages of different payment instruments, certain Member States seem to be more attached to cash for emotional, historic or other reasons.²¹¹ Preserving the option to conduct any payments in cash according to Deutsche Bank,²¹² is significant for respecting civil liberties and maintaining a relationship of trust between citizens and public institutions.

²⁰⁹ ECB (2012), Occasional Paper Series: No 137 The social and private costs of retail payment instruments, a European perspective.

²¹⁰ See Sweden country study.

²¹¹ Beretta (2014), The irreplaceability of cash and recent limitations on its use: Why Europe is off the track.

²¹² Mai (2016), Cash, freedom and crime, Deutsche Bank.

Table 6.10 Key attributes of different payment instruments

	Legal tender	Anonymous	Secure	Safe haven	Remote payments	Ease for high value payments	Available	Reliable
Cash	✓	✓	-	✓	x	x	✓	✓
Debit card	x	x	-	x	✓	✓	-	-
Credit card	x	x	-	x	✓	✓	-	-
Pre-paid card	x	✓	-	x	✓	x	-	-
Credit transfer	x	x	-	x	✓	✓	✓	-
Direct debit	x	x	-	x	✓	✓	-	-
Cheques	x	-	x	x	x	x	-	-
Mobile payments	x	x	-	x	✓	x	x	-
Internet payments	x	x	-	x	✓	✓	x	-
Virtual currency	x	✓	-	-	✓	x	x	-
Instant payments	x	x	-	x	✓	-	✓	-

Note: ✓ positive, x negative, - Neutral.

Source: Own elaboration based on Cash Report Europe 2016: G4S and Payments Advisory Group analysis, 2016.

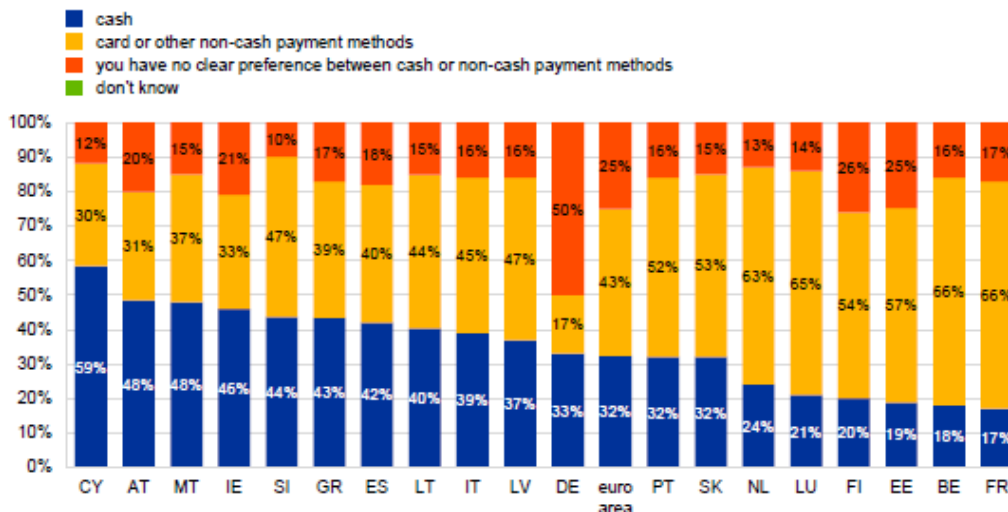
Figure 6.8 below indicates that 43% of respondents of the ECB household survey²¹³ in the euro area stated that their preferred payment method in a shop is cards or other non-cash payment methods, while 32% of respondents stated that its cash. In the same survey respondents, whose preferred payment option was cash were asked to select the reasons. The replies given include, ease of expenses management (42%), acceptance (38%), speed (32%), safety (16%), immediate settlement (13%) and anonymity (13%). These findings confirm that some individuals value cash for some of the characteristics described above.

According to the same ECB study,²¹⁴ cash occupies the largest market share of payment instruments both in terms of number and value of transactions. It is worth mentioning that only a small fraction (2%) of those transactions are above 100 EUR. In the aforementioned study, ECB concludes that payment preferences are not the only reason for selecting a specific payment method. Other factors that play a role in the decision include the amount to be paid, the amount of cash being carried, the transaction costs, other benefits (e.g. reward programs) as well as the merchants' preferred method. It is hard to conclude to which extent individuals use cash due to its distinct characteristics, or simply out of habit or other factors.

²¹³ ECB (2017), Occasional Paper Series: The use of cash by households in the euro area.

²¹⁴ ECB (2017), Occasional Paper Series: The use of cash by households in the euro area.

Figure 6.8 Preferred payment methods in a shop in the euro area
(percentages; based on 42,857 respondents from the euro area)



Sources: ECB, Deutsche Bundesbank and De Nederlandsche Bank.

Cash prohibitions are expected to have direct and indirect impacts on economic freedom. The direct impacts refer to excluding cash from the list of payment options for transactions above a threshold in the case of cash prohibition or to the changes in the characteristics of cash as a payment method in the case of obligation to declare (e.g. anonymity as explained in the privacy section). Also, merchants will maintain the right to select their preferred payment instrument(s), for instance which non-cash alternative they prefer, while consumers will have to accept one of the offered alternatives (for the payments that cannot be conducted with cash). Direct impacts of such measures would negatively affect the economic freedom of cash users.

The indirect impacts refer to potential changes in the availability and other characteristics of cash and other payment methods. The main expected indirect impact from a cash prohibition or declaration obligation would be wider acceptance of cards and other non-cash payment methods and lower acceptance of cash. This effect would possibly enhance the economic freedom of individuals and organisations whose preferred payment methods are cards or other non-cash options while individuals and organisations whose preferred option is cash will be disfavoured.

Overall, a cash prohibition reduces the payment options for individuals and organisations. Consumer organisations across the EU consider important for the consumers to preserving the choice of their desired payment method, for transactions of any value. In particular, the option of using cash is seen essential as it constitutes the legal tender, which must always be accepted. In particular, for individuals and organisations whose preferred payment method is cash, the effect to their economic freedom is strongly linked with the threshold of potential cash prohibition. In general, if a large proportion of their transactions are affected, the more severe the impact may be. In other words the lower the threshold of potential cash prohibitions the higher the chance that it would negatively affect the economic freedom of a large number of individuals and organisations. On the contrary, for those individuals and organisations whose preferred payment method are bank cards or other alternatives to cash, there may also be a positive indirect impact from the adoption of a cash prohibition.

Privacy

As mentioned in the economic freedom section, one of the advantages of cash is that it constitutes the only payment method that can be completely anonymous. Payments through service providers and digital payments, no matter how well encrypted, could potentially be traced and the different parties, identities as well as other information about the transaction could be retrieved. Articles 7 and 8 of the Charter of Fundamental Rights,²¹⁵ state that everyone has the right to respect for his or her private life and the right to the protection of their personal data. They also state that personal data should not be collected without the consent of the person concerned or without a legitimate legal basis and that, everyone has the right to access data concerning him/her.

In the case of cash, anonymity is ensured, as no authority or intermediary can obtain information for the use of cash without the users consent. However, with other popular payment services such as bank cards, bank transactions, mobile apps and e-wallets, a customer profile of transactions is being tracked and private data are being collected. Data such as personal details, transactions, information on products and services purchased, salaries and other information, are shared with payment service providers (e.g. banks, credit card providers). Such information constitute personal data according to the General Data Protection Regulation²¹⁶ and fall under its scope. This means that these data must only be collected and processed in line with the regulation. By declaring cash transactions the same information are shared with a competent public authority. In both cases, the activities of the individual or organisation concerned may be legal and not suspicious. This practice can be accused that it is incriminating citizens without fact-based suspicion.²¹⁷

Privacy concerns go beyond the mere collection and use of data for the specified purposes. According to the EC Cyber security barometer,²¹⁸ the potential misuse of personal data is the most common concern of people who use online banking or buy things online. 43% of the barometer respondents selected this option followed by 42% of respondents who considered security threats more alarming, both percentages were raised in 2014 compared to 2013. Possible misuses of personal data from service providers include, use of data for targeted marketing, sharing personal data to other entities or any, other uses not in line with the initial purpose and occur without the clear consent of the individual(s) involved. Additionally, the risk of cyber-attacks and theft of personal data occurs even if data are being processed properly and in line with the relevant legislation.

Concerns about the handling of personal data from payment service providers are also based on allegations that misuses are being observed. For instance, Greek consumer organisations claim that they receive several complaints that their contact details and banking information (loans, total debt, delays in payments etc.) have been communicated without their clear consent to debt collecting companies, which harass them in order to collect loan payments. Up to date, there has not been any court decision on whether this practice constitutes a violation or not.

Research in other countries such as in the USA and India reveal other cases of payment service providers interfering with personal data in a manner that affects privacy rights. A study on security in

²¹⁵ CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION (2000/C 364/01).

²¹⁶ See article 4 of the Regulation (EU) 2016/679 — protection of natural persons with regard to the processing of personal data and the free movement of such data.

²¹⁷ Mai (2016), Cash, freedom and crime, Deutsche Bank.

²¹⁸ European Commission (2015) Cyber security barometer, http://ec.europa.eu/commfrontoffice/publicopinion/archives/ebs/ebs_423_en.pdf.

mobile payments²¹⁹ in India concludes that all of the five mobile phone based payment systems that were tested raise serious privacy concerns. For instance, mobile apps did not function if access to the users' camera and media was not provided. Other examples of personal data misuses include payment services providers sharing consumers' data with other firms without users' clear consent. These data may be aggregated but unless they can be fully anonymised, it may be possible to be linked back to individuals. For instance, in the USA according to a Wall Street Journal article²²⁰ Google has come in possession of data on credit card transactions, which can be linked, back to individual consumers.

However, the right to protection of personal data is not an absolute right, meaning that it can be balanced against other fundamental rights or objectives of general interest in a proportional manner. For instance, a negative impact of a specific measure on privacy may be justified if the impacts in prevention or prosecution of criminal offences (such as terrorism financing or money laundering) are proportionate.

Legislative framework related to privacy

The Basel committee²²¹ set out some risk management principles for electronic banking including measures to ensure adherence to customer privacy requirements in 2003. More recently, a number of legislative initiatives have contributed in setting the rules for processing personal data with respect to privacy and human rights in general. The General Data Protection Regulation²²², which will apply from 25 May 2018 onwards sets a series of rules related to privacy of personal data that businesses must comply with as well as rights of individuals related to their personal data. In line with this Regulation, specific rules are set for the collection of personal data by competent authorities in the Directive on Protecting personal data when being used by police and criminal justice authorities²²³. Moreover, the Regulation on Privacy and Electronic Communications²²⁴ that was proposed in January 2017 by the EC, intends to strengthen the European regulatory framework on e-privacy. However, the European data protection supervisor raises some concerns about the regulation, for instance on the provisions for the end users' consent.²²⁵ The Payments services Directive (2015/2366 EC) also sets standards for payment services providers including dealing with customers' personal data and privacy issues.

Based on these, some key privacy rights of citizens include:

- Easy access to the data being processed in a clear and understandable way;
- Right to be forgotten in case an individual does not want their data being processed and there is no legitimate reason to keep it;
- Right to know when their personal data have been hacked;
- Rights to lodge a complaint in a data protection authority.

²¹⁹ Pal, Dattathrani, De (2017), Security in mobile payments: a report on user issues.

²²⁰ See https://www.washingtonpost.com/news/the-switch/wp/2017/05/23/google-now-knows-when-you-are-at-a-cash-register-and-how-much-you-are-spending/?utm_term=.fe8ac9f3a697.

²²¹ Basel Committee on Banking Supervision (2013) Risk Management Principles for Electronic Banking.

²²² Regulation (EU) 2016/679 — protection of natural persons with regard to the processing of personal data and the free movement of such data.

²²³ Directive (EU) 2016/680 — protecting individuals with regard to the processing of their personal data by police and criminal justice authorities, and on the free movement of such data.

²²⁴ Regulation on Privacy and Electronic Communications (2017/0003 COD).

²²⁵ European data protection supervisor opinion on e-privacy directive <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C:2017:234:TOC>.

Moreover, there are specific conditions that must apply to allow lawful data processing. These are specified in the General Data Protection Regulation and include²²⁶:

- Having a clear consent by the individual whose data are being processed for one or more purposes;
- Processing being necessary for compliance with a legal obligation;
- Processing being necessary to protect the vital interests of the data subject or another natural person;
- Processing being necessary for the performance of a task carried out in the public interest.

It is noted that if at least one of the conditions apply, further processing of personal data would be lawful. Additionally, a number of technical and operational obligations and requirements should be fulfilled regarding the ways of processing personal data by companies or competent authorities. These are detailed in chapter 4 of the General Data Protection Regulation.

If any measures would be adopted, payment service providers or competent authorities will be dealing with a large number of personal data. It is crucial that compliance with the aforementioned legislations is ensured and privacy is protected to the extent possible.

Consumers' stance on privacy issues

Generally, EU seems to be globally a frontrunner when it comes to privacy.²²⁷ The EU's performance in terms of privacy protection varies amongst different Member States for instance according to Forrester's heat map,²²⁸ concerns about government surveillance interfering with privacy rights are raised for the UK, Poland and Sweden.

According to the in-depth country studies that were conducted under this exercise, the Swedish, the Dutch and Belgian consumers are less worried about risks of payment service providers interfering with their privacy, possibly due to the high level of trust in the system. In addition, in these countries the adoption of digital payments was to a large extent driven by the consumers. In Greece, Bulgaria and Italy, consumers are also less concerned about privacy of payments as they prioritise other problems over privacy. In France, Germany and Austria consumers' organisations raise concerns related to privacy rights. For instance, in France a recent study shows that 62% of the respondents consider that measures to limit the use of cash are an infringement of individual freedoms²²⁹. Privacy rights advocates and consumers' organisations in several member states also claim that the adoption of cash limitations, even at high thresholds may affect privacy as they feel it would constitute a first step towards abolishing cash completely.

6.10.1 Prohibition (option 1) versus declaration (option 2)

Option 1: Prohibition

In terms of economic freedom, cash payments prohibition could intervene with the free choice of different payment options of individuals. Such measures would direct individuals to non-cash payment methods, although these may not be their preferred options. There is an inverse relationship between the size of the effects and the threshold of a potential EU-wide prohibition. In this sense, economic freedom would be affected significantly if a threshold as low as EUR 1 000 is adopted as

²²⁶ See recital 50 and Article 6(1) and (4) General Data Protection Regulation (2016/679) for a full list.

²²⁷ See <http://www.bbc.com/capital/story/20130625-your-private-data-is-showing>.

²²⁸ See <http://heatmap.forrester.com/>.

²²⁹ See <https://www.brinks.fr/actualites-brinks/observatoire-brinks-ifop-2017-francais-largent-liquide/>.

a larger amount of transactions would be prohibited. If higher thresholds such as EUR 5 000 or EUR 10 000 are adopted, affecting only a small fraction of consumer's transactions is not expected to impact significantly economic freedom.

Regarding privacy, as long as an alternative to cash providing full anonymity does not exist, a cash prohibition could severely affect privacy of consumers. Regarding the different possible thresholds, in terms of privacy higher thresholds are preferred as they would affect only smaller amount of transactions. Low thresholds such as EUR 1 000 would have a stronger impact on privacy of individuals. Potential measures should ensure that the negative effect on privacy rights is in proportion with the positive effects in combating criminal activities.

Moreover, in the case that any cash limitations are adopted, additional measures for ensuring that payment service providers and competent authorities comply with relevant legislations should be enforced. Inputs of the European data protection supervisor and Fundamental rights agency for should be incorporated to ensure privacy rights are respected.

Option 2: Declaration obligation

Declaration obligation is not expected to severely affect the economic freedom of citizens, as all alternative payment options will remain available to all.

Regarding privacy, similar to a cash prohibition, a declaration obligation could affect the privacy of consumers, as personal data are collected and processed by competent authorities. Potential measures should ensure that the negative effect on privacy rights is in proportion with the positive effects in combating criminal activities.

Low thresholds would have a stronger negative impact on privacy than higher thresholds. Also, in this case the contributions of the European data protection supervisor and Fundamental rights agency are essential in the development of the measures, which should be in compliance with the aforementioned legislations as well.

Discussion of parameters

Persons concerned

As long as cash limitations are in line with fundamental freedoms and rights, there is no reason to exempt any particular group of individuals (e.g. residents/non-residents).

Transactions concerned

The inclusion of C2C transactions, though theoretically interesting for combating illegal activities, is deemed to be intrusive and interfering to a large extent with privacy of individuals. B2C transactions can be justified, in particular in sectors of high risk for criminal activities.

6.10.2 Key findings

For both economic freedom and privacy, the preferred option remaining at the baseline scenario. Obligation to declare is preferred to a cash prohibition, from economic freedom perspective as it intervenes less with the choices. Lower thresholds (e.g. EUR 1 000) would impact economic freedom and privacy in a more negative way than higher thresholds (e.g. EUR 5 000, 10 000).

6.11 Vulnerable groups

In society, some groups are more vulnerable than others. This could be due to different factors, economic, social, demographic, etc. An individual or a group of persons is considered as vulnerable when being exposed to a risk, which can put them in an unsafe situation. In the present study, a vulnerable group can be defined as a population, which is unable, or face challenges, to anticipate, cope with the measures on cash restrictions.²³⁰

Vulnerability is often related to poverty but it can also relate to subgroups with different characteristics, which are more exposed or less able to respond to changes (e.g. elderly). According to the country reports prepared by the study team, similar categories of vulnerable groups have been identified. Indeed, the following groups of people have been acknowledged as a category at risk:

- Elderly²³¹;
- Digital illiterates;
- People with limited access to banking system;
- People with limited purchasing power.

Elderly

This category of population is considered as vulnerable because it might need more time and additional support and explanation to get acquainted with new ways of payment. This is particularly applicable for bank transfers, which require an internet connection or a going to the bank. The latter would necessitate an appointment and a physical displacement. Regarding the first option, it is important to note that even though more and more households have access to internet from home (85% in 2016) it is not the case everywhere²³². In Sweden for instance, there are approximately 400 000 elderly who do not have access to the internet.

Moreover, this generation of people might not be well informed regarding the different uses of electronic payments and therefore would need more time to fully understand and correctly use these alternatives. Limited or inexistent internet access can also hamper the use of bank transfer. This is for instance confirmed by a recent survey, in which it is shown that in all euro area countries, except in Luxembourg, the Netherlands and Finland, people aged 55 and over use the internet much less than those in the younger age groups.²³³

Furthermore, according to the same survey, the amount of cash carried by consumers increases considerably with the age. Indeed, consumers of 65+ years carry up to EUR 43 more than younger population.²³⁴ Although the highest average of cash in wallet is lower than EUR 100, it indicates that older population keeps higher amount of cash than the rest of the population thus might be more impacted by a cash restriction.

Finally, there might also be a certain reluctance to change (using more credit/debit card or bank transfer) and therefore a risk of getting isolated.

²³⁰ Definition based on the WHO definition of vulnerable group: Vulnerability is the degree to which a population, individual or organization is unable to anticipate, cope with, resist and recover from the impacts of disasters. Can be found at http://www.who.int/environmental_health_emergencies/vulnerable_groups/en/.

²³¹ According to the World Health Organisation, the age 60 is to be considered as the beginning of the old age ('elderly').

²³² http://ec.europa.eu/eurostat/statistics-explained/index.php/Internet_access_and_use_statistics_-_households_and_individuals.

²³³ ECB Occasional Paper Series No 201 / November 2017.

²³⁴ ECB Occasional Paper Series No 201 / November 2017.

Digital illiterates

The expansion of digital of services could be a challenge for some categories of people, who are not particularly familiar with the use of internet or other digital services (e.g. e-payment, banking app, etc.). For instance, people with disabilities could be isolated because of their physical, mental or intellectual impairment. Similarly, to elderly people, this category of vulnerable group might need more time to get acquainted with changes occurring in their daily life. Moreover, they might require additional support and external help (e.g. from banks, legal guardian, family, etc.) thus generating more cost on both sides.

People with limited access to banking system

Living in an isolated part of the country can be sometimes problematic in terms of access to services, information and internet connection. In Sweden for instance, the Swedish agricultural authority, 34% of the population lives in rural areas and are often obliged to travel long distances to access banking services. A similar situation is observed in Latvia and Lithuania where approx. 10% of the population find it difficult accessing ATM banks.²³⁵ This situation might hinder consumers in correctly using alternative means of payments such as bank transfers, but this issue could be tackled by improving customers support services. Finally, addition costs could also appear, e.g. travel costs should the person need to travel to bigger cities in order to make the necessary payments.

People with limited purchasing power

According to the country studies conducted by the study team, there are several groups that belong to this category: unbanked population, households living under the poverty threshold and newly arrived refugees.

Although most of European citizens have a bank account, there are some disparities among Member States regarding their banked population. According to the data provided by the European Banking authority²³⁶ and as illustrated in the figure below, Romania, Poland and Greece are the countries with the highest number of unbanked people, while Austria, Germany and France are one of the lowest.

Figure 6.9 Banked population as a % of 15+ population. Source: EBA consumer report trend 2014

Countries	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	Unbanked 2013
<i>Austria</i>	97.4	97.5	97.6	97.7	97.9	98	98.9	99.3	99.3	99.4	99.4	0.6
<i>Germany</i>	98.0	98.5	98.5	98.8	98.9	99.2	99.5	99.3	99.1	99.1	99.2	0.8
<i>France</i>	97.5	96.9	97.8	97.9	98.2	98.5	98.6	98.7	98.6	98.7	98.7	1.3
<i>Netherl.</i>	98.9	99	99.4	99.1	99.4	99.2	99.0	98.9	98.3	98.0	98.0	2.0
<i>Sweden</i>	94.5	94.7	94.9	95.1	95.3	95.3	96.5	96.4	96.8	96.9	96.9	3.1
<i>Denmark</i>	90.8	92	92.8	93.1	93.3	95.1	95.3	95.5	95.8	96.1	96.3	3.7
<i>Portugal</i>	75.5	77.3	78.4	80	82.9	85.1	86.9	88.7	91.2	93.7	96.1	3.9
<i>Spain</i>	88.0	87.7	87.0	87.0	87.5	89.5	90.6	92.1	92.8	92.6	92.8	7.2
<i>UK</i>	93.5	94.2	94.9	94.2	93.9	93.4	92.9	92.3	91.7	91.1	90.5	9.5
<i>Czech Rep</i>	70.8	75.1	78.2	82.3	85.2	85.5	85.5	85.8	86.4	88.0	89.2	10.8
<i>Hungary</i>	68.0	69.9	71.9	73.8	75.0	79.9	81.2	82.9	84.1	85.0	86.7	13.3
<i>Italy</i>	74.9	74.6	75	76.2	77.6	79.2	79.6	81.6	82.1	82.9	83.1	16.9
<i>Greece</i>	85.7	86.4	86.3	86.3	86.3	86.3	86.7	87.5	85.6	84.4	82.2	17.8
<i>Poland</i>	55.5	57.5	60.9	65.1	68.9	71.2	71.6	72.6	74.9	78.8	81.0	19.0
<i>Romania</i>	30.6	31.7	33.1	34.8	36.8	39.2	41.9	45.1	46.3	46.8	47.7	52.3

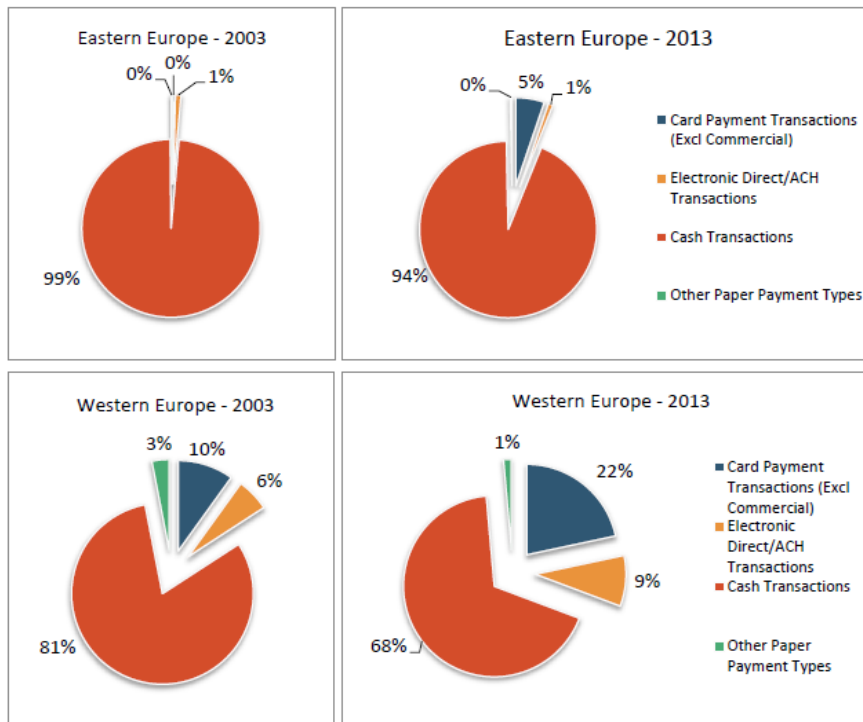
Source: Euromonitor (2013), *Passport – Consumer finance*

²³⁵ ECB Occasional Paper Series No 201 / November 2017.

²³⁶ <http://www.eba.europa.eu/documents/10180/534414/EBA+Consumer+Trends+Report+2014.pdf>.

Geographical differences are also present regarding the types of transaction. According to the figure below, it can be observed that Eastern Europe relies much more than Western Europe on cash (although it has to be noted that the cash payment transactions are increasing). Therefore, combined with the fact that most of the unbanked population is located in Eastern Europe, the latter is most likely to be more affected by a restriction at EU level on cash. This category of population would face difficulties in the sense that it would need to open a bank account in order to make payments above a certain threshold. Even though there is a right to a free basic bank account,²³⁷ additional requirements might hinder an easy access to a bank account.

Figure 6.10 Payment transactions per type, year and geographical region. Source: EBA consumer report trend 2014



Source: Euromonitor (2013), *Passport – Consumer finance*

According to Eurostat,²³⁸ in 2015 118.7 million people, or 23.7 % of the population in the EU-28 were at risk of poverty or social exclusion, compared with 24.4 % in 2014. This means that these people were at least in one of the following conditions:

- at-risk-of-poverty after social transfers (income poverty);
- severely materially deprived; or
- living in households with very low work intensity.

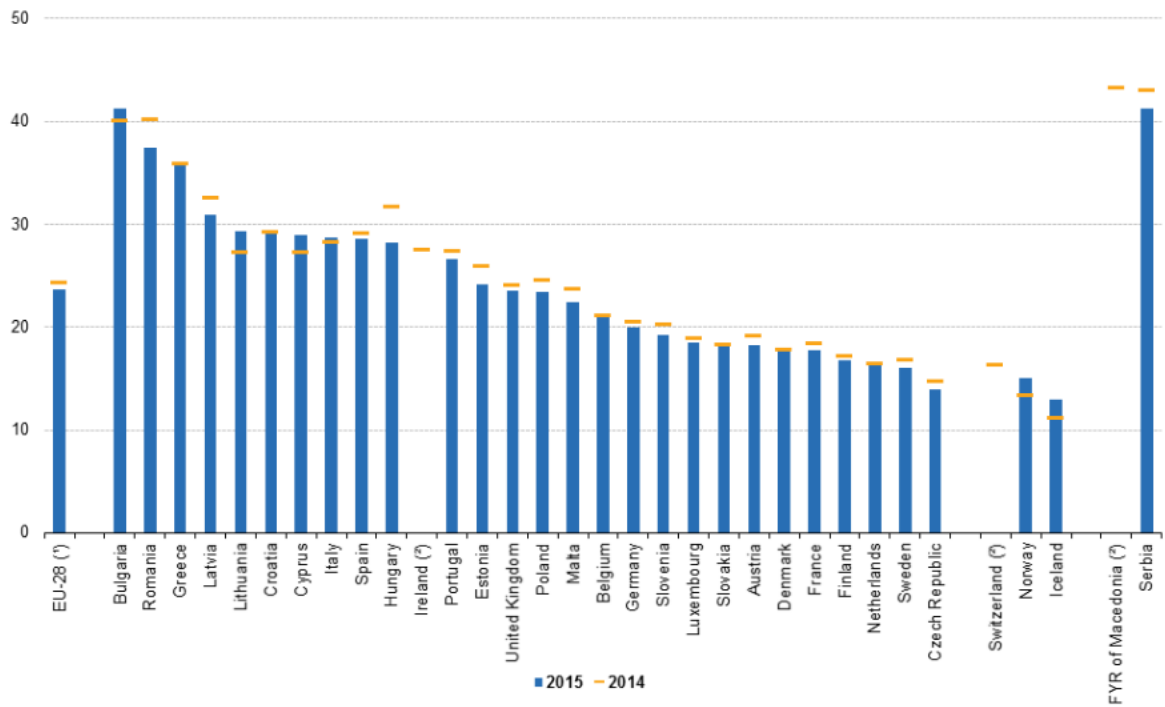
As it can be observed in the figure below, Bulgaria (41.3 %), Romania (37.3 %) and Greece (35.7 %) have the highest at-risk-of poverty or social exclusion rate. The population of these countries would therefore be more exposed to difficulties when looking for alternative ways of payment. This would be particularly the case in France for instance, households living in a poverty situation, tend to prefer using cash than bank transfers in comparison with the rest of the population.²³⁹

²³⁷ http://ec.europa.eu/consumers/financial_services/bank_accounts/index_en.htm.

²³⁸ http://ec.europa.eu/eurostat/statistics-explained/index.php/People_at_risk_of_poverty_or_social_exclusion#Main_statistical_findings.

²³⁹ <https://www.cbanque.com/r/rapport-credoc-100428.pdf>.

Figure 6.11 At-risk-of poverty or social exclusion rate, 2014 and 2015



(*) 2015: estimate.
 (*) 2015: not available

Source: Eurostat.

However, households living under the poverty threshold might not be directly affected by an EU measure on cash restriction since they are less expected to use high amount of cash; they would nevertheless be indirectly impacted as the banks could change their transaction regime, bank account access, etc.

Newly arrived refugees have been identified as a vulnerable group in the country report for Sweden, where it has been reported that they might be affected by cash restrictions because of their dependence of cash. Indeed, when a migrant arrives in a Member State, he or she does not have a bank account so will almost exclusively rely on cash to pay for goods and services. Countries with high inflows of migrants, like Germany for example, can be expected to have a similar issue.

The last two aforementioned categories are to some extent similar as they are quite dependent on cash, either because they simply do not have access, or very limited access, to a bank account or because their economic situation (e.g. low income) does not allow them to have a high buying power.

6.11.1 Prohibition (option 1) versus declaration (option 2)

Option 1: Prohibition

Overall, it is important to stress that even though the above categories have been identified as vulnerable groups, it seems that they would be less directly affected by a prohibition because most of the transactions executed are under the lowest threshold envisaged (EUR 1 000). Indeed, consumer organisations have confirmed that the income of these categories of persons, especially

households living under the poverty threshold, is not as high as other categories of the population that more often use higher amounts of cash.

Option 2: Declaration obligation

For the same reason as for option 1, a declaration obligation, even set at EUR 1 000, would not have a significant impact on vulnerable groups.

6.11.2 Key findings

The above categories could be divided in two: vulnerable groups with potential high income (elderly, people with disabilities and consumers living in remote areas) and vulnerable groups with potentially lower income (unbanked population, households living under the poverty threshold and newly refugees).

Table 6.11 Level of income of the identified vulnerable groups

Categories of vulnerable groups	High income	Low income
Elderly	✓	✓
Digital illiterates	✓	✓
People with limited access to banking system	✓	✓
People with limited purchasing power	x	✓

Note: ✓ yes, x no.

Source: Own elaboration based on country reports.

These two categories of vulnerable population would be impacted differently: the first category may be more impacted by a prohibition measure, in particular if it is set at EUR 1 000, while the second category would need additional external support. Indeed, access to information and additional targeted support are crucial for these groups since they are more exposed to isolation and remoteness, which could lead to segregation. Moreover, this risk (for residents) of being isolated can be increased by the fact that a different regime, less restrictive this time, is applied to non-residents. Indeed, if the threshold is much higher for non-residents, it creates an uneven situation, which could be perceived as discrimination. A good example can be France, where the threshold set for residents is EUR 1 000 while for non-residents it is EUR 15 000. Finally, regarding the expected impacts, both options do not seem to be very significant vis-à-vis this second category of vulnerable groups, since the latter do not use high amounts of cash.

6.12 Cross-cutting issues

Enforcement measures

Any new EU measure would have to be enforced in order to be effective. Monitoring and supervision can be designed in different ways, and may take the form of (a combination of) financial oversight of entities that are obliged to declare (as is the case in for example the Netherlands) and in-person inspections of dealers in high-value goods.

Countries with cash payment restrictions rely on risk assessments to determine which economic operators to check (more) regularly. These may receive visits of inspectors, which check their accounts and look if there have been cash transfers above the threshold. An alternative measure can be to send 'mystery shoppers' who try to pay in cash, thereby establishing which economic operators are willing to violate the cash payment restriction.

Several country studies have shown that for measures to have substantial effects, the link with customs is crucial: if cash cannot be inserted in the real economy, it will be smuggled across borders. The importance to increase coordination between different entities involved in AML/CFT measures (both within a country and between neighbouring countries) was furthermore also stressed in Europol's study *From suspicion to action*.

Penalties

Penalties currently in place for violations of national cash payment restrictions range from fixed amounts (differentiated per type of violation) to percentages of the amount of cash used in violation of the regulation. The fixed penalties can range between EUR 117 (Greece) and 180 (Portugal) on the lower end up to EUR 4 000 000 (potentially even 5 000 000 for banks) in the Netherlands. The percentage-fines can range from 1% to 100% of the amount involved in the transaction. In the majority of cases, a distinction is made between natural persons and legal persons, with the latter facing bigger fines.

Bulgaria: Penalties

In Bulgaria, a fine can be levied of 25% (for natural persons) or 50% (for legal persons) of the amount paid in violation of the Act. The fine is doubled in case of repeated infringement (i.e. within a year after the first one has been sanctioned).²⁴⁰

There is also a difference in how violations are characterised: in most countries, this is deemed an administrative offence, which is (only) punishable by a fine. However, in some countries violations are considered an economic offence, for which one may be imprisoned.

²⁴⁰ See Bulgaria country report.

7 Comparison and conclusion

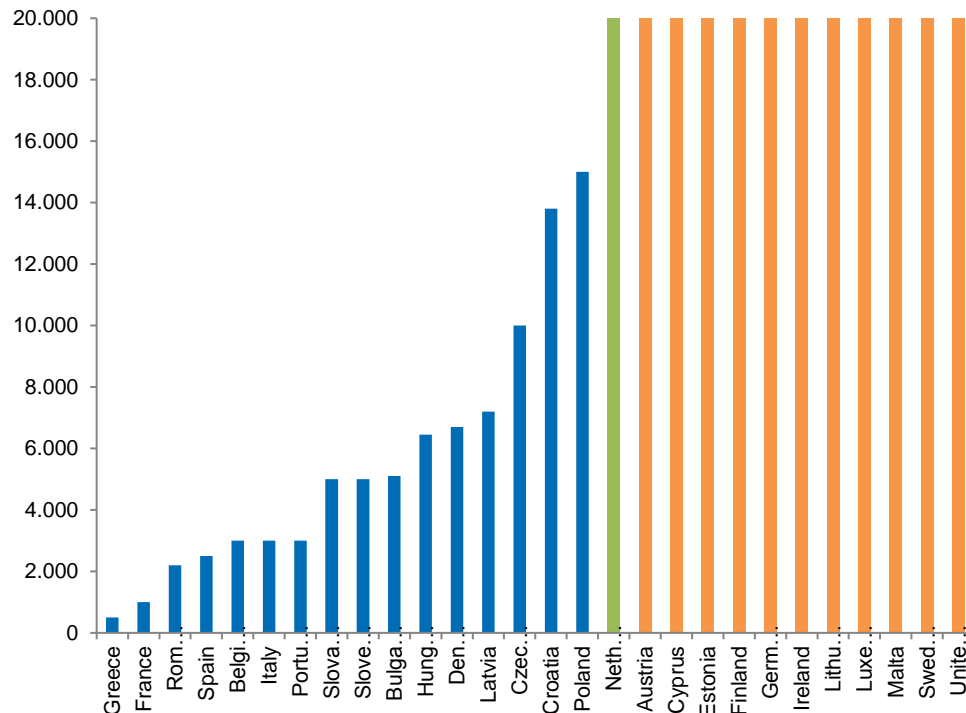
7.1 Introduction

This chapter will reiterate the description of (and analysis of the problems found in) the status quo, before proceeding to the main findings per type of impact. Based on this, a comparison of the different policy options is made, highlighting the trade-offs inherent to them. In addition, options that have no substantial benefits are discarded.

7.2 Baseline

In the status quo, two problems can be identified that may be addressed through an EU measure on cash payment restrictions. Both flow from the current landscape of diverging national cash payment restrictions, which are visualised in Figure 7.1.

Figure 7.1 Cash payment restrictions in place across the EU



Source: Ecorys. NB1. The Netherlands has a declaration obligation for cash payments differentiated by trader type (EUR 2 000 for money transfers, EUR 15 000 for high value traders, EUR 25 000 for car dealers) NB2. Countries indicated in orange currently have no cash payment restriction in place.

On the one hand, the study proceeds the available evidence that illegal activities (in particular terrorist financing and money laundering) can often be linked to cash. The problem analysis has shown that diverging national cash payment restrictions lead to displacement effects of illegal activities from Member States with cash payment restrictions to those without, and undermines the overall

effectiveness of national measures aimed at combatting terrorist financing, money laundering, tax evasion and the shadow economy more generally.

Secondly, the study has analysed the potential distortions that arise in the even playing field for businesses operating in the Internal Market. Based on evidence gained from stakeholder interviews with businesses in different Member States, cases, as well as an econometric assessment of available data on revenues across different sectors in the EU, the problem analysis concludes that the existing landscape of diverging national cash payment restrictions does indeed create distortionary effects for businesses in the Single Market.

7.3 Main findings

Terrorist financing

In the researched terrorist financing cases, neither a cash payment restriction nor a declaration obligation would have a significant impact. Most importantly, generally the amounts involved in the transactions are too small to be detected by a measure at any of the three researched threshold levels. This is corroborated by expert opinions sought in view of the country studies. Moreover, they often involve activities that are already illegal (procuring firearms, for example) and thus will not be further affected, or activities that would otherwise be considered as 'normal' activity (renting a truck, for example) and would not necessarily raise any suspicions.

Money laundering

A restriction or declaration obligation will remove anonymity of a transaction and hence will complicate money laundering via the purchase of high-value goods. Cash restrictions are relevant for cash-generating crimes (such as the production and trade in illicit drugs) and to a much lesser extent to various so-called 'white-collar crimes', such as various types of fraud involving money that is already in the financial system. A cash restriction will have an impact on specific categories of illegal spending and money laundering schemes: in particular those where the purchase of high-value goods is involved.

The adoption of both a ban and a declaration obligation are expected to have a positive impact on the fight against money laundering, as it will restrict the expenditures of cash on high-value goods. A declaration obligation will provide law enforcement with intelligence. However, the effectiveness of a declaration obligation will depend on the levels of compliance by high-value dealers and the extent to which the reports are actually analysed and effectively used as intelligence, information or evidence in money laundering investigations. Compliance costs are expected to be higher in comparison with the cash restriction.

Both in case of a restriction and in case of a declaration obligation, the principle is that the lower the threshold the more difficult money laundering is being made. Therefore, the most effective threshold is the lowest researched, namely that of EUR 1 000. Exceptions for foreigners will under both options, severely limit the impact of a measure,

Positive side effects of a restriction are expected regarding increased alertness on the risks of illegal activities and on indirectly decreasing risks of robberies. A potential effect may be an increased reliance on financial infrastructure, which occasionally experience technical difficulties temporarily making payment by (credit)card impossible.

Tax evasion

Even though scientific views differ on the subject cash restrictions may have a (limited) effect on tax evasion. However, it should be noted that in general tax evasion is rather explained by other factors than solely by the use of cash. It also does not capture larger tax evasion schemes, which do not depend on cash at all. If a measure were introduced, the introduction of a cash payment prohibition makes more sense than introducing a declaration obligation. In the case of a commercial transaction in which tax evasion occurs, the person who evades taxes likely is the party that receives money (i.e. the seller side). Assuming that the seller has to give a declaration, it appears unlikely that in the case of a cash payment above the corresponding threshold level, a declaration will be made if the seller at the same time has the intention to evade taxes. In this scenario, the threshold level of the declaration is irrelevant since the intrinsic motivation stays the same irrespective if the declaration is high or low.

On the contrary, with cash payment prohibition, the responsibility always lies with the buyer and with the seller, instead of only with the seller who might already be dishonest by underreporting his income to the tax authorities. For the same reason, cash payment prohibitions are the preferred option in countries that have neither a cash payment prohibition nor a declaration obligation yet.

A high ban would not fulfil the purpose of reducing tax evasion. Even a threshold of 1 000 EUR is most likely going to be too high, because the vast majority of tax evasion cases concerns small amounts and would not be affected. The lower the threshold value, the more cash-settled commercial payments are likely to be affected by a cash payment limit. To sum up, to be effective, despite the limitations of the measure, the threshold should be as low as possible.

Impacts on combating current distortions in the **Internal Market** are determined by whether a measure is applied consistently across the EU. Any of the analysed EU measures would deliver the same effects, namely fully addressing the Internal Market distortions analysed in Section 3.5.

It is not possible to sufficiently quantify the current **enforcement costs** associated with implementing the cash payment restrictions currently in place in most of the Member States. A calculation of additional enforcement costs associated with an EU measure in different forms is therefore not possible. The data that is available suggests that enforcement costs are rather limited, especially when seen in perspective of the total costs associated with enforcing the broader EU AML/CFT framework. It is clear that both the *type of measure* and the *threshold level* greatly determine consequences for expected additional enforcement costs. Taking into account that 16 countries currently have a cash payment prohibition in place, *ceteris paribus* a declaration obligation regime is more costly to implement than a prohibition. Furthermore, adopting a threshold of EUR 10 000 is expected to create very limited or even no additional costs at EU level, as investments needed by countries without a current restriction are offset by less capacity needed for enforcement in those countries currently enforcing a lower threshold, as they need to supervise fewer transactions.

The effects on **compliance costs** can be expected to be minimal for the majority of businesses, as not many cash transactions are being conducted at the various threshold levels are to a large extent already digitalised. For the group of cash transactions that would be affected, the consequences for compliance costs depend heavily on the type of measure that would be instituted, as well as on the threshold level as well as on the concerned industry sector. If a declaration obligation would be introduced, cash-intense sectors which currently only have to file STRs above a certain threshold would have to face significant compliance costs. The same holds true for businesses, which are

currently not obliged to file any report. In the case of the introduction of cash payment prohibition for the cash intensive industry, no significant increase of compliance costs is to be expected. On the contrary, compliance costs would decrease in the form of less reporting being necessary.

Limited data and evidence is available on the size of **revenue effects** due to current cash payment restrictions. As the categories of transactions affected under the varying thresholds are already mainly not done in cash, the potential effects are limited.

The expected impacts regarding both options are not be very significant regarding **vulnerable groups**, since the latter generally are not buying high-value goods. Nevertheless, access to information and additional targeted support is a crucial factor for these groups. Accompaniment is hence crucial to allow adaption and full inclusion of vulnerable people. Additional support but also coordination from banks, associations (for consumers, persons with disabilities, refugees, etc.) and legal guardians would be needed to guarantee their conclusion.

For both **economic freedom and privacy**, obligation to declare is preferred to a cash prohibition, as it allows more choices and is less likely to negatively affect privacy. If lower thresholds are adopted in, any of the policy options particular attention should be drawn on being in line with privacy and economic freedom of individuals.

Persons concerned

It is clear from the current national restrictions in place that a trade-off between effectiveness of a measure in combating illegal activities and potential negative effects on tourism exists. No quantifiable assessment can be made of the how tourism by non-Europeans may be affected. Exemptions for non-residents may avoid potential negative revenue effects (but complicate enforcement measures) and lessen the effectiveness of the measure. They are also perceived as being discriminatory in those countries that currently have them (France, Italy and Spain).

Transactions concerned

Any measure would need to cover B2B and B2C transactions broadly. Certain exceptions could be countenanced: based on a sector-specific risk assessment, certain sectors could be subjected to a higher threshold level (for example, if they are already well-monitored and supervised) and others to lower threshold (for example money transfers). Whether this is needed also depends on the threshold level chosen for an EU measure. At any rate, sector-specific exceptions should hold for the European Union broadly, to contribute to solving the problems identified in the status quo.

The measure should not include C2C transactions, for two reasons. First, they are broadly deemed unenforceable by law enforcement professionals. Second, taking the first objection into account, they are considered to be an infringement on economic freedom and privacy that is not warranted by the potential effects.

7.4 Comparison of the options

Table 7.1 Comparison of policy options

	Baseline	Ban 10k	Ban 5k	Ban 1k	Decl. 10k	Decl. 5k	Decl. 1k
Terrorist financing	=	=	=	=	=	=	=
Money laundering	=	+	+	++	+	+	++
Tax evasion	=/-	=/-	=/+	=/+	=/+	=/+	=/+
Internal Market	=	++	++	++	++	++	++
Enforcement costs	=	=	-	-	-	-	--
Revenue effects	=	=/-	-	-	=/-	-	-
Compliance costs	=	=	+	+	=	-	--
Economic freedom and privacy	=	=	-	--	=	-	--
Vulnerable groups	=	=	-	-	=	=	-
Overall	=						

Significant negative impact (--), Negative impact (-), No/negligible impact (=), Positive impact (+),

Significant positive impact (++)

An EU **harmonised prohibition on high value cash payments** is considered to be effective in addressing distortions currently in place on the Internal Market, and potentially effective in combating illegal activities. The latter effect is highly dependent on the threshold level chosen: if set at the highest level, a harmonised upper limit to cash payments may lead to an increase of illegal activities at the EU level. There is a trade-off with enforcement costs, as a lower threshold would increase the workload and a limited trade-off with compliance costs and economic freedom where adequate alternative means of payment – at the same cost to businesses and consumers – are not available. No (significant) effects are found on tax fraud, revenue effects, or vulnerable groups across the threshold levels.

An EU **harmonised declaration obligation for high value cash payments** is considered to be effective in addressing distortions currently in place on the Internal Market, and potentially effective in combating illegal activities. The latter effect is highly dependent not only on the threshold level chosen, but also on the investments made to counter the risks of underreporting (which will be higher the lower the threshold is set). There is a trade-off with enforcement costs, which are overall expected to be higher than in case of a prohibition because the reports to the FIU generated as a consequence of the measure need to be analysed and followed up. Compliance costs are more strongly affected as it takes additional time to produce the reports, which is often still done manually. In contrast to a prohibition where a slight negative impact may occur, no trade-off exists with economic freedom, as all means of payment are still possible. No (significant) effects are found on tax fraud, revenue effects, nor on vulnerable groups across the threshold levels.

Annex I Scoping interviews

In the table below, an overview is given of the interviews (scoping and EU-level) conducted.

Table 0.1 Scoping interviews

Organisation / institution	Contact	When
DG HOME	Javier Alsina Castillejos, Policy Officer in 'Terrorism and radicalisation' Unit	26 July 2017
	Sebastiano Tine, Policy Officer Money Laundering	Not available
DG JUST	Andrei Stefanuc, Team leader in 'Fight against Organised Crime' Unit	14 July 2017
Europol	Jennifer Macleod, Team Leader Operations, Financial Crime & Investigations	8 August 2017
Consumer association BEUC	Monique Goyens, Director General Farid Aliyev, Senior Financial Services Officer	Not willing to interview
Federation of German Consumer Organisations vzbv	Approached as replacement for BEUC	21 August 2017
European Banking Federation	Representatives of the banking sector from 20 Member States, EBF AML Committee meeting	17 October
European Central Bank	Mr. Henk Esselink, head of section Issue & Circulation, Currency Management Division Mr. Niels Riedel, principal at section Issue & Circulation, Currency Management Division	27 October
IT-Political Association Denmark	Jesper Lund	6 November

Annex II Internal Market modelling

The entire sample contains around 410 000 companies and their subsidiaries and revenue data for the years 2007 to 2016. Since of cross-border companies it was not possible to identify where the revenues are collected, the sampled was reduced to only contain companies who have not established a subsidiary in another country. Moreover, the analysis is concerned with the retail side of the business and consequently all firms that were identified as wholesale or manufacturer were dropped from the sample. The remaining sample still boasts 340 000 firms operating in the sectors identified as potentially affected by high-value cash payments.

Table 0.1 Amadeus data sample by country

Country	Number of companies	Total potential entries	Share of missing values	Number of observations with values
Austria	8 213	82 130	87%	10 739
Belgium	15 400	154 000	98%	3 014
Bulgaria	11 965	119 650	48%	62 045
Cyprus	151	1 510	92%	121
Czech Republic	9 018	90 180	44%	50 237
Germany	34 242	342 420	86%	46 585
Denmark	2 418	24 180	96%	1 075
Estonia	2 973	29 730	53%	14 095
Greece	2 024	20 240	25%	15 226
Spain	21 090	210 900	38%	129 945
France	52 412	524 120	40%	314 922
Croatia	2 867	28 670	36%	18 342
Hungary	13 179	131 790	46%	70 791
Italy	26 417	264 170	38%	164 999
Lithuania	2 922	29 220	62%	10 983
Lux.	238	2 380	79%	501
Latvia	2 293	22 930	41%	13 517
Netherlands	18 896	188 960	100%	741
Poland	33 376	333 760	96%	14 144
Portugal	12 274	122 740	45%	67 770
Romania	13 546	135 460	37%	84 736
Sweden	9 855	98 550	43%	55 702
Slovenia	1 665	16 650	52%	7 927
Slovakia Rep.	6 237	62 370	41%	36 627
UK	35 112	351 120	95%	16 938
Total	338 783	3 387 830	64%	1 211 722

Of the overall 4.1 million potential firm-year observations the sample loses almost 3/4 due to missing observations and the selection criteria, leaving around 1.2 million single observations or on average 120 000 observations per year. Unfortunately, some countries such as the Netherlands nearly vanish from the sample due to high share of missing values, which will have to be taken into account when assessing the results.

The coverage across sectors shows a large number of car dealers, hotels and real estate firms in the Amadeus database. The number of jewellers and gambling facilities is substantially lower, but still sufficient for the comparative analysis.

Table 0.2 Breakdown by country and sector

Country	Vehicles	Jewellers	Hotel etc.	Real estate	Gambling	Total
Austria	893	361	2 664	401	28	4 347
Belgium	260	6	59	176	8	509
Bulgaria	3 153	1 069	3 273	3 116	946	11 557
Cyprus	3	0	25	12	1	41
Czech Rep.	731	305	1 370	5 820	265	8 491
Germany	2 302	1 010	3 907	5 498	1 326	14 043
Denmark	169	39	62	97	17	384
Estonia	684	118	297	1 435	16	2 550
Greece	324	32	1 614	42	8	2 020
Spain	4 610	1 971	6 742	4 134	2 629	20 086
France	11 082	2 542	14 673	22 282	134	50 713
Croatia	825	138	875	976	46	2 860
Hungary	7 320	573	1 598	2 366	458	12 315
Italy	7 111	2 176	8 765	6 121	2 012	26 185
Lithuania	1 183	186	239	511	15	2 134
Lux.	4	23	44	49	1	121
Latvia	643	135	360	1 062	12	2 212
Netherlands	111	12	43	106	10	282
Poland	1 043	60	1 126	663	66	2 958
Portugal	3 209	1 444	2 252	3 949	182	11 036
Romania	2 403	849	2 802	6 371	1 102	13 527
Sweden	2 780	672	1 711	3 487	264	8 914
Slovenia	601	65	334	467	18	1 485
Slovak Rep.	603	207	603	4 154	201	5 768
UK	1 311	263	1 188	1 550	214	4 526
Total	53 358	14 256	56 626	74 845	9 979	209 064

Methodology applied

An ordinary least squares panel regression has been employed to fully exploit all available information in the dataset and distinguish country effects and firm-level effects. The main variable of interest is the development of the turnover per firm (revenues).

Based on the interviews and desk research a dummy for the introduction or tightening of cash restrictions in the country (*Dummy_home*) as well as a dummy for the introduction or tightening of cash restrictions in a neighbouring country (*Dummy_border_country*) were created. In line with the findings from the interviews that most of the activities move across border to the neighbouring

countries. The dummy takes the value of 1 if cash has become significantly more restricted, i.e. a change in the threshold itself for most or all of the sectors. Thus, the restriction is treated as a one-time shock to the economy. In case the cash restriction was introduced during the course of a year, the dummy took 1 when the implementation date was before July and otherwise the dummy took 1 for the next year. A protracted effect will be simulated by a persistence of the shock for two periods – this would reflect a gradual shift of business abroad. As a control variable real GDP growth is added and various setups of fixed effects are introduced (firm, year and sector).

The starting point for the analysis is following base panel regression:

$$\log(\text{Turnover})_i^t = \alpha + \beta \text{CR_Dummy_home}^t + \beta \text{CR_Dummy_border_country}^t + \beta \partial \text{GDP}^t$$

Note: $\log(\text{Turnover})_i^t$ is the logarithm of the turnover, CR_Dummy_home^t is the dummy for restrictions in the country itself, $\text{CR_Dummy_border_country}^t$ is the dummy for restrictions in neighbouring countries and ∂GDP^t captures the annual real GDP growth rate in the home country.

The coefficients of interest to the study are both dummies. According to the stakeholders' elaboration in the interviews, the home dummy should be negative and significant, while the border country dummy should be positive and significant. If this were the case, also under robustness checks, the Amadeus data would give important evidence of a market distortion effect.

Annex III Country reports

In this annex, the country reports can be found for the 10 Member States in which interviews have taken place:

1. Austria;
2. Belgium;
3. Bulgaria;
4. France;
5. Germany;
6. Greece;
7. Italy;
8. The Netherlands;
9. Spain;
10. Sweden.

1. AUSTRIA

Table 0.1 Austrian interviews

Representing organisation	Date of interview
Federal Ministry of Finance Unit III/4 (Financial Markets and Financial Markets Supervision)	25 October 2017
Federal Ministry of the Interior Criminal Intelligence Service Austria Austrian Financial Intelligence Unit	24 October 2017
Federal Ministry of Justice Public Prosecutor's Office	27 October 2017
Austrian National Bank	Written statement
Johannes Kepler University Linz	13 October 2017

Overview of legal regime

AUSTRIA

Restriction	
Declaration	
4th AML directive transposed	✓
National measures more restrictive than EU directive*	

Restriction

- Due diligence obligation for certain sectors;
- Non-regulatory measures: Salary can only be paid via bank transfer, not in cash in the building sector.

The Anti-money laundering regulations can be found in various professional laws, for example in the industrial code, the gambling law, the lawyer's and notary's regulations as well as the economic trust profession law and the balance sheet accounting law. In addition to the provisions for the financial sector in the Banking, Insurance Supervision and Securities Supervision Act.

Legal basis

Both money laundering and terrorist financing are subject to penalty in Austria (§§ 165 and 278d of the Austrian Criminal Code (StGB)). With the implementation of the 4th Money Laundering Directive provisions on the prevention of the use of the financial system for the purposes of money laundering and terrorist financing for credit institutions and financial institutions are concentrated in one financial supervisory law for the first time. The new law shall ensure uniform application of AML/CFT obligations and facilitate supervision by the Financial Market Authority.

Rationale / main policy goals

Combating money laundering and combating terrorist financing

Competent authority

Austrian Financial Investigation Unit (Geldwäschemeldestelle, "A-FIU") is established as division of the Federal Office of Criminal Investigation (Bundeskriminalamt, "BKA") pursuant to the Austrian Criminal Intelligence Service Act (Bundeskriminalamt-Gesetz).

Other involved authorities

- Federal Ministry of Justice;
- Austrian Financial Market Authority;
- Police forces of the federal states (specifically the "money laundering clearing houses" and other financial investigation units);
- The Federal Office for the Protection of the Constitution and the fight against terrorism;
- The Federal Ministry of Finance;
- The Austrian National Bank.

Current threshold(s)

No threshold

Former threshold(s)

No threshold

Targeted sectors/ Type of transaction

Due diligence obligation for:

- Accountant indoor / Accountant;
- Certain traders (including precious metal and gemstone merchants / precious metal and gem traders, real estate agents, etc.);
- Gambling providers / gaming provider;
- Notaries;
- Lawyers / attorneys;
- Tax Consultants / Tax Consultants;
- insurance / Insurance;
- Business trustees / Public Accountants.

Exemptions

Sanctions

Both money laundering and terrorist financing are criminalized in Austria (Sections 165 and 278d of the Criminal Code). This includes essentially all intentional acts that are punishable by life imprisonment or imprisonment for more than three years (so-called crimes, including certain tax offenses), offenses against foreign assets that are threatened with imprisonment for more than one year, and certain offenses, such as criminal offenses. Forgery, trademark infringement or smuggling.

Enforcement measures

Audits of obliged entities

Results impact assessment or evaluations

None found

Measurement indicators

Suspicious transactions by type (e.g. cash) and by suspicion (e.g. terrorist financing)

Future changes

Not expected

Sources

<https://english.bmf.gv.at/financial-sector/Money-Laundering-and-Terrorist-Financing.html>
<https://www.anti-moneylaundering.org/europe/Austria.aspx>
https://www.usp.gv.at/Portal.Node/usp/public/content/steuern_und_finanzen/geldwaesche/50238.html
<http://diepresse.com/home/wirtschaft/economist/768107/Oesterreich-verdoppelt-Strafen-fuer-BargeldSchmuggel>

Cash usage in Austrian society

Cash as a means of payment still plays a vital role in Austrian society, especially when it comes to smaller transactions. According to a study by the Austrian National Bank, 82 percent of all payments in the country are still settled in cash.²⁴¹ Even if large amounts are paid by card, 65 percent of the total amounts paid are paid in cash. 55 percent of Austrian citizens are using cash, even if a card payment is possible. In contrast, 30 percent prefer to pay by card. Factors like age and income make little difference; it is more about personal preferences.²⁴²

An important aspect for cash preference is the importance to keep an overview of personal expenditure. A look in the wallet is enough to know immediately how much money has been spent and how much is still left. Security and privacy concerns are the other motives for the Austrian tendency to cash payments.

Table 0.2 Percentage of respondents always or often using cash for different kinds of purchases by country (percentages)

Category	Percentage (%)
Purchases less than €10	92.4
Purchases between €10 and €20	87.6
Purchases between €20 and €50	77.6
Purchases between €50 and €100	59.5
Purchases over €100	47.2

Source: Austrian National Bank Study 2017.

Table 0.3 Contextual data

Indicators: Description of economy	
Role of cash in society	Very important, please see section above.
Cash-intensive industries	Second-hand car dealerships, real estate brokers, jewellery sector, gambling sector, real estate brokers, notaries.
Bank account coverage (%)	Austria has one of the densest banking and branch networks in Europe and is dominated by the universal banking structure. Austrian banks generally provide the full range of banking services and only a few institutions have highly specialised business models. ²⁴³

Policy context

For the purposes of this study it is essential to note, that the previous Austrian government has not only stressed the importance of cash as a means of payment, but in a binding resolution in 2016, the Austrian National Council (*Nationalrat*) has decided to oppose any limitations of cash usage on any

²⁴¹ Austrian National Bank: Von Bar- und Kartenzahlern – Aktuelle Ergebnisse zur Zahlungsmittelnutzung in Österreich, Monetary Policy & The Economy Q1/17, available online at: file:///C:/Users/alexandra.schmid/Downloads/mop_2017_q1_analyses%20german_Rusu_Stix.pdf, last accessed at: 30-10-2017.

²⁴² Austrian National Bank: Von Bar- und Kartenzahlern – Aktuelle Ergebnisse zur Zahlungsmittelnutzung in Österreich, Monetary Policy & The Economy Q1/17, available online at: file:///C:/Users/alexandra.schmid/Downloads/mop_2017_q1_analyses%20german_Rusu_Stix.pdf, last accessed at: 30-10-2017.

²⁴³ <http://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Austria-2016-Executive-Summary.pdf>.

European or international level: The resolution is supported by the three major political parties (ÖVP, SPÖ, FPÖ)

Resolution by the National Council of 24 February 2016 concerning the maintenance of cash: "In recognition of the importance of the use of Euro banknotes and coins as legal tender representing an expression of the constitutionally guaranteed private autonomy the Austrian Federal Government and all of its members are called upon advocating on any level of the European Union and the international state community that no measures limiting cash payments with Euro banknotes and coins shall be taken and that cash as a means of payment shall be retained."²⁴⁴

Demands for anchoring the right of cash usage in the Austrian constitution by the Freedom Party (FPÖ), have been dismissed by the previous government with the argument, that the EU has the sole responsibility with regard to currency policy.²⁴⁵ In case of a decision for a cash payment restriction or a declaration obligation national law would be subordinate. However, the newly elected government under Chancellor Sebastian Kurz has made the topic part of his election campaign.²⁴⁶ His party is planning to form coalition with the FPÖ and they are both very eager to fight against any restriction of cash on an European level.

To summarize the above findings, for the next years, the attitude towards cash restrictions or a declaration obligation in Austria will be rather negative. This does not only hold true for the government, but also for most of Austria's citizens.

In the light of the decision made, during the interview phase most government officials referred to the existing law and noted that they are respecting the parliament's decision. At the same time, most government officials regarded the already existing legislation as sufficient in the fight against money laundering and terrorism financing.

Austria neither has an automatic reporting obligation for cash payments nor cash payment restriction. The regulations implementing the 4th EU Anti-money laundering Directive (AMLD) (Directive 2005/60/EC) can be found in various professional laws, i.a. in the industrial code, the gambling law, the lawyer's and notary's regulations as well as the economic trust profession law and the balance sheet accounting law. In addition to the provisions for the financial sector in the Banking, Insurance Supervision and Securities Supervision Act. Despite the general resentments regarding cash payment restrictions, the Austrian government has taken up non-regulatory measures in tackling the shadow economy and more specifically the black labour market. In 2016, the government decided, that salaries can only be paid in cash.²⁴⁷ Furthermore, Austria has introduced the cash register obligation in 2016 for businesses with an annual revenue of 15.000 EUR or higher.²⁴⁸ The tax office may impose a fine of up to EUR 5 000 for non-compliance.

²⁴⁴ Austrian Parliament: Beibehaltung des Bargeldes
https://www.parlament.gv.at/PAKT/VHG/XXV/UEA/UEA_00653/index.shtml.

²⁴⁵ Austrian Parliament: Bargeld in der Verfassung: FPÖ macht weiter Druck, available online at:
https://www.parlament.gv.at/PAKT/PR/JAHR_2016/PK0272/.

²⁴⁶ Oe24: Kurz will unser Bargeld retten, available online at: <http://www.oe24.at/oesterreich/politik/Kurz-will-unser-Bargeld-retten/296815624>.

²⁴⁷ Österreich prescht beim Bargeldverbot voran, Frankfurter Allgemeine Zeitung, available online at:
<http://www.faz.net/aktuell/wirtschaft/wirtschaftspolitik/in-oesterreich-darf-auf-dem-bau-nicht-mehr-bar-bezahlt-werden-14075843.html>.

²⁴⁸ Registrierkassenpflicht: <https://www.wko.at/service/steuern/Registrierkassenpflicht--FAQ.html>.

The Financial Intelligence Unit at the Federal Criminal Police Office carries out investigations on the basis of STR. These reports are handed in both by the reporting institutions (such as credit institutions, insurance companies and investment firms) and by other notifiable professional groups (such as lawyers, notaries, business trustees or traders such as jewelers). If a suspicious transaction report from a notifiable institute or a notifiable professional group relates to terrorist financing, this is forwarded by the Federal Criminal Police Office to the Federal Office for the Protection of the Constitution and Countering Terrorism.

If the suspicion or the legitimate reason to assume that a business relationship is related to money laundering or terrorist financing must be reported to the Money Laundering Reporting Office at the Federal Ministry of the Interior.

Austria received a bad rating from the Financial Action Task Force (FATF).²⁴⁹ Each competent authority has its own concept of ML/TF risks based on its practical experience; however, in most cases they do not match with each other and do not provide a complete picture of country's ML/TF risks. Austria did not demonstrate that it had any national AML/CFT policies, and the risks are only taken into account individually by certain agencies to the extent that they consider useful for their day-to-day work. Therefore, the objectives and activities of individual competent authorities are determined by their own priorities and often are not coordinated.

FIU-data

Austria is an important regional and international financial centre as well as a gateway to Central, Eastern, and South-eastern countries. Therefore, Austria faces a range of Money Laundering and Terrorism Financing risks. Austria is particularly vulnerable to proceeds from a variety of international crimes transiting through Austria such as corruption.

The FIU with regard to STR analysis is primarily investigative (as opposed to intelligence approach). The FIU conducts only very basic operational analysis and does not conduct any strategic analysis to support the operational needs of competent authorities. The available IT-tools do not enable the A-FIU to cross-match STRs or conduct datamining to find trends and patterns across STRs. The A-FIU does not conduct any analysis of TF related STRs.

Table 0.4 FIU-data

	2013	2014	2015	2016
Total number of STRs	1.490	1.673	1.793	2.150
STRs involving terrorism financing	76	61	103	174

Source: FIU annual reports.

Impacts on Terrorist Financing

All interviewed government stakeholders agreed, that neither cash payment restrictions nor a declaration obligation would have a noticeable impact on terrorist financing. They argued that the amounts needed for terrorism financing are too low/negligible to be affected by one of the proposed thresholds. Therefore, in their opinion even very low thresholds for cash payments would have not been effective at all in preventing crimes to be carried out by terrorists. Moreover, the Austrian National Bank noted that if cash limitations were successful means to prevent terrorist attacks, countries with already existing limitations of cash payments should empirically observe fewer terrorist

²⁴⁹ Bad ratings for Austria - critical FATF assessment of Austria's anti-money laundering system, <https://www.baselgovernance.org/news/bad-ratings-austria-critical-fatf-assessment-austria%E2%80%99s-anti-money-laundering-system>.

attacks. They concluded that this is not the case (e.g. Eurozone: France) and such a preventive effect would also not be observable at all in the future since terrorists would always find alternative ways to cash to finance their plans (e.g. prepaid credit cards, gift cards, precious metals, cryptocurrencies, etc.). Thus, also harmonising thresholds for cash payment limits on a European level – and even at a very low level – would not be an effective measure to prevent future terrorist attacks from happening. In addition, the FIU takes the view that terrorists would prefer cashless methods such as the Hawala banking system to cash.

Impacts on Money Laundering

All interviewed stakeholders noted, that since no cash payment restrictions are planned for the near future and the parliament has decided to oppose any EU measures with the goal of restricting cash payments, which is why most interviewees refrained from a deeper analysis of the problem. At the same time, they argued that they are opposing cash payment restrictions. Both the Ministry of Finance and the Austrian National Bank emphasized, that the Austrian Financial Markets Anti Money Laundering Act (Finanzmarkt Geldwäschesgesetz) fully transposed the Fourth Anti Money Laundering Directive into Austrian Law. In their opinion, this legislation provides a meaningful and sufficiently effective set of measures to combat ML. However, they argued that recent developments in cryptocurrencies can pose new challenges for anti-ML initiatives as they offer an alternative to cash by offering anonymous payment possibilities.

Finally, they hinted at the fact that any ML legislation targeting cash transactions within the EU will not target money laundering carried out in offshore locations (e.g. Panama Papers), though which in their view is a much bigger issue. Hence, they are convinced that the comprehensive implementation of existing anti-ML legislation by all EU member states as well as the adoption to recent technological innovations for the next revision of the Anti-Money-Laundering-Directive are sufficient and effective means to fight ML practices (e.g. lowering the limit for declarations of cash payments).

The Austrian National Bank argued that a meaningful impact assessment strongly depends on the underlying type/design of cash payment restrictions to be introduced by the legislator.

Moreover, they stressed that it is highly doubtful that persons who have acquired illegal money will refrain from committing an additional crime, i.e. refrain from making cash transactions above a certain threshold if a harmonised cash payment limit should be introduced.

The Austrian National Bank considers any restriction of cash payments as ineffective in the fight against ML. Even though it might become more burdensome for criminals, they argued that any restriction of cash payments above a certain threshold can be easily circumvented by criminals by splitting their transactions into smaller tranches just below the threshold value. Moreover, they argued that a declaration obligation for cash payments above a certain threshold does not appear to be effective in preventing money laundering, since it is hardly imaginable that criminals will obey the law by making declarations for high value cash transactions if they are ready to commit a crime to generate these funds. It is highly likely that criminals will easily find alternatives to cash payments that are not monitored or much harder to detect by law enforcement agencies.

With regard to cross border cash transfers, the FIU mentioned that instead of focussing on cash payment restrictions, a more important measure could be to harmonise the divergent fines and penalties for smuggling large amounts of cash through the border. For many years, Austria has been

a “transit country” for Germany, where the punishment threat amounts to one million euros. Austria has already increased its penalties to EUR 100 000.²⁵⁰

Impacts on Tax Evasion

All interviewed stakeholders noted they refrained from a deeper analysis of the problem, since no cash payment restrictions are planned for the near future and the parliament has decided to oppose any EU measures with the goal of restricting cash payments.

The Austrian National Bank generally considers restrictions of cash payments as ineffective in the fight against tax evasion. They stressed that Austria has a rather low shadow economy compared to other European countries despite its high level of cash usage. Moreover, the National Bank stressed that Austria has recently introduced several legislative measures to fight tax evasion:

- the compulsory use of electronic cash registers for commercial entities with turnovers above a certain threshold: Cash Register and Receipt Issuing Obligation (“Registrierkassenpflicht”);
- special tax obligations for the construction sector. Construction firms are obliged to pay the construction workers’ wages by bank transfer. B2B-related construction works that exceed the threshold of EUR 500 are deductible from taxes only, if these were paid by bank transfer;
- Gift notification Act 2008 (“Schenkungsmitteilungsgesetz 2008”): gifts and donations in cash that exceed a certain threshold have to be notified to the tax authorities (donations between relatives if such exceed € 50.000 per year; donations between non-relatives if such exceed EUR15.000 during a period of five years);
- Capital Outflows Reporting Act (“Kapitalabfluss-Mitteilungsgesetz”) which provides for a reporting duty of credit institutions with regard to larger movements of money (capital outflows and inflows);
- Act on the Register of Accounts and the Viewing of Accounts (“Kontenregister- und Konteneinschaugesetz, KontRegG”), which governs the establishment of a register of accounts and the transmission of account data to the register.

Enforcement costs and measures

In the Austrian situation, if a ban were instituted, this would lead to substantial extra costs, as it is a completely new measure. Those costs would mostly accrue to the Federal Police and the Public Prosecutor, as well as the courts, who would need to detect, investigate and prosecute. At the same time, costs for the FIU would decrease, as there would be fewer reports of transactions.

If a uniform declaration obligation were instituted, enforcement costs would rise because of the mandatory nature of issuing a declaration above a certain threshold. The costs for prosecution would most likely be higher than in other countries without an existing cash payment restriction. According to a FATF report published in 2016, while Austria fulfils most of the FATF recommendations; the country gets insufficient marks for the effective implementation of these legal conditions. Out of 11 criteria for implementation, Austria has insufficient criteria in eight criteria. Specifically, the effectiveness of the prosecution of money laundering offenses is criticized. Although it has basic capacity to detect suspected cases of money laundering; this only rarely leads to final convictions, which explains with high legal hurdles, which prosecutors are subject to.

For example, law enforcement agencies may join investigations on suspected money laundering only after a court order to see accounts, and there is a high burden of proof. In addition, affected banks must be queried individually, because there is no central account register. The report highlights that the direct control of banks to be strengthened by the FMA in the fight against money laundering, and the registration office for Money laundering (FIU) should develop their analytical skills.

²⁵⁰ See https://www.gesetze-im-internet.de/stgb/_261.html.

Impacts on economic freedom and privacy

The Ministry of Finance noted that all measures affecting unlimited cash payment would be highly unpopular for Austrian citizens, especially within the Eurosceptic part of the population that would very much be against more regulations from Brussels. The Austrian National Bank made it very clear, that restrictions on cash would severely interfere with the constitutionally guaranteed civil rights of Austrian citizens and businesses (e.g. private autonomy, personal data protection). They argued any curtailment of basic/fundamental civil rights needs to be justifiable and proportionate. Since they consider measures proposed to combat terrorism as non-effective, and they stated they severely oppose interference with constitutionally guaranteed basic civil rights, the Bank as well as all other stakeholder strongly oppose any limitations of cash payments.

Sources

Source	Type of source
Austrian Federal Police, FIU report, 2004 - 2016 http://www.bmi.gv.at/cms/BK/publikationen/Statistiken_Geldwsc.aspx	Government report
Anti-money laundering and counter-terrorist financing measures Austria Mutual Evaluation Report http://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Austria-2016.pdf	Report
Austrian National Bank, Monetary Policy and the Economy Q1/17, March 2017 https://www.oenb.at/Publikationen/Volkswirtschaft/Geldpolitik-und-Wirtschaft/2017/Monetary-Policy-and-the-Economy-Q1-17.html	Government report
Die Presse. Deutliche Zunahme bei Geldwäsche in Österreich. 23.03.2017 http://diepresse.com/home/wirtschaft/boerse/5188489/Deutliche-Zunahme-bei-Geldwaesche-in-Oesterreich	Newspaper article
Die Umsetzung der 4. EU-Geldwäscherichtlinie in Österreich https://oeffentliches-recht.uni-graz.at/de/praxisprofessuren/eisenberger/blog-kapitalmarkt/blog-002-januar-2017/4-eu-geldwaescherichtlinie-in-oesterreich/	Website
Geldwäscherei und Terrorismusfinanzierung https://www.usp.gv.at/Portal.Node/usp/public/content/steuern_und_finanzen/geldwaesche/50238.html	Website
Austrian Parliament https://www.parlament.gv.at/PAKT/PR/JAHR_2016/PK0272/	Austrian Parliament website
International Monetary Fund Austria: Detailed Assessment Report on Anti-Money Laundering and Combating the Financing of Terrorism https://www.imf.org/external/pubs/ft/scr/2009/cr09298.pdf	Report
Financial Market Authority Austria: Prävention von Geldwäscherei & Terrorismusfinanzierung https://www.fma.gv.at/querschnittsthemen/geldwaescherei-und-terrorismusfinanzierung/mitteilungen/	Government website
Austrian Chamber of Commerce: Die Vierte Geldwäsche-Richtlinie und EU-Verordnungen zur Geldwäsche inklusive Umsetzung im Finanzmarkt-Geldwäschegesetz (FM-GwG) https://www.wko.at/branchen/information-consulting/finanzdienstleister/artikel-vierte-geldwaesche-richtlinie-inkl-fm-gwg.pdf	Website

2. BELGIUM

Overview of interviews

Representing organisation	Date of interview
Belgian Financial Intelligence Processing Unit (CTIF-CFI)	03-10-2017 - 9h00
FOD Economie (Ministry of Economy)	23-10-2017 - 10h00
Napoleon Games (Gambling sector)	20-10-2017 - 15h00
Ars Nobilis (Jewellery)	09-10-2017 - 13h45
Internationale Raad van het Belgische Notariaat and Notaries / Internationale Raad van het Belgische Notariaat (Notaries)	13-10-2017 - 15h00
Test-Aankoop/Test-Achats (Consumer organisation)	By email

General indicators

Table 0.5 Description of economy

Role of cash in society	Belgium is comparatively less cash-reliant society. An ECB survey (2011) found that 54% of all transactions are conducted with cash, which is just below the EU average of 60%. The declining trend of cash use for transactions is likely to have continued over the past years, taking also the trends in other similar countries into account. MasterCard (2013) research places Belgium at the pole position when it comes non-cash payments and it classifies Belgium as a nearly cashless nation. The same study ranks Belgium among the most technologically ready to go 'cashless'. Nevertheless, 73% of households claim they use an ATM at least every two weeks, which is among the highest in the EU (ECB 2011). According this study, which is based on the ECB's household survey, in Belgium around 84% of purchases with a value below 20 euros are conducted in cash. For higher value transactions of 200 – 1 000 EUR, still 18% of respondents always or often use cash. In this behaviour, Belgian households are very close to the EU average (of the surveyed countries). However, alternative payment methods are on the rise. The Cashless Society Index (2017) places Belgium 8 th of EU member states and achieves a score of 5.5. Overall, Belgium is among least cash intensive societies in the EU, though not the leader.
Cash-intensive industries	Belgium has a long tradition in jewellery, diamond and gold trade, which are highly reliant on cash payments, moreover transaction can be of relatively high value. Alongside second-hand cars dealers, these are the sectors are highlighted in the Belgian CTIF (2017) as high-risk areas. Art and antiques are also mentioned in the report, though these transactions are less frequent. Casinos and gambling business also exhibit high-value cash transactions that are particularly affected by cash restrictions. Restaurants, night shops, phone shops, second hand clothes, and tourism service providers also tend to have a large portion of cash payments from clients, however these do not as easily reach the cash restriction thresholds. The real-estate sector would in theory be prone to high-value cash transactions but Belgium has implemented a ban on cash payments in this sector.
Bank account coverage (%)	Belgian citizens are making full use of alternative payment methods to cash. According to the Eurobarometer (446), based on survey results of 2016, 93% of Belgian respondents have a bank account. Only Danish and Dutch citizens are more likely to have a bank account within the EU. Moreover, 79% possess a savings account and 59% own a credit card, which puts Belgium in the leading group for both metrics.

BELGIUM



Restriction	<input checked="" type="checkbox"/>
Declaration	
4th AML directive transposed	<input checked="" type="checkbox"/>
National measures more restrictive than EU directive*	<input checked="" type="checkbox"/>

Restriction	
Legal basis	Law of 11 January 1993 on preventing use of the financial system for purposes of money laundering and terrorist financing. Amendments on cash restrictions passed in 2012, 2014 and 2017.
Rationale / main policy goals	The primary ambition of the lowering of the cash restriction threshold in 2012 was combatting tax fraud and only as a secondary goal the prevention of money laundering.
Competent authority	Ministry of Economic Affairs, Ministry of Finance, Judicial officers and Belgian Financial Intelligence Processing Unit (CTIF-CFI).
Other involved authorities	National Bank of Belgium, Financial Services Markets Authority and Customs offices.
Current threshold(s)	3 000 EUR Real estate: 0 EUR Precious metals (such as gold): 0 EUR, with exception of private sellers up to a value of 500 EUR
Former thresholds	15 000 EUR (introduced in 1993 - until 2012) 5 000 EUR (introduced in 2012 - until 2014) 3 000 EUR <u>and</u> 10% of value if value exceeds 3 000 EUR (introduced 2014)

Targeted sectors/ Type of transaction	Real estate may not be paid in cash at all Gold (and other precious metals) may not be paid in cash (except private sellers up to a value of 500 EUR) Commercial products or services: 3 000 EUR (no longer the 10% complementing metric)
Exemptions	No limits for sales of goods or services between non-merchants.
Sanctions	Violations of the provisions of Article 21 are punished with a fine of between 250 EUR and 225 000 EUR. However, this fine may not exceed 10% of the sums wrongfully received in cash. The creditor and debtor will individually be liable for the fine.
Enforcement measures	Inspections are made on the largest possible number of companies or on a sampling. Sectors are selected on a risk-basis and large (wholesale companies) are the primary target.
Results impact assessment or evaluations	The ECB views the 3 000 EUR threshold are comparatively low and urges careful analysis of the costs and benefits. Moreover, the restriction on precious metal sales from private persons to merchants is in their view chosen too low at 500 EUR.
Measurement indicators	-
Future changes	Belgium could enlarge the scope of application for the cash limits to include all operations, irrespective of their nature, and all persons with the exception of individuals. Tighter regulations on real estate and precious metals may be extended to other sectors. However, the last reform (2017) also took measures that rendered the policy less strict (e.g. dropping the 10% threshold if value exceeds 3 000 EUR), while at the same time restricting the sale of gold and other precious metals further. There is currently no plan to change the legislation further, since apparent problems were just addressed.
Sources	Law of 11 January 1993 on preventing use of the financial system for purposes of money laundering and terrorist financing and its revisions.

Policy context

The regulation of 11 January 1993 *on preventing use of the Financial system for purpose of money laundering and terrorist financing*²⁵¹ first introduced measures specifically addressing money laundering and is the basis for the cash restrictions introduced over the past years.

Belgium implemented stricter cash restrictions, in excess of the EU legislation, in 2012. The new legislation introduced, lowered the cash limit for transactions paying for goods or services from formerly 15 000 EUR to 5 000 EUR (CTIF 2016). If a good or service costs more than 5 000 EUR the client may only pay up to 10% of the value in cash and which, at the same time, may not exceed 5 000 EUR overall. A payment may not be split into separate transaction but related payments should be regarded as one. Real estate sales were banned from using cash altogether, since this sector was regarded as particularly sensitive. Moreover, to avoid underreporting of the transaction value, with the difference to the actual value being paid secretly in cash to evade the transaction tax, the government monitors sales when they reach the notaries and has the right to buy property for the sale value if it is regarded as suspiciously low. This credible threat should discourage such practises in the real estate sector. Lastly, new or reused copper (wires) were prohibited from payments in cash due to the fact these sales were prone to involve illicit activities.

The objective of the reform was foremost to support the efforts taken against tax fraud though anti-money laundering. The threshold was foreseen and was in fact lowered to 3 000 EUR in 2014. The tightening of the restriction was regarded as necessary in light of lift of the banking secret in 2012. The fear was that illicit activity would in response move towards cash payments to avoid detection and the lowering of the threshold was regarded as a mean to mitigate this effect (Ministry of Economy 2017)²⁵².

In September 2017, Belgium passed another reform²⁵³ concerning cash restrictions. The amendment to the 1993 law was prompted by the transposition of the law EU Directive 2015/849²⁵⁴ on “the prevention of the use of the financial system for the purposes of money laundering or terrorist financing”. The Belgian authority seized this opportunity to implement additional changes to the existing cash restriction framework. The general threshold of 3 000 EUR was maintained but the reform imposed a ban on cash payments for precious metals, such as gold, with the exception of gold sold by private individuals with a value of less than 500 EUR. The move was motivated by concerns over tax evasion and money laundering. Moreover, ingots and gold coins had previously been excluded from the list of precious metals but his opened the opportunity for gold smelting and circumventing the rules – these items are now included among precious materials.

Besides the gold clause, the amendment scrapped the 10% rule, i.e. that cash may be used up to 10% of the value of the sold goods/services, unless it exceeds 3 000 EUR. The government authorities experienced often misunderstandings of the 10% and it also affected small advanced payments if the price was marginally above the threshold. The amendment sought to simplify the framework by reducing the restriction to 3 000 EUR irrespective of the percentage of the overall price. Thus, a transaction for more than 3 000 EUR may be paid in part in cash; that is up to a value of 3

²⁵¹ CTIF 2016, “Law of 11 January 1993 on preventing use of the Financial system for purpose of money laundering and terrorist financing”, available at: http://www.ctif-cfi.be/website/images/FR/law_be/loi01072016.pdf.

²⁵² “Belgian Paper on the need for cash limits”.

²⁵³ Etaamb (2017), “Loi relative à la prévention du blanchiment de capitaux et du financement du terrorisme et à la limitation de l'utilisation des espèces”, available at: http://www.etaamb.be/fr/loi-du-18-septembre-2017_n2017013368.html.

²⁵⁴ See Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (Text with EEA relevance).

000 EUR and the remainder by another payment method. The ECB (2017) welcomed the simplification but pointed out that the 3 000 EUR threshold is comparatively low and urges careful analysis of the costs and benefits. Moreover, the restriction on precious metal sales from private persons to merchants is in their view chosen too low at 500 EUR.

FIU-data

The Belgian FIU receives notifications of suspicious transactions related to money laundering and terrorist financing, analyses these, checks the new information with existing cases and adds information to the files that can, if robust, be sent to the prosecutors.

Overall files passed on the FIU in 2016 amounted to 27 264 notifications, which corresponds to a 35% increase since 2012.

Table 0.6 Files received by source, (only major sectors displayed)

	2014	2015	2016
Remittances offices	12 504	10 533	9 392
Credit institutions	6 955	7 747	8 662
Post	1 392	1 295	1 118
Notaries	1 373	1 143	1 094
Casinos	1 110	1 044	930
Central Bank	516	665	603
External accountants	133	162	178
Life insurances	129	902	320

Note: Only major sectors displayed.

Source: CTIF Annual Report 2016.

Most files received stemmed from remittances and credit institutions; however notaries, post offices and casinos also featured heavily in the statistics.

Some of these files have been bundled into single files if the criminal activity was linked. New reports related to money laundering and terrorist financing stood at 9 360. This number has more than doubled since 2012 (see Table 0.7). However, not all files lodged investigations since not all files contain information on money laundering of serious scope or on terrorist financing. In fact in 2016 only 831 files had been passed on to the judicial authorities, nevertheless the value of these cases reached 1.15 billion EUR.

Table 0.7 FIU-data

	2011	2012	2013	2014	2015	2016
Total number of STRs	20 001	21 000	22 966	27 767	28 272	27 264
STRs involving terrorism financing (TF) and money laundering	3 323	4 002	5 063	6 978	8 329	9 360
STRs involving cash payments	409	448	319	265	288	60
STRs involving TF	22	20	25	37	75	112
Amount in mil. EUR involved in TF files	2.0	1.9	2.6	6.8	6.5	6.7
Number of STRs to judiciary	1 345	1 506	1 168	1 131	992	831
Amount in mil. EUR of submitted files to judiciary	671	2 255	797	786	639	1 147

Source: CTIF Annual Report 2016 and 2012²⁵⁵.

²⁵⁵ CTIF, (2017 & 2013), available at: http://www.ctif-cf.be/website/index.php?option=com_content&view=article&id=217&Itemid=76&lang=nl.

The files pertaining to confirmed terrorist financing and money laundering involving terrorist financing had risen within one year from 75 to 112 in 2016. The combined amounts from these 112 files reached 6.7 million EUR, which is a comparatively small amount. However, the notifications themselves may lead to investigations and arrest despite the low amounts involved.

Overall cash plays an important role in the financing of terrorist attacks but the amounts tend to be low, so that they are difficult to detect (CTIF Annual Report 2016). When larger amounts are used these tend to be paid by prepaid cards and payment means linked to bank accounts were used, however also in these instances cash played a role in the preceding depositing.

Impacts on Terrorist Financing

Over the past years, Belgium experienced several terroristic incidents, most devastatingly was the bombing at the Zaventem Airport and the Metro Station Maalbeek on the 22 March 2016. Terror cells in Belgium had also been involved in terrorist attacks in other countries, for example the group located in Verviers who had been connected to the terror attack in Paris in November 2015. Intercepting and monitoring financial flows within terrorist organisation are crucial to uncover the entire network and prevent planned attacks. Terrorist finance is relying on electronic transfers and remittances. Cash, on the other hand plays an important role in the planning and purchase of items used for terrorist attacks, however the cash amounts involved are usually low.

The Belgian cash limit of 3 000 EUR per transaction is viewed by the Ministry of Economy and FIU as too high to have a large direct impact. A much lower threshold might have an impact but at substantial costs to economic operators and citizens.

Nevertheless, the existing cash restriction motivates financial institutes and notaries to observe the adherence to the threshold and bans therefore making a reporting of suspicious activity or attempted violations of the rule more likely. These can be important leads for an investigation. Moreover, the restriction on cash prompts alternative means of payment to be sought. Bank transfers can be traced and linkages deduced, which may support investigations. However, there are also alternative transfer methods such as digital currency and prepaid cards, neither of which are easy to trace and in the case of digital currency may even be more difficult than with cash. The reason being that cash at least can be intercepted at the border via customs checks. Unfortunately, in practise these are not frequent enough at the Belgium and other European borders to have a systematic impact. The effectiveness of custom checks can be illustrated by the bolstered inspections in 2012 at the Belgian airport Zaventem for three consecutive days, following indications of cash smuggling from Belgium to Africa. The measure led to the identification of several persons carrying cash, of a cumulated amount of nearly 90 000 EUR destined for radical Islamic groups in Africa (Ministry of Economy 2017)²⁵⁶. This shows the potential of cash restrictions in combination with rigorous custom checks.

Implementing a general cash declaration obligation above a certain threshold is expected to create a large administrative burden to businesses and to the government agencies evaluating these notifications. The added-value of the declarations is uncertain since it is difficult and time-consuming to assess, without additional information, whether the transaction can be classified as involving suspicious behaviour, which when obvious could already be declare due to the AML4 calling for due diligence check, which only applies to a higher threshold.

²⁵⁶ "Belgian Paper on the need for cash limits".

The most important impact of the cash restriction on terrorist financing is indirect. The ministry quoted an increasing connection of terroristic organisation with organised crimes, e.g. in trafficking of drugs and precious materials, human trafficking, arms trade and counterfeiting (FFI, 2014)²⁵⁷. These activities also involve a money laundering stage. Cash restrictions and suspicious activity reports received by the FIU and passed to the prosecutors are tools to make money laundering more difficult. This also creates the opportunity to uncover other illicit activity of terrorist cells. Indeed, the most prominent suspicious transaction payment methods that lead to terrorist financing files being analysed stem from transfers involving cash and remittances (CTIF, 2016).

An EU-wide ban would support in the investigations on terrorists organisations in so far as it will create additional obstacles to money laundering thereby partly stripping these organisations of some their revenue streams. Once again, lower thresholds would have a slightly higher chance of achieving this goal but at substantial costs to society.

Impacts on Money Laundering

In the fight against money laundering cash restriction play a crucial role. The real estate sector used to be a popular and quick way to launder large amounts of cash stemming from illicit activities. With the total ban of cash payments in the real estate sector and the obligation of notaries to notify the FIU of attempted cash payments, the use of real estate for the injection in the official economy has become very risky. The notaries also have to report suspicious activity relating to real estate sales. However, most of the notifications from notaries concern small amounts of cash, not necessarily linked to money laundering. These cases are not of interest to the FIU since they often related to fiscal fraud rather money laundering.

Cash restrictions may support the fight against money laundering in two ways. The first is the actual detection of cash transactions beyond the thresholds, which are either uncovered by inspectors or via declarations of merchants, businesses or notaries. The Ministry of Economy is in charge of the enforcement. They check the accounts of businesses for cash transactions above the thresholds. In 2012 a large part of the detected relevant cases were located in the second-hand car sector, however in the last years the number of cash uses above the limit have become less frequent, particularly those involving large sums which would be of bearing to money laundering activities that can be passed on to the FIU.

The number of those cash reports, which are transmitted from the Ministry of Economy the FIU is around 10 to 20 per year. Only around one out of those can be connected to criminal activity and thus forwarded to the prosecutors. This shows that only a limited number of money laundering transactions is detected.

A stronger case can be made for the preventive arm. Since the real estate sector and previous metal sector are restricted by a total ban of cash and the other sectors are safeguarded by the 3 000 EUR threshold, more complex strategies are needed for money laundering. These are more difficult to arrange as they involve e.g. payment schemes for undeclared workers or cross-border merchandise. The Ministry of Economy stated that fewer cases of large value cash transactions has been found over the years since the introduction of the ban, thereby suspected that the preventive side of the cash restriction had an impact on money laundering via cash transactions.

²⁵⁷ FFI (Norwegian Defense Research Establishment, 2014, "The financing of jihadi terrorist cells in Europe").

Though, it may also be that money-laundering activities have simply shifted to less restrictive member states. The Ministry of Economy noticed that prior to the restrictions on gold sales, new businesses were established that had previously operated in France, which had introduced a stricter cash restriction for gold sales in 2014. With the raise of cash restrictions in Belgium, including those affecting gold merchants, the same movements were observed away from Belgium towards the Netherlands, where gold was not affected by such a cash ban.

Nevertheless, this cross-border evasion effect could be mitigated by an EU-wide cash restriction. For Belgium a threshold close to the Belgian one, including the special arrangements for the real estate and precious metal sector, would be desirable as it minimises the opportunities for launderers to exploit the differences to neighbouring countries. A restriction above 1 000 EUR was regarded as too inconvenient for citizens while a 10 000 EUR would not be optimal in the Ministry of Economy's view since they have often cases based on cash payments between 5 000 EUR and 10 000 EUR, which then would not longer be captured. If a common threshold (at the currently 3 000 EUR) would be implemented at EU level, it would be much easier to conduct investigations as it would no longer matter where in the EU the transaction took place, i.e. whether the purchase was conducted in Belgium or across the border. This would save time with regard to the many cases involving cross-border activity.

An EU-wide declaration beyond the current AML4 on the other hand was not regarded as beneficial. This would mean too many declarations to follow-up on, particularly given the limited staffing of the FIU and since most high value cash transactions are not worth the investigation (if no suspicious activity is involved or amount is too low).

Impacts on Tax Evasion

The primary ambition of the cash restriction implemented in Belgium was to curtail tax evasion and it has contributed in this regard.

Similar to the impact on money laundering, the fight against tax evasion would be facilitated by an EU-wide measure by stripping culprits of the opportunity to go window-shopping within the EU. Moreover, it may improve data exchange and cross-border cooperation, e.g. with regard to fake invoices from abroad at levels beyond the domestic cash thresholds. Last but not least, it would simplify the work of investigators in cases of cross-border activity.

The FIU sends only serious tax frauds to the authorities for prosecution. Serious tax fraud concerns transactions well beyond the 3 000 EUR cash restriction thresholds, which either reach a high value of around 200 000 EUR or are being part of organised VAT fraud. In the latter case, transactions of low value may still be relevant.

An EU-wide restriction would support the fight against tax evasion as it would facilitate to uncover cross-border cases and may stimulate swifter and easier cooperation of authorities within the EU.

Enforcement measures

The Ministry of Economic Affairs is in charge of the enforcement of the cash restrictions in Belgium. The standard procedure is that the ministry sends inspectors to economic operators to check their accounts and detect cash transfers above the threshold. The economic operators are chosen based on a risk assessment. Sectors that exhibit high cash reliance and which tend to have large value transactions are the main targets. For Belgium, these are the real estate sector, second-hand car

sellers, diamond traders, jewellers, gold traders, leisure (hotel) and casinos. Within the sector the largest (wholesale) businesses receive visits from the inspectors regularly since ensuring their adherence to the law will also impact the retailers. Furthermore large businesses are more likely to surpass the threshold of 3 000 EUR.

The Ministry of Economy notes the breaches of the cash restrictions and fines are given to the violators, i.e. both the sellers and buyers. According to Article 21 of the legislation²⁵⁸, the fine range from 250 EUR to 225 000 EUR depending on, among other criteria, the gravity of the violation and amount involved. However, this fine may not exceed 10% of the sums wrongfully received in cash. If the fine is paid and no suspicion of money laundering, terrorist financing or serious tax evasion arises, the file will remain with the ministry. If the file contains indications of money laundering or terrorist financing the documents are passed on to the FIU to establish links to previous and other current violations. In case of serious cases of serious tax evasion incidence, the Ministry of Finance is informed. The violation may thereafter be passed on from the authorities to the prosecutors.

The Ministry of Economy employs eight inspectors, which in full-time equivalence represent five workers. The workload has slightly declined (in terms of cases to process). This is owing to the deterrence effect of the numerous inspections that took place when the restrictions were implemented in 2012 and 2014. The credible threat of being discovered by the inspections has led to fewer attempts to use cash in transaction beyond the legal threshold.

The FIU has 50 employees dealing with the around 25 000 reports coming in each year but only ½ person in full-time equivalence is needed to process the cases dealing with cash restrictions (see table below).

Table: Staffing

Enforcement measures	Investments (EUR)	FTE
Ministry of Economy	NA	5 FTE
FIU	NA	½ FTE

If an EU-wide measure was introduced the Belgian authorities would opt to maintain the current surveillance approach in Belgium, but complement it by more extension cross-border cooperation and coordination. The coordination would enable them to easier pursue cross-border violations, which is important for Belgium as the neighbouring countries, in particular, the Netherlands, currently have laxer restrictions and therefore create the incentive for transactions to be shifted across the border. The authorities would prefer a common threshold of the existing Belgium one as it has proven to be effective and efficient. A lower restriction would be too irksome for the citizens. Consequently, such an EU-wide restriction would be very beneficial to Belgium, though they acknowledge that the benefit for other member states may be lower and more costly since they would need to adapt their system and staffing. The Belgian Ministry of Economic Affairs, on the other hand, may be able to reduce their workload, primarily due to fewer cases that would require a check on the location where the cash transaction took place – if the threshold was completely Harmonised.

Once an EU-wide restriction is in place, border checks (external an internal) should be stepped up to detect the transportation of cash beyond the threshold as well. This would provide important leads for money laundering, tax evasion and in some instances terrorist financing. For Belgium, one of the key challenges lays in the second-hand car sector where vehicles are sold in Belgium for the,

²⁵⁸ Law of 11 January 1993 on preventing use of the financial system for purposes of money laundering and terrorist financing.

primarily, the African market. Cash is often involved in these purchases and can easily breach the threshold. Currently only occasional, i.e. too few in the view of the inspectors at the Ministry of Economic Affairs, are conducted at the airport. Moreover, Schengen borders are scarcely checked for this purpose. More regular checks in combination with a database of European customs offices would be an asset in tracing and detecting cash movements for illicit activities. These measures would be beneficial irrespective of the existence of an EU wide cash restriction, but in combination they could reinforce one-another.

Impacts on businesses

Notaries

Relevance of cash restrictions for the sector

The notaries are key players in the detection of high-value cash transactions. They have a special legal position as they take the position as an independent third party representing the government. They primarily administer transactions and prepare and execute special acts; most commonly with regard to the transfer of real estate and legal entities as well as inheritance and marriages. Cash restrictions could potentially affect the fees received from clients, though in practice this almost never happens since the fees do not reach threshold and if they do, the clients usually pay via bank transfer. Even a cash restriction at 1 000 EUR would not often be breached. However, most clients choose to pay the invoice via bank transfer or at the notary's office at point of sale via bankcard anyway. Hence, cash is not vital, in particular for larger invoices.

The cash restriction does however affect their business on the real estate side, since the cash limit is set at 0 EUR. Currently the two most used payment methods for real estate are bank transfers and cheques, though the latter is less important and its popularity is declining. Nevertheless, any attempt of cash payment or if one party does not disclose their account details has to be reported to the Ministry of Economy. Suspicious transactions where the notary has indications to doubt that no cash was involved may also be reported. The number of reports sent to the FIU has persistently risen over the past years. Since the introduction of the cash restriction in 2012 the number of reports has more than tripled. Notaries have also contributed to a larger share, of currently around 5%, to all declarations received by the FIU.

<i>Declarations of Belgium notaries to FIU</i>								
	2008	2009	2010	2011	2012	2013	2014	2015
Notaries	320	251	163	319	587	967	1 373	1 143
Total	15 554	17 170	18 673	20 001	21 000	22 966	27 767	27 767

Source: Belgium CTIF (2013 & 2016).

Compliance costs

The introduction of cash restrictions in 2012 has created some implementation costs for the notaries but these were taken as part of the overall costs of raising awareness and ensuring compliance with the third Anti-Money Laundering directive. Dissemination information on the new legislation to the around 1 250 notaries in Belgium included instructions on the cash restrictions as well. The overall costs for this campaign was less than 5% of the overall implementation costs.

For the entire implementation ½ FTE was needed over the course of two years at the national bureau of notaries. In addition, the national bureau of notaries distributed brochures, set up ads and created a website on the reform, which cost around 30 000 EUR. These were one-off costs with the exception

of the online information website, which needs to be maintained and now updated with the new legislation.

Recurring costs are associated to the interaction with the Ministry of Economy and the FIU on violations of the restrictions and suspicious behaviour. Moreover, the inspections, including a check of accounts, quality control and money laundering aspects, pose costs to the national bureau of notaries. The general AML control occurs every two years by one of the qualified notaries who had received special training. The notaries' office and the notary responsible for the controlling spend around 3 hours evaluating the compliance with the rules. In addition, there is another employee at the national bureau of notaries which represents around 0.2 FTE, who checks for incidents of money laundering, which represents around 0.2 FTE.

An EU-wide requirement would not alter this approach and the workload significantly. However, a lower threshold, e.g. of 1 000 EUR, would mean a higher reporting burden and would affect some payments of fees.

Impact of restrictions

The notaries are content with the current cash restriction in Belgium. The profession is not very reliant on cash transaction, particularly above the threshold of 3 000 EUR. Most transactions concern smaller amounts and the majority of notaries have installed BankContact terminals (POS), which they could purchase at a discount when the restrictions were introduced. The introduction of cash restrictions in 2012 has not led to a noticeable impact on the number of real estate transactions overall. This may also be owing to the fact that the government is equipped to buy property that is sold at a suspiciously low price and thereby already discouraged underreporting of property value and paying the difference undisclosed in cash.

Consequently, a European cash restriction does not pose any problem for the sector. A declaration obligation on the other hand is regarded as too cumbersome for the notaries but also for the FIU. Even though most of the required information is already collected for the normal transactions. The current system in Belgium should be kept in place.

Casinos

Relevance of cash restrictions for the sector

Belgium hosts overall 14 casinos and employs around 730 FTE staff. The interviewees from Napoleon Games operate 2 casinos and 22 arcades in Belgium. Cash is of utmost importance for their business since customers prefer to take their winnings home in cash. Some customers also use cash to convert money to gambling cards. In arcades the use of credit cards is not permitted and consequently the alternatives to cash are more limited – primarily debit cards. New payment systems such as e-wallets are used for the growing online segment but are not in use elsewhere. Also in casinos, cash remains a popular means of payment and withdrawal, especially for older customers.

Compliance costs

One-off costs of raising awareness on the restriction and declarations were low since the staff can quickly be informed and only the personal monitoring of the transactions requires training. Customers, particularly high rollers, are usually aware of the legislation.

The key challenge for casinos is the monitoring of customers pay-outs in general and deposits in cash. In a casino 'one transaction' is defined as the combination of all money coming into the system within one days and, separately, all money going out of the system that take place within one visit. In other words, a client who introduces cash multiple times throughout the day is not allowed to surpass the threshold on cash of 3 000 EUR, not only with one single deposit or withdrawal but also cumulated

actions over the day. For this purpose, the staff has to keep track of how much a single player pays in and how much the person is paid out, in order to ensure the adherence to the 4th AML Directive and the national cash restriction.

Each casino therefore only has one exchange office for the clients where the transactions are monitored. The monitoring takes place manually with the person in charge taking note of each withdrawal/deposit. In practice checking incoming money, which often is conducted in several withdrawals, is more challenging than outgoing, which usually occurs in one deposit. The system is at risk of human errors but overall the system is perceived to work well. Each casino requires one FTE employee to monitor overall transactions as well as cash transactions – each takes up around ½ FTE. The interviewed casino did not plan to install digital tools or change its method of monitoring.

An EU-wide cash restriction or declaration would not impact the cost structure or reporting costs, unless the threshold was chosen below the current one. Any change would also have to apply to the gambling legislation and fundamental changes would incur costs of familiarisation.

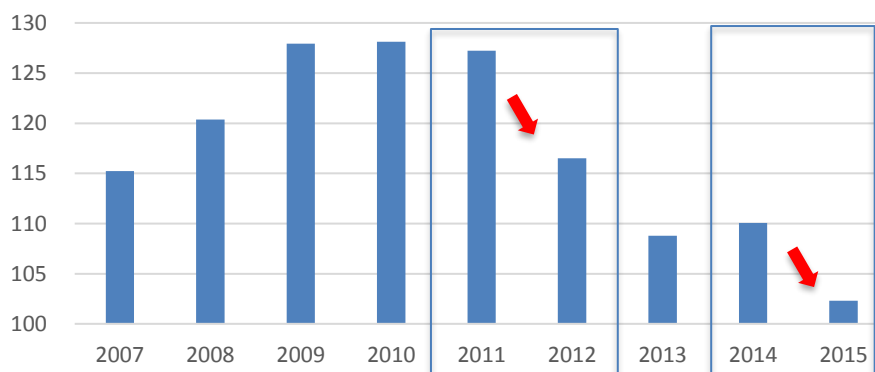
Impact of restrictions

Over the 5-6 years, the clients who are big spenders have gradually diminished. One explanation, which also reflected in exchanges with clients, is that the restrictions and declarations have deterred some customers and prompted them to seek alternative venues to gamble where these restrictions do not apply, unfortunately no statistical data from the casino is available to substantiate the extent of this behaviour. However, the average amount per bet has dropped over the years, which can be linked to the disappearance of high value gamblers.

Some of the disgruntled clients may wish to hide illicit activity but others are simply concerned about anonymity and value the ease of being paid out in cash. Some of the clients may have moved to underground gambling, while others go to the Netherlands, since the border is close and there are no hard restrictions in place. Competing casinos just across the border in the Netherlands facilitate this by advertising the difference in legislation and even providing accommodation as they see the rising demand from abroad.

The trend of movements to neighbouring countries can be illustrated by the persistent drop in revenues, which was particularly high in 2012, and the year following 2014 – both marking years of lowering restrictions on cash transactions in Belgium (see **Figure**).

Figure: Revenues in million EUR



Source: Gaming Commission, 2012 and 2016.

Of course, other factors may have contributed to this trend, such as the general economic situation, the number of establishments and the rise of online gambling.

An EU-wide restriction would be a major improvement to the gambling industry in Belgium since it would prevent the competition with casinos in neighbouring countries on the basis of cash restrictions. The market distortion effect is of paramount importance for the business. However, the level of restriction should not exceed the current threshold of 3 000 EUR as it already curtails their business. To their observation, there are a large number of clients who conduct transactions ranging between 1 000 EUR and 5 000 EUR. Consequently, the exact threshold has a strong impact on their business and revenues.

Jewelleries

Relevance of cash restrictions for the sector

The Belgian jewelleries are often dependent on cash as a mean of transaction. Many of their items have price tags above the threshold. Moreover the threshold is easily surpassed if many items are bought at the same time. The alternative means of payment are not perfect substitutes for the jewellery sector. For example, debit cards often have a standard payment limit that is too low to pay for the purchased goods and many customers are not aware of this limit prior to the purchase. Often the limit cannot be changed easily on the spot. Alternatively, bank transfers require a device to conduct high-value transactions online and claims are not immediately extinguished since it may take time for the deposit to show up if the bank of the client and merchant differ.

In addition, the alternatives are often more expensive than cash transactions. Bank contact terminals are expensive to install, which is a challenge for small stores with limited transactions and revenues. The use of credit cards requires a fee to the providers, which significantly reduces the profit margin per transaction.

Compliance costs

The jewellery stores are also often targets of cash controls by the ministry of Economy and cases of money laundering do occur. However, many jewelleries do not have large turnovers anymore. Moreover, jewels lose a large part of their value upon sale and therefore are less attractive for money laundering schemes, in some respects. Therefore direct compliance costs are associated with controls rather than raising awareness of the restrictions. Additionally, investing in alternative payment methods to reduce the cash reliance can be substantial in specific cases.

An EU-wide restriction would not negatively affect compliance costs unless if it is below the current threshold.

Impact of restrictions

The differences in cash restrictions among EU member states have had profound repercussions on the jewellery sector. The restriction of 3 000 EUR is one of the strictest in the region and it has led to a significant competitive advantage of foreign jewelleries countries such as the Netherlands, Germany and Switzerland.

The interviewee estimates that lost revenues due to cash restrictions could amount up to 30%. Some of this drop is explained by customers who upon notification of the threshold are unable to pay via cash or other means due to technical difficulties. These customers reduce selected items to not meet the threshold or use this fact in negotiations of the price.

However, some countries threaten to take their business elsewhere and also do so in practice. The Netherlands is the primary recipient of these shifts. These jewellers take advantage of their competitive advantage and advertise the lack of restriction in the Netherlands. This internal market effect can be illustrated by the shrinking revenues in sales of Belgian jewellers in combination with stable repair work of jewellery.

The only positive impact of the currently restriction on cash has reduced likelihood of robberies as the cash in the registers has declined.

An EU-wide restriction at the current Belgian level would ensure a level playing field and return business to Belgium. From the interviewee's perspective, even an EU-wide restriction below the current 3 000 EUR would be better than the market distortion affecting their business right now. However, an EU-wide restriction would be no panacea since other countries, predominantly Switzerland, are already attracting customers from the EU with higher restrictions.

Declarations are not really a solution since it will lead to an additional administrative burden.

Impacts on consumers

The Belgian consumers organisation expressed that there was no need for an interview with them. In fact, they state that the current (already low) restriction does not pose a problem for consumers. This may be the case as Belgian consumers are now well acquainted with the cash restrictions and have adapted their payment methods in the few instances when the threshold is met. Moreover, Belgium exhibits a very high penetration of bank accounts in its population with 93% of citizens having a bank account. Moreover, 79% possess a savings account and 59% own a credit card (ECB, 2011).

Sources

Source	Type of source (policy paper, report, media etc.)
ECB, (2014), "Consumer Cash usage a Cross-Country Comparison With Payment Diary Survey Data", Working paper 1685, June 2014.	Report
European Commission, Special Eurobarometer 446 "Financial Products and Services", 2016. Available at: http://ec.europa.eu/COMMFrontOffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/SPECIAL/surveyKy/2108 .	Report
European Council (2015), Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (Text with EEA relevance), available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32015L0849 .	Legal document
"The European House Ambrosetti" (2017), "The Cashless Society Index", available at: https://www.ambrosetti.eu/en/research-and-presentations/the-cashless-revolution-report-2017/ .	Report
CTIF (2016), "Law of 11 January 1993 on preventing use of the Financial system for purpose of money laundering and terrorist financing", available at: http://www.ctif-cfi.be/website/images/FR/law_be/loi01072016.pdf .	Legal document

Source	Type of source (policy paper, report, media etc.)
CTIF (2016), "Annual report", available at: http://www.ctif-cfi.be/website/index.php?option=com_content&view=article&id=217&Itemid=76&lang=nl .	Report
CTIF (2013), "Annual report", available at: http://www.ctif-cfi.be/website/index.php?option=com_content&view=article&id=217&Itemid=76&lang=nl .	Report
ECB (2017), "Opinion of the European Central Bank on the limitation of cash payment", 30 May 2017, (CON/2017/20).	Opinion paper
ECB, (2011), "The use of Euro banknotes – results of two surveys among households and firms", Monthly Bulletin April 2011.	Report
Etaamb (2017), "Loi relative à la prévention du blanchiment de capitaux et du financement du terrorisme et à la limitation de l'utilisation des espèces", available at: http://www.etaamb.be/fr/loi-du-18-septembre-2017_n2017013368.html .	Online legal document
FFI (2014), "The financing of jihadi terrorist cells in Europe", Report 2014/02234.	Report
Belgian Gambling Commission (2013), "Annual Report", available at: https://www.gamingcommission.be/opencms/opencms/jhksweb_en/gamingcommission/RA/ .	Report
Belgian Gambling Commission (2016), "Annual Report", available at: https://www.gamingcommission.be/opencms/opencms/jhksweb_en/gamingcommission/RA/ .	Report
Mastercard advisors (2013), "Cashless Society", available at: http://www.mastercardadvisors.com/_assets/pdf/MasterCardAdvisors-CashlessSociety.pdf .	Report
Ministry of Economy (2017), "Belgian Paper on the need for cash limits".	Paper

3. BULGARIA


Overview of interviews

Representing organisation	Date of interview
State Experts, "Financial Markets Regulation" Directorate Ministry of Finance,	26.09.2017
Chief Legal Adviser, National Revenue Agency, "Tax-insurance Methodology" Directorate	26.09.2017
Director of "Financial Intelligence" Directorate State Agency for National Security,	06.10.2017
Financial Supervision Commission	12.10.2017
Economics Analyst, Bulgarian Chamber of Commerce and Industry	11.10.2017
Manager, Industry Watch	03.10.2017

Overview

BULGARIA

Restriction	<input checked="" type="checkbox"/>
Declaration	
4th AML directive transposed ²⁵⁹	<input type="checkbox"/>
National measures more restrictive than EU directive* ²⁶⁰	<input type="checkbox"/>



Restriction

Legal basis 4/08/2017: Limitation of Cash Payments Act²⁶¹

Rationale / main policy goals Limiting tax fraud, decreasing grey economy, disrupting criminal activities, prevention of money laundering and financing of terrorism

²⁵⁹ The 4th AML Directive is not yet transposed in the Bulgarian national legislation. There is a Bill on the anti-money laundering measures submitted to Parliament in the end of August 2017, which transposes Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC.

²⁶⁰ It cannot be confirmed until the national act transposing Directive (EU) 2015/849 is adopted.

²⁶¹ The Limitation of Cash Payments Act (Закон за ограничаване на плащанията в брой), promulgated: State Gazette No 16/22.02.2011, last amended State Gazette No 63/04.08.2017. Its main objective (although not explicitly stated) is fighting tax frauds, tax evasion and shadow economy. The act is available in Bulgarian at the following link: https://www.lex.bg/bg/laws_stoyan/ldoc/2135718725.

Competent authority	National Revenue Agency
Other involved authorities	-
Current threshold(s)	10 000 BGN approximately 5 000 EUR
Former thresholds	15 000 BGN (Introduced in 2011 until 2015)
Targeted sectors/ Type of transaction	-
Exemptions	<p>It applies to all cash transactions with the exception of:</p> <ul style="list-style-type: none"> • Drawing and depositing money in cash from/in own payment accounts; • Drawing and depositing money in cash from/in accounts of inactive and restricted active persons, of spouses and relative of direct line; • Deals with foreign currency in cash by profession; • Operations with banknotes and coins, party of which is the Bulgarian National Bank; • Exchange of banks of damaged Bulgarian banknotes and coins; • Payment of labour remunerations in the meaning of the Labour Code; • Payment of sums of the guaranteed deposits according to the Guarantee of Bank Deposits Act.
Sanctions	<p>For natural persons: by a fine in the amount of 25% of the total payment made. In repeated breach of the Act, the amount of the fine shall be 50% of the amount of the payment made;</p> <p>For legal persons: by a property sanction in the amount of 50% of the total payment made. In repeated breach of the Act by a property sanction in the amount of 100% of the payment.</p>
Enforcement measures	-
Results impact assessment or evaluations	-
Measurement indicators	-
Future changes	Not planned ²⁶² .
Sources	

²⁶² Changes in the threshold are planned. For further information, please see the information below.

Policy context

Three acts (and relevant secondary legislation) regulate cash payments and reporting obligations. First, it is the [Limitation of Cash Payments Act](#). It was adopted in 2011 and applies to the following operations: 1. Withdrawing and depositing money in cash from and into own payment accounts; 2. Withdrawing and depositing money in cash from and into bank accounts of incapacitated persons or of persons with limited capacity, of spouses and of relatives in a straight line; 3. Foreign currency deals when the latter are made in cash; 4. Operations with banknotes and coins when the Bulgarian National Bank is a party to this operation; 5. Replacement of damaged Bulgarian banknotes and coins by banks; 6. Payment of labour remunerations in the meaning of the Labour Code; and 7. (since 2014) Payment of guaranteed deposits under the meaning of the Bank Deposit Guarantee Act²⁶³. The Limitation of Cash Payments Act forbids all cash payments amounting to 10 000.00 BGN or more (5 113.00 EUR). The National Revenue Agency is the authority competent to control implementation of the act. Provided that natural or legal persons breach cash restriction provisions, the National Revenue Agency imposes a fine of 25% (for natural persons) or 50% (for legal persons) of the amount paid in violation of the Act. The fine is doubled in case of repeated infringement (i.e. within a year after the first one has been sanctioned).

The second relevant legal instrument is the [Anti-Money Laundering Measures Act](#)²⁶⁴. It transposes Directive 2005/60/EC²⁶⁵ and its main objective is to prevent using the financial system for money laundering, as well as to set up organisation and control measures for its implementation. According to Article 3, the anti-money laundering measures are: 1. Identification of clients and verification of their identity; 2. Identification of the client's real owner (in case the latter is a legal person); 3. Gathering information from client about the purpose and the nature of the relationship which is about to be established or is already established; 4. Monitoring of commercial or professional relationships and verification of contracts and operations, including origin of funds; 5. Revealing information about suspicious transactions, contracts and clients. These measures should be applied by: Bulgarian National Bank, credit and financial institutions, currency exchange offices; insurance companies, investment schemes, investment intermediaries and managing companies, pension assurance companies, privatisation authorities, public procurers, persons organising and offering gambling games, legal entities with mutual funds, persons who provide cash loans against betting on items (pawn shops), post operators licensed to process money transfers, notaries, market operators and/or regulated market, leasing companies, state and municipal bodies entering into concession contracts, political parties, professional associations, non-governmental organisations, registered auditors, the National Revenue Agency, customs, sports organisations, the Central Depository, traders of arms, oil and petroleum products, persons who perform tax consulting activities, wholesale merchants, some real estate and financial consultants, persons involved in establishing and managing offshore companies, accounting companies/accountants, private enforcement agents, and the managing director of the Executive Environment Agency. These bodies/organisations must report to "Financial

²⁶³ Bank Deposit Guarantee Act (Закон за гарантиране на влоговете в банките), promulgated State Gazette No 62/14.08.2015; last amended State Gazette No 102/29.12.2015. The act is available in Bulgarian at the following link: <https://www.lex.bg/en/laws/ldoc/2136592588>.

²⁶⁴ Anti-Money Laundering Measures Act (Закон за мерките срещу изпирането на пари), promulgated State Gazette No 85/24.07.1998; last amended State Gazette No 81/14.10.2016. The act is available in Bulgarian at the following link: <https://www.lex.bg/laws/ldoc/2134420482>.

²⁶⁵ Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, OJ L 309, 25.11.2005, p. 15–36. Repealed.

Intelligence” Directorate at State Agency “National Security” all transactions or contracts, which they deem are related to money laundering. Any breach of the act will result in a fine amounting to between 200 BGN (102 EUR) and 50 000.00 BGN (25 565 EUR). State Agency “National Security” is the authority competent to control implementation of the act and to impose fines.

The third important law is the [Measures against Financing of Terrorism Act](#)²⁶⁶. Its stated objective is prevention and disclosure of acts of natural persons, legal persons, groups and organisations, aimed at financing terrorism. Pursuant its Article 3, the measures are: 1. blocking financial resources and other financial assets or economic resources; and 2. ban on providing financial services, financial resources, and other financial assets or economic resources. All persons who have introduced such a measure must immediately report to the minister of interior, to the minister of finance, to the chairman of State Agency “National Security” (SANS) and to the Commission for Withdrawal of Criminal Assets. The information needed for application of this act is collected, processed, systemised, analysed, stored, used and provided by SANS. The measures are applied with regard to natural persons, legal persons, groups and organisations, sanctioned for terrorism or for financing of terrorism by the EU (through Regulation of the European Parliament and of the Council), by the UN Security Council, or by the Council of Ministers of the Republic of Bulgaria. The Act also contains obligations for the persons subject to the Anti-Money Laundering Measures Act to submit information to SANS about transactions or operations, which might be used for financing terrorism. However, neither the anti-money laundering act, nor the one on countering terrorist finance provide for cash restrictions.

Planned changes / policy interventions

Recently, three legislative proposals relevant to cash restrictions or to prevention of funding terrorism were tabled in Bulgaria. First, it was the [Bill on amendment of the Tax and Social Insurance Procedure Code](#)²⁶⁷. The Bill was submitted by the Council of Ministers in June 2017. Its §60 provided for amendments of the *Limitation of Cash Payments Act*, in particular the threshold to be lowered to: 5 000 BGN (2 556 EUR) effective from 01.08.2017 to 31.12.2017; 3 000 BGN (1 534 EUR) effective from 01.01.2018 onwards; 1 000 BGN (511 EUR) effective from 01.01.2019 onwards. These amendments were adopted on first reading in plenary but were rejected on second reading (20.07.2017). The objective was fighting shadow economy. Some members of parliament argued that there is neither an ex-ante impact assessment of the proposed changes nor an ex-post impact assessment of the *Limitation of Cash Payments Act* which was deemed a significant problem. Also, some deputies believe that the proposed restrictions will create more problems both for the business and for ordinary citizens and will not help for overcoming shadow economy. On the contrary – they will lead to a higher inter-company indebtedness. In addition, a lower threshold will cause inconvenience for natural and legal persons in small towns and villages. Much more important obstacles for introducing the proposed limits are the fees collected by banks for any transaction.

²⁶⁶ Measures against Financing of Terrorism Act (Закон за мерките срещу финансирането на тероризма), promulgated State Gazette No 16/18.02.2003; last amended State Gazette No 81/14.10.2016. The act is available in Bulgarian at the following link: <https://www.lex.bg/laws/ldoc/2135463446>.

²⁶⁷ Bill on amendment of the Tax and Social Insurance Procedure Code (Законопроект за изменение и допълнение на Данъчно-осигурителния процесуален кодекс); the dossier could be found in the legislative database of the National Assembly at the following link: <http://www.parliament.bg/bg/bills/ID/66641/>.

Thus, bank costs (which are rather high in Bulgaria) for natural persons and small and medium sized companies will significantly increase, which is an unwanted side effect.²⁶⁸

Several months later the Ministry of Finance proposed changes in the threshold once again. This time it is done via the [Bill on amendment of the Value Added Tax](#).²⁶⁹ Its §39 provides for lowering the threshold from 10 000 BGN (5 113 EUR) to 5 000 BGN (2 556 EUR). An argument in support of this measure again is fighting grey economy. The sponsors of the bill add that this threshold is in line with the “well established practice in other EU member states, where the limit for cash payments is between 2000 and 3000 EUR”.

Finally, in the end of August 2017, the Council of Ministers submitted to the National Assembly the [Bill on Anti-Money Laundering Measures Act](#)²⁷⁰. It was drafted by SANS and the Ministry of Interior; it transposes Directive (EU) 2015/849 into national legislation and repeals the one in force. The Bill was adopted on first plenary reading on 06.10.2017. Proposals for amendments before second reading are accepted until 03.11.2017.

The Ministry of Finance notes that there are no new legislative initiatives after the last amendment of the *Limitation of Cash Payments Act* made in 2017. Results from studies at European level and proposals for new measures in this field within the EU are also expected.

National debate on these policies

It could be mentioned that cash restrictions topic (both in force and proposed) is quite challenging and debated in Bulgaria. [Public authorities](#) (such as the Ministry of Finance, the National Revenue Agency, the Ministry of Interior and SANS), which are entrusted with managing public finances, tax collection and fighting shadow economy, money laundering and terrorism are [in favour of and support cash thresholds](#). Their initiatives are [tacitly endorsed by banks](#). The [opposite view](#) is shared by [non-organised natural persons, retailers and small and medium sized companies](#).

²⁶⁸ The positions stated by members of parliament on the proposed amendments of Limitation of Cash Payments Act are publicly available on the web site of the National Assembly at the following link:
<http://www.parliament.bg/plenaryst/ns/51/ID/5912>.

²⁶⁹ Bill on amendments of the Value Added Tax (Проект на Закон за допълнение на Закона за данъка върху добавената стойност). It was published for public consultations on 14.09.2017 which were to run until 14.10.2017 and is not tabled before Parliament yet. The dossier is available in Bulgarian at the following link:
<http://www.strategy.bg/PublicConsultations/View.aspx?lang=bg-BG&Id=2978>.

²⁷⁰ Bill on Anti-Money Laundering Measures Act (Законопроект за мерките срещу изпирането на пари), the dossier could be found in the legislative database of the National Assembly at the following link:
<http://www.parliament.bg/bills/ID/77757/>.

FIU-data

Table 2 FIU-data

	2010	2011*	2012*	2013*	2014	2015	2016
Total number of STRs	1474	1427	1821	2233	2284	2461	2987
STRs involving cash payments (number)	N/A	N/A	N/A	N/A	N/A	N/A	N/A
STRs involving cash payments (EUR)**	N/A	N/A	170,4 M	137,6 M	N/A	209,7 M	N/A
STRs involving terrorism financing (TF)	N/A	1	4	6	12	18	34
STRs involving TF and cash payments	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Total amount of STRs (EUR)	N/A	2,426 B	724,2 M	2 532 M	N/A	5 723,2M	N/A
Notifications for cash transactions amounting to more than 30 000 BGN (around 15 000 EUR)	233 510	274 811	225 176	234 347	254 782	238 612	273 560

* Data on suspicious transactions both with regard money laundering and financing terrorism.

** Cash transactions amounting to more than 30 000 BGN (around 15 000 EUR).

Source: Annual Reports of SANS.

With regard to possible introduction of cash payment restrictions, "Financial Intelligence" Directorate at the State Agency for National Security (below referred as SANS) points out that [Bulgaria has already introduced such restriction](#) with the *Limitation of Cash Payments Act* (adopted in 2011, last amended in 2017). Initially, the restriction was for amounts equal to or higher than 15 000 BGN (7 669 EUR), but after January 2016 the limitation was changed to 10 000 BGN (5 113 EUR). When the *Limitation of Cash Payments Act* was to be adopted, the *Anti-Money Laundering Act* was amended. The latter is closely linked to the activities performed by "Financial Intelligence" Directorate. The following subjects fell outside the scope of the act: - traders, selling cars as a main economic activity, when the payment is made in cash and the amount exceeds 30 000 BGN (15 339 EUR) or its equivalent in foreign currency; - natural or legal persons, which have for their professional activity deals with items, when the payment is made in cash and the amount exceeds 30 000 BGN (15 339 EUR) or its equivalent in foreign currency.

When asked how a possible cash restriction regulation will affect it, the Ministry of Finance also refers to the *Limitation of Cash Payments Act*. According to the experts of the Ministry, a likely change in the threshold might affect the National Revenue Agency (NRA), which is tasked with monitoring and control of its application. In turn, NRA admits that it does not have sufficient capacity to inspect if companies and citizens comply with the act. The Financial Supervision Commission is on the opinion that the restrictions introduced in Bulgaria affect the persons subject to financial supervision, which should comply with in their relations with clients and other commercial partners.

Asked about the present political situation relevant to cash payment restrictions, the experts of Ministry of Finance remind that there was a proposal for further lowering of the threshold (introduced with the *Bill on Tax and Social Security Code*). The proposal provided for the limit to be gradually lowered from 10 000 BGN (5 113 EUR) to 1 000 BGN (511 EUR) within a period of two years as a measure for fighting shadow economy. The proposal was not adopted by the National Assembly. SANS refers to the *Bill on transposition of Directive (EU) 2015/849* tabled before Parliament a few months ago and subject to plenary discussions at present. The Bill also provides for amendments of the *Measures against Financing of Terrorism Act* and of other relevant acts.

For further reading on the topic, SANS recommends the following reports:

"Cash Payments: Freedom, Privacy and Security. Why an EU initiative on restrictions on payments in cash would hurt Europe", ATM Industry Association, 16.05.2017²⁷¹;

"Why cash is still king? A strategic report on the use of cash by criminal groups as a facilitator for money laundering", Europol, 2015²⁷².

FSC also recommends EUROPOL's Report for a further reading. It also suggests the Report of the Financial Action Task Force titled "Money Laundering through the Physical Transportation of Cash"²⁷³. It is on the opinion that cash restrictions do not hinder economic activities, since Bulgaria has well developed bank system with a broad branch network. It is on the opinion that bank transfers become more and more preferred payment means. However, it could be assumed that [transaction costs when one uses bank services of banks other the one where one has a bank account will raise](#), if the latter does not has an office in the town/village where the payment is made. In addition, the experts of the FSC are on the opinion that the main problems related to cash restrictions are related to the difficulties experienced by payers, because some advantages of cash payments disappear. With regard to ongoing legislative proposals, FSC refers to the EU initiative on cash restrictions.

Impacts on Terrorist Financing

According to "Financial Intelligence" Directorate of SANS, the standard approach for funding terrorism includes "cash couriers". Financing terrorism, in contrast to money laundering, is not entirely linked to criminal activities. More often than not, money used for terrorist activities are obtained by pursuing lawful activities and terrorist organisations may participate in businesses, which are entirely legitimate (e.g. donations). With regard to this, it could be said that [cash payments have always had significant importance for terrorist groups and individual terrorists](#). However, in most cases the amounts are negligible and hardly could be linked to a criminal activity (or to an activity related to terrorism).

The Financial Supervision Commission points out that various studies have shown that money in cash are still the preferred form for accumulation and transfer of funds for financing terrorism. [Anonymity and difficulties in tracking monetary transactions](#) very much justifies this preference.

The experts of SANS think that as long as both money laundering and financing terrorism use one and the same methods, it could be assumed that stringent regulations of financial flows (restrictions on cash payments) have led to high quality reports about suspicious transactions, to identification of more cases related to possible money laundering or funding of terrorism, and to a smaller risk of using large cash amounts for these criminal activities. There are several EU Member States which restricted cash payments, e.g. France, Luxembourg, Belgium, and Italy. According to SANS, their experience have been analysed and used by Bulgaria when cash restrictions were proposed and later adopted in Bulgaria.

FSC is on the opinion that the [lack of a unified approach](#) in cash restrictions (i.e. introduced only in several EU member states) [facilitates terrorist organisations](#) in organising money accumulation and transfer in a way, which allows them to [benefit from those countries](#), where there are no restrictions or the latter are not too stringent.

²⁷¹ The Report is available at the following link: <https://www.atmia.com/files/Position%20Papers/eu-cash-limits-16-may-2017.pdf>.

²⁷² The Report is available at the following link: <https://www.europol.europa.eu/publications-documents/why-cash-still-king-strategic-report-use-of-cash-criminal-groups-facilitator-for-money-laundering>.

²⁷³ The Report is available at the following link: <http://www.fatf-gafi.org/media/fatf/documents/reports/money-laundering-through-transportation-cash.pdf>.

Statistics on transactions which might be related to terrorism is published in SANS annual reports. In 2014 there were 12 notifications for suspicious transactions, in 2015 – 18 and in 2016 – 34 cases. Almost all of them involved operations with money in cash. Risks, which indicate that terrorism might be involved, are: cash flows realised by transit passengers in Bulgaria, and illegal migration. Most illegal migrants do not have identity documents and do not have access to legal banking system, respectively. This so called “financial exclusion” makes using money in cash and illegal money transfer systems preferred option for sending large amounts in multiple transactions (instalments).

The “Financial Intelligence” Directorate of SANS supports cash restrictions at EU level. To the extent that funding is of crucial importance for terrorism, it considers that restrictions in cash payments will improve management and will reduce the risk of funding terrorism and money laundering since monetary transactions will be made in a monitored environment. FSC’s experts also think that cash restrictions at EU level will help for fighting terrorism. The shortcomings stemming from the lack of such restrictions in some Member States will be eliminated and accumulation of large cash amounts will be hindered. In addition, FSC is on the opinion that lower thresholds will have a positive impact for preventing funding of terrorism, in particular they will further limit the possibility for illegal transactions.

SANS supports a (possible) proposal for exemptions from an overall ban and refers to those, which are provided for in national legislation.²⁷⁴ FSC is also on the opinion that exemptions are needed. It points out to the fact that in some EU Member States electronic payments (including by bank cards) are not well developed yet. The latter may be an obstacle for retail trade and for delivery of services. For this reason, an exception for depositing money in own accounts (of commercial companies) would be a reasonable one. Often, their business accumulates on a daily basis large amounts in cash (e.g. big shops, petrol stations, restaurants, etc.).

However, neither SANS nor FSC regard a “Declaration on money transactions above a certain threshold” a feasible option. According to SANS, the Declaration is not appropriate for overcoming the risks associated with money laundering and financing terrorism. It will not allow reliable identification of money’s origin and of their real amount. Using cashless payments will contribute to a greater clarity in business turnovers. It will also help for reporting cash flows which often miss in accounting documents, and thus will help for limiting the shadow economy in the country. FSC is on the opinion that such Declaration will increase administrative burdens on businesses and citizens, and will require new organisation for processing of numerous declarations. Furthermore, such Declaration at EU level will entail revoking existing national regimes on cash restrictions in some Member States. At the same time, the Declaration will not help for less accumulation of large cash amounts. The latter will reduce its effectiveness especially in terms of countering funding terrorism because the money could be transferred via unofficial channels such as “Hawala”.

Impacts on Money Laundering

According to SANS, using large cash amounts has many times proved to be vulnerable for money laundering. More stringent provisions on cash restrictions could help to better address this risk, i.e. for more effective and timely detection of money laundering cases and their investigation. FSC points

²⁷⁴ 1. Withdrawing and depositing money in cash from and into own payment accounts; 2. Withdrawing and depositing money in cash from and into bank accounts of incapacitated persons or of persons with limited capacity, of spouses and of relatives in a straight line; 3. Foreign currency deals when the latter are made in cash; 4. Operations with banknotes and coins when the Bulgarian National Bank is a party to this operation; 5. Replacement of damaged Bulgarian banknotes and coins by banks; 6. Payment of labour remunerations in the meaning of the Labour Code; and 7. (since 2014) Payment of guaranteed deposits under the meaning of the Bank Deposit Guarantee Act.

out that cash restriction eliminates anonymity and make “disposal” (as a first phase of money laundering) of cash money received from criminal activity much more difficult.

Statistics on suspicious transfers with regard to money laundering is published in SANS annual reports. In 2014, 2 272 notifications have been received; in 2015 – 2 443, and in 2016 – 2 953 reports. However, the experts of SANS could not say how many of them involve cash payments but cases related to cash transactions are widely spread. One of features identified on the basis of the information received in 2016, is the fact that the [Bulgarian bank system is used for money laundering during the layering phase](#). For example, extremely large amounts of money have been transferred to bank accounts of foreign companies, registered in Bulgaria, but owned by foreign natural persons – citizens of EU Member States. The money almost immediately are being withdrawn in cash by a foreign citizen. Afterwards, the same person leaves the territory of the Republic of Bulgaria. Usually, these are citizens of EU Member States with severe restrictions for money in cash or which have significant tax burden.

As with the case with financing of terrorism, SANS supports an EU-wide restriction on cash payments and considers that it will help for fighting money laundering, too. FSC is on the opinion that [an EU regulation will help for avoiding anonymity of transactions](#) and the [difficulties associated with tracking cash flows](#) during investigation of cases where more than one EU country is involved. In addition, such restriction will [eliminate the option for criminal organisations to export part of their activities in EU countries](#), which for the time being have not introduced similar restrictions in their national legislation. Furthermore, FSC is on the opinion that lower thresholds will have a positive impact for preventing money laundering in particular they will further limit the possibility for illegal transactions. As with countering terrorism financing, FSC regards exemptions as needed. [Electronic payments](#) (including by bank cards) [are not widely spread in some EU member states yet, which could be an obstacle for retail trade and for delivery of services](#). For this reason, an exception for depositing money in own accounts (of commercial companies) would be a reasonable one. Often, their business accumulates on a daily basis large amounts in cash (e.g. big shops, petrol stations, restaurants, etc.).

Here, the experts of SANS also think that a Declaration on money transactions above certain threshold is not appropriate for overcoming the risk of money laundering. A Declaration will not allow reliable identification of money’s origin and of their real amount. Using cashless payments will contribute to a greater clarity in business turnovers. It will also help for reporting cash flows which often miss in accounting documents, and thus will help for limiting the shadow economy in the country. As mentioned above, FSC is on the opinion that such Declaration will increase administrative burdens on businesses and citizens, and will require new organisation for processing of numerous declarations. Furthermore, such Declaration at EU level will entail revoking existing national regimes on cash restrictions in some Member States. At the same time, the Declaration will not help for less accumulation of large cash amounts. The latter will reduce its effectiveness especially in terms of countering money laundering because the funds could be transferred via unofficial channels such as “Hawala”.

Impacts on Tax Evasion

When it comes to tax evasion, SANS points out that there is a monetary flow in Bulgaria, which is not reflected in primary accounting documents. Cash payments are made between legal persons, between natural persons and between legal and natural persons. Real remunerations are often paid in cash, but according to accounting documents the persons have received far smaller amounts (than those really paid), which helps for avoiding taxes (under the *Personal Income Tax Act*) and social

security contributions. [Using cashless payments creates opportunity for curbing gray economy in Bulgaria, because money flows will be reflected in primary accounting documents.](#)

The Ministry of Finance reminds that Republic of Bulgaria has undertaken [a number of measures](#) for limiting the shadow economy, for widening the tax base and for increasing the revenues in the state budget. For this reason, it is hard to determine how [much of the effect is caused precisely by cash restrictions](#) and how much by other measures. As regards tax evasion, it is a criminal activity and more information could be provided by the Prosecutors Office of Republic of Bulgaria.

FSC states that [it does not have information about the probable effects](#) of cash restrictions on tax evasion but it [assumes that it most likely is positive](#) when one takes into account the fact that there are fewer opportunities for unlawful revenues from cash payments.

Here, SANS is also on the opinion that cash restrictions [at EU level will have a positive impact](#) for reducing tax evasion. It considers that restrictions in cash payments will improve management and will reduce the risk of tax evasion since monetary transactions will be made in a monitored environment. FSC expects cash restrictions to lead to higher fiscal revenues.

The Ministry of Finance has information that slightly more than half of the 28 EU member states have introduced some kind of limits for cash payments. Restrictions vary from 1 000 to 15 000 EUR in different countries. [Differences in economic development, remunerations, business activity and other factors make determining of a common EU wide cash payment threshold a particularly difficult task.](#) A possible solution to this challenge, and as alternative option at a European level, is adopting [a requirement for cash restrictions but the threshold to be determined on a case by case basis at national level.](#) Their views are shared by the NRA. The Ministry of Finance also consider that lower thresholds will lead to fewer income hiding cases and will reduce the amounts, which might be hid. Determining the thresholds might be made [by national authorities](#), because the Member States are able to find the best balance between prevention of tax evasion, on the one hand, and overcoming administrative difficulties for national persons and small businesses, on the other. As mentioned above, FSC is on the opinion that lower thresholds will have a positive impact for preventing funding of terrorism in particular they will further limit the possibility for illegal transactions.

The NRA supports the proposal of the Ministry of Finance for further lowering of the threshold (to 5 000 BGN). However, the interviewee is on the opinion that it [might have negative consequences both for citizens and companies, and especially for SMEs.](#) If the threshold is lowered, more and more payments will be made electronically. However, [bank fees in Bulgaria are among the highest in Europe](#), which contravenes the national wealth and salaries. Therefore, provided that natural and legal persons should transfer their payments via the banking system, they will experience [a rise in operational costs.](#) This is regarded as [unnecessary and unwanted financial burden on taxpayers](#) - something which the NRA would like to avoid. With regard to SMEs, limiting payment possibilities could diminish their business viability. Having in mind that in certain economic sectors of activity cash is still preferred as a payment method by both SMEs and their customers, severe restrictions may ultimately reduce competitiveness in these economic sectors. The risks associated with obligatory bank transfers will be especially high for start-ups and young entrepreneurs, as a rise in operational costs could be even more challenging to newly emerged companies.

In addition, because of the excessive costs, some companies might experience [financial trouble and lower profits](#), hence the [tax base would fall.](#) The latter is quite an unwanted effect. According to the interviewee, the [NRA does not want citizens and companies to become poorer](#) because less disposable income and less profit [might lead to an increase of jobless persons](#) (which means more money for social transfers), [less consumption](#) (subject to indirect taxation) and [higher risk of](#)

[bankruptcy](#). Another important issue, which should be taken into account according to the NRA interviewee, is the fact that [smaller towns and villages are not well serviced by banks](#). It is quite common people living and working in a small village (e.g. with 200 inhabitants) to need to travel to a bigger town in order to use bank services. Lastly, most of the [elderly people are not skilled in electronic transactions](#). Many pensioners at the age of 65 or above do not know how to pay by a bank card or how to order a bank transfer. In addition, the pensions in Bulgaria are rather low. Many [pensioners would not be happy to pay one or two BGN](#) (around 0.50 - 1.00 EUR) [for each payment they make via bank services](#). All these considerations should be taken into account when a new threshold is being introduced.

As regards exemptions, the experts of SANS think the one relevant for countering financing terrorism are applicable for tax evasion, too. The Ministry of Finance is also on the opinion that the exemptions in the *Limitation of Cash Payments Act* should remain in force. FSC regards exemptions as needed and provide the following arguments as those in support of the exemptions to be applied with regard money laundering and financing terrorism.

The standpoint of SANS and FSC on Declaration on money transactions above certain threshold is the same as that with regard to money laundering and financing terrorism. The Ministry of Finance is on the opinion that the impact of such Declaration could be measured and assessed after a detailed and quantitative comparative analysis.

Enforcement measures

According to Article 6 of the *Limitation of Cash Payments Act*, the Acts for establishing violations of cash restrictions are drawn up by the bodies of the National Revenue Agency. Penal decrees are issued by the Executive Director of NRA or by officials duly authorised by him/her. All interviewees referred to this provision when were asked about enforcement measures. However, SANS observes that [the capacity of NRA for inspections and audits](#) with regard application of the *Limitation of Cash Payments Act* is [limited](#). The Ministry of Finance points out that the NRA is the competent authority to provide information on the resources needed for its application. As far as the NRA is concerned, its representative confirmed that the [Agency does not have capacity](#) to carry out inspections as to whether cash restrictions are observed by business and citizens.

Enforcement measures	Investments (EUR)	FTE
Acts for establishing violations	No data	No data
Penal decrees	No data	No data

With regard to the best mechanism for monitoring and application of an EU-wide cash restrictions or declarations for cash payments above a certain threshold, the experts of the Ministry of Finance think that the [Member States should have the power to monitor and control how cash restriction requirements are implemented on their territory](#). In the Republic of Bulgaria this activity is entrusted to the NRA. FSC is on the opinion that the best solution is proportional sanctions (administrative penalties) and involving supervisory bodies in controlling activities. Also, it is on the opinion that a [mechanism for exchange of information](#) between competent authorities of the EU Member States and with the European Commission is a good idea, too. In addition, FSC argues that the EU needs a single legislative framework for monitoring and controlling cash restriction provisions.

The Ministry of Finance is on the opinion that the NRA should say how many persons and how much time would be needed for implementation of an EU-wide cash restriction policy. In turn, NRA admits that it does not have the capacity to inspect if the national act in force is observed by natural and legal persons. FSC adds that in case a new regime on cash restriction is introduced, the [resources needed for its application will very much depend on the measures foreseen by it and on the organisation for their application](#). In this line of reasoning, the resources needed should be analysed during the [preliminary regulatory impact assessment](#).

SANS is of the opinion that the cash restriction legal regime currently in force in Bulgaria is appropriate. In terms of an EU-wide regime, however, there are differences between Member States, which might be overcome through a common European harmonisation framework.

In addition, the experts of SANS think that the existing cash restrictions in Bulgaria help for curbing the shadow economy. Lowering the threshold from 15 000 BGN (7 669 EUR) to 10 000 BGN (5 113 EUR) (and most likely to 5 000 BGN / 2 556 EUR soon) helps for reducing/restraining the risk of money laundering and financing terrorism through restricting cash flows of unclear origin. The Ministry of Finance states that the cash restrictions introduced in Bulgaria attain the expected objectives, as they limit the opportunities for hiding incomes and non-payment of taxes and social security contributions.

As mentioned above, SANS supports the introduction of a common European cash restriction. It considers that harmonisation of EU Member States' legislation through introduction of a common European cash restriction rule above a certain threshold would be [beneficial for the Internal Market and for the joint efforts in fighting money laundering and financing terrorism](#). The Ministry of Finance is on the opinion that the [European Commission should prepare a detailed impact assessment and analysis of the effects of such a measure before a legislative proposal on a common EU cash restriction rule above a certain threshold is being tabled](#) (i.e. a horizontal measure, which will affect not only illegal movement of financial resources and fight against fraud). An essential issue that should be resolved is setting the threshold at EU level because an [absolute value in some Member States would be rather low whereas in other countries the same absolute value would be pretty high](#). A possible solution would be the [threshold to be subject to national discretion](#), or to be linked to a common rule, which takes into account specific national factors (proportional to a basic criterion – e.g. minimum wage, average wage, and average trade turnover) with an option for updating it after a certain period of time or upon certain circumstances. FSC adds that harmonisation of national legislation at EU level will help not only for establishing of a similar regime in Member States and for equal treatment of payments (which will favour natural and legal persons through [eliminating the need to be acquainted with and to respect different national legal measures](#) in their relations in another Member States) but for a better monitoring and control by competent authorities.

SANS is on the opinion that such an initiative (a common EU cash restriction) should be like a threshold for payments in cash with certain type of transactions, which fall outside the ban (withdrawing and depositing money in cash to and from own payment accounts, foreign currency transactions made by occupation, payment of remunerations, etc.). As mentioned above, the Ministry of Finance argues that [national factors should be taken into account](#). FSC is on the opinion that a ban on cash payments above a certain threshold, exemptions only for certain types of business, and an effective control for compliance with legal requirements, should lead to effective and wanted results. A better effect would be achieved, however, if [cash restrictions are introduced for other payment means, which guarantee anonymity \(e.g. crypto-currencies\)](#), because a likely to be introduced restriction with regard only to payments in cash would stimulate the development of other alternative payment technologies retaining anonymity.

With regard to other similar initiatives at EU level, FSC refers to Commission's Proposal for a Regulation of the European Parliament and of the Council on controls on cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005²⁷⁵.

Compliance costs

The company, which provided information for the study (Industry Watch), indicates that potential ban on cash payments would not affect them. They shared that cash restrictions are not a central topic of political debate at present. With regard to existing rules, they are on the opinion that it is a [reasonable measure but only up to a certain threshold](#). It would [support a common European cash restriction rule](#) but most likely [up to the limit of 10 000 EUR](#). Furthermore, such an initiative should look like a ban on cash payments or a Declaration, which identifies the payer and the grounds for payment. According to Industry Watch, the main problem with regard to cash restrictions is the [rise of payment related costs](#) if natural and legal persons have to use bank services.

The interviewee is on the opinion that a common ban or restriction of cash payments [only partially will have effect on fighting terrorism](#). He adds that for many of the recent terrorist attacks the costs for their preparation were extremely low and would fall under the threshold of likely to be introduced restriction. With regard to the Declaration, the manager considers that its impact would be the same provided that it helps for tracking the final payer of the amount.

With regard to [money laundering](#), Industry Watch is on the opinion that cash restrictions have [significant impact](#) because they do not allow creation of backdated fictitious "cash" transactions, which during inspection could justify origin of the money. In this line of reasoning, the interviewee thinks that a common EU cash restriction will have an impact on money laundering; in particular, it will make transactions between cash-based activities and "laundering" activities extremely difficult. In addition, he is on the opinion that [1 000 and 5 000 EUR seem unrealistically low thresholds](#) taking into account public attitudes at present. With regard to a [Declaration](#) on money transactions above certain threshold, the interviewee thinks that it does not prevent fictitious backdated deals, and for this reason [hardly could be regarded as an effective instrument](#).

Cash restrictions have [significant impact on small and medium sized business](#); they hinder undeclared work and distribution of profit without paying dividend tax. Restrictions also help tax administration in finding violations (e.g. through deterring companies to create fictitious cash backdated operations in order to justify discrepancies in their balance sheets). Therefore, a common EU restriction on cash payments will have an [impact on tax evasion](#), too. As regards the threshold, the interviewee is on the opinion that [the lower it is the higher impact would be](#). However, [exceptions should not be allowed](#). In addition, a [Declaration would not have an impact in this case](#).

With regard to the groups affected by cash restrictions, Industry Watch refers to the [real estate sector](#) and [the trade with used cars](#). Its manager says that [indebted natural and legal persons](#) are also affected because the money they have in bank accounts might be subject to enforcement by creditors. It should be noted that property taxes are paid on a minimum amount established by the state (a tax base) but in most cases, market prices are several times higher. Thus, payments above tax assessments are made in cash. A restriction in another EU Member State had an impact on groups in Bulgaria. For example the limits introduced in Italy affected importers of used cars.

²⁷⁵ Proposal for a Regulation of the European Parliament and of the Council on controls on cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005, http://eur-lex.europa.eu/procedure/EN/2016_413.

Because there is not data on cash restrictions related costs, they could be [measured by analysing and reporting the data on the transactions made via bank cards and those made via bank transfers](#).

Impacts on vulnerable groups

The implementation of Directive (EU) 2015/849 has not affected the Bulgarian Chamber of Commerce and Industry (BCCI) so far. As a whole, restrictions on cash payments in Bulgaria and the requirement payments above a certain threshold to be made only via bank transfers helps for reducing the opportunities for hiding incomes. On the other hand, however, a too low threshold creates difficulties. For this reason, a balance should be struck.

In the recent years in Bulgaria, the proposal for radical cut of the threshold (to 3 000 BGN or to 1 000 BGN) was not adopted exactly because it was expected that it will [obstruct economic activities](#). Studies carried out by the Bulgarian Chamber of Commerce and Industry back in 2007 and 2009 show that only 20% of respondents support cash restrictions below 3 000 BGN. The remaining 80% interviewees are on the opinion that if a threshold should be introduced, it should be 5 000 BGN or higher, or do not support cash payment thresholds arguing that [any restriction in relations between economic operators is harmful for the market economy](#).

A lower threshold would not affect the activities of the Bulgarian Chamber of Commerce and Industry (BCCI). But it will affect the costs of companies, which have many cash payments, or traders, which have higher daily turnover.

In Bulgaria, [bank fees and commissions](#) is still an open question. The latter should not to obstruct lower cash payment thresholds, especially transactions between small and medium sized companies. The groups mostly affected by cash restrictions are: - legal persons (companies) with a [high daily turnover](#) (for example, where purchases are typically made via POS terminals, and the company should pay a fee to the bank for any received card transaction - it is calculated as a percentage of the amount paid, usually between 0% to 1%. Moreover, merchants pay a fee for using a POS terminal, for any opened bank account, etc., pursuant to the general conditions of the bank); - legal persons (companies), which [usually do their business via cash payments](#); - natural persons, who would like to receive a product or a service, which costs above the limit but who [cannot pay via bank card or bank account](#) - e.g. retired persons, illiterate persons.

Cash restrictions affect these groups because they need to spend more time and to provide for costs for complying with regulations. There is [no data about the impact of the restrictions in force](#). For this reason, the BCCI recommends an impact assessment to be carried out before a lower threshold is being adopted. Furthermore, the problem stemming from [\(high\)bank fees and commissions should be solved](#).

With regard to the political situation, the intention of the government is to further restrict cash payments, which is in line with the well-established practice in other EU Member States. As from 2018, it is proposed cash payments to be lowered up to 5 000 BGN. The main problems with regard to cash payments are: - [additional costs generated for cashless payments for bank fees and commissions](#) paid for each bank transaction; - [use of split payment practices](#) within a single contract for compliance with limitations; - [consumers' uncertainty](#) when payments should be made electronically; - low (economic) culture of significant part of population for making non-cash payments.

With regard to recent legislative proposals, the BCCI refers to the *Bill on amendments of the Value Added Tax*. Its representative points out that in order to curb the shadow economy, the Ministry of Finance proposes the threshold to be lowered from 10 000 to 5 000 BGN effective as from 2018. This

proposal is in line with established practices in other EU Member States, where the limit is between 2 000 and 3 000 EUR. It will also be applied when transactions are made in foreign currency. The measure is expected to stimulate reporting of day-to-day cash flows received under contracts. The measure is not expected to lead to a higher administrative burden for citizens and economic operators but [public administration should provide for more expenses for monitoring and control of compliance with the new rules \(if adopted\)](#).

If a common measure at EU level is introduced, BCCI's representative thinks that the advantage would be that there will be common and clear rules in all Member States; the latter will contribute to lowering the shadow economy. However, the [threshold might not be one and the same for all countries](#) if [differences in the national economies](#) are taken into account. With regard to the likely threshold, the interviewee is on the opinion that it is a matter of [impact assessment](#), which for the time being, in Bulgaria has not been carried out. It could be assumed that a threshold of 1 000 EUR will lead to a huge number of cashless payments, which will put [burden both on natural and legal persons](#).

On the basis of its experience, BCCI recommends a [preliminary regulatory impact assessment](#) to be carried out and a decision to be taken as to whether a common or different threshold to be introduced in the EU countries. In addition, there should be awareness raising campaigns and information desks for providing information to citizens and companies about the changes. Also, with regard to this, [bank fees and commissions should be regulated](#).

Cashless payments are ordered either by a bank card or by a bank transfer. In the former case, each bank card has a certain limit of the amount which might be withdrawn or paid and BCCI expert thinks that this could [thwart a trade deal](#). On the other hand, a [payment could be delayed](#) if done via bank transfer when one takes into account the working time of banks and the time needed for money transfers.

BCCI is on the opinion that the idea for fighting shadow economy and financing terrorism, for a common cash payments standard in all EU Member States will lead to significant reduction of cash transactions. However, a [balance with the fees collected by banks for the services they provide should be struck](#).

Overall observations

In general, it may be concluded that public authorities are in favour of cash restrictions because they would facilitate their work. However, businesses oppose low thresholds. One of the strongest barriers is the level of bank fees in Bulgaria, which is among the highest in the EU. Should the threshold be lowered citizens and companies will have to make more and more bank transactions, which inevitably will raise their transaction costs. According to the NRA interviewee, nobody in Bulgaria would like to put further administrative and financial burden on SMEs (large companies do their payments via bank transfers regardless of amounts). Furthermore, Sofia and other bigger cities are well serviced by banks (e.g. bank offices, ATM machines, POS terminals, etc.). However, in smaller towns and villages electronic transactions are not quite popular. Also, many elderly people still have difficulties with payments via bank cards let alone to make bank transactions.

Terrorism financing cases

An article²⁷⁶ published in "Science" online magazine describes how "Hawala" is used for financing terrorism (the non-banking money transfer system mentioned by FSC). A short description of two cases in Bulgaria is given below.

At first sight, a clear distinction between lawful and unlawful "Hawala" transactions in terms of legitimacy of cash's origin, object of transfer and its purpose is difficult to be made. For this reason, the financial theory and practice of India and Pakistan (and in the recent years all around the world) distinct two types of "Hawala" transactions: "white Hawala" and "black Hawala". All legal operations of money transfers between lined persons are classified as "white Hawala". A person could prove the lawful origin of the transferred amounts and their future use. "Black Hawala" is a term, which describes unlawful transactions between persons, which at first sight are not related, have broken the link with the source of the money and cannot (including by intentional concealment) prove their origin and purpose.

Regardless of this conditional classification, unlawful transactions could be made via "white Hawala", which have often been registered, including in Bulgaria. In the spring of 2012, during an international police operation on the territory of Republic of Bulgaria, a person named Hayan Ahmed Abed was arrested in Plovdiv. He is a citizen both of Republic of Bulgaria and of Republic of Syria. He was accused of "unregulated banking activity" through using the "Hawala" system on Bulgarian territory. In practice, he was the first officially revealed by authorities "Hawala"-er in the country. During the investigation, it was found that the person is a partner of a Bulgarian citizen of Turkish origin (Shirin Ibrahimova Gaziumerova), which is believed to be the "owner" of the greatest share of China and Turkish cargo in Bulgaria, imported through customs point "Plovdiv".

In the autumn of 2013, "Financial Intelligence" Directorate of SANS revealed another case of the "Hawala" system. Within one calendar month two natural persons linked to each other as spouses, citizens of Afghanistan and residing in Bulgaria with refugee status, received more than 180 transfers of small amounts of money. They have been received on one and the same calendar days, from one and the same Hawala-ers, operating on the territory of 15 countries in the Near East and Europe. In 2014, the mechanism for monitoring of monetary transactions of "Hawala" continued to operate and to detect new cases in Bulgaria.

The described cases, as well as further operations prove the hypothesis that there is a market of money services such as "Hawala" in Bulgaria, and there is a good network of "Hawala"-ers. Although part of monitored transactions concern small amounts of liquidity support to refugees residing in Bulgaria provided by their relatives in the Near and in Middle East and North Africa, the other part might be operations classified as "black Hawala" for a number of suspicious activities - contraband, bribes, political corruption, racketeering, financing of religious organisations and events, purchase of weapons and ammunitions, etc.

²⁷⁶ Dr. Yordanova, G. (2017) "Hawala" Systems as a typology for money laundering and financing of terrorism and radicalisation" (Системата „хауала“ като типология за изпирание на пари и финансиране на тероризма и радикализма); Nauka.bg. The article is available in Bulgarian at the following link: <https://nauka.bg/sistemata-hauala-kato-tipologiya-za-izpirane-na-pari-i-finansirane-na-terorizma-i-radikalizma-ii-chast/>.

Sources

Source	Type of source (policy paper, report, media etc.)
Archive database of National Assembly (www.parliament.bg)	Legislative proposals and related documents.
Public consultations site (www.strategy.bg)	Legislative proposals before being tabled before Parliament and comments/opinions by stakeholders.
Annual Reports of "Financial Intelligence" Directorate at SANA	Report.
Lex.bg	Database of all legal acts in force in Bulgaria.
FrogNews.bg - an online media	An article with a policy analysis.
Nauka.bg - an online scientific journal	An article about terrorism cases in Bulgaria financed via the "Hawala" system.

The Ministry of Finance is the national authority, which drafted the *Limitation of Cash Payments Act*, adopted in 2011. In addition, it is the sponsor of its subsequent amendments (in 2013, 2014, 2015 and 2017). The act restricts cash payments up to 10 000 BGN (equivalent to around 5000 EUR) (the threshold was 15 000 BGN/around 7 500 EUR until 21.12.2015).

The National Revenue Agency is the body entrusted with monitoring and control of its application. If violations are found, tax inspectors impose fines. Also, the National Revenue agency provides methodological guidelines for its implementation.

The Specialised Administrative Directorate "Financial Intelligence" (FID) at the State Agency for National Security supports the competent institutions in harmonising national legislation on countering money laundering and financing terrorism. This also includes proposals for amendment of and opinions with regard to numerous acts, including the *Limitation of Cash Payments Act*.

The Financial Supervision Commission is responsible for maintenance of stability and transparency on the non-banking financial sector, and to ensure protection of the consumers of financial services and products.

The Bulgarian Chamber of Commerce and Industry is one of the biggest associations of businesses in the country and one of the 4 employers' organizations in Bulgaria. It is an independent, non-governmental organisation for assistance, promotion, representation and protection of the business interests of its members, which amount to around 53 000 – traders, corporations, and associations.

Industry Watch is a research and consulting company specialised in monitoring and analysis of macroeconomic dynamics, political risks and business environment in Bulgaria.

4. FRANCE

Overview of interviews

Representing organisation	Date of interview
French FIU (TRACFIN)	20 October 2017
Consumer Association	16 October 2017
Retailers association	31 August 2017
Jewellery and Clocking association	30 August 2017
Rivington (Consultancy representing one of their clients, Eco-systemes)	27 October

Overview of legal regime

The table below is the country which has been reviewed and updated by the French FIU.

Table 0.8 Country fiche France

FRANCE

Restriction	<input checked="" type="checkbox"/>
Declaration	<input type="checkbox"/>
4th AML directive transposed	<input type="checkbox"/>
National measures more restrictive than EU directive*	<input checked="" type="checkbox"/>



Restriction

Legal basis

- Restriction : L.112-6, I of the French Monetary and Financial code (legislative basis) and D.112-3 (regulatory basis);
- Sanction: 1840 N sexies of the French General tax code.

Rationale / main policy goals

Avoid tax evasion, financial crime, terrorist finance and corruption.

Competent authority

Public Finances General Directorate (the French tax authority)

Other involved authorities

- Directorate General of the Treasury;
- Customs;
- DGCCRF (Directorate General of Competition, Consumption and Fraud repression).

Current threshold(s)	<p>Payment by cash : 1 000 EUR</p> <p>Payment by electronic money : 3000 EUR</p> <p>For non resident and if transaction has nonprofessional purpose (cash and electronic money) : 15 000 EUR</p>
Former thresholds	<p>Payment by cash : 3 000 EUR (until 2015)</p> <p>Payment by electronic money : 1 000 EUR (from 2015 to 2016)</p>
Targeted sectors/ Type of transaction	All transaction except the ones for which a specific rule is defined.
Specific rules	<ul style="list-style-type: none"> • Wages can be payed by cash up to 1 500 EUR (art. L.112-6, I, al. 2 of monetary and financial code and decree n°85-1073); • Concessionary services can be payed by cash up to 450 EUR (beyond 450 EUR by bank transfer) (art. L.112-6, II of monetary and financial code); • Payment of transactions relating to the pawnbroker can be made by cash up to 3 000 EUR (art. D.112-6 of monetary and financial code); • Payment linked to an authentic instrument established by a notary, which is subject to estate advertisement, can be made by cash up to 3000 EUR (beyond 3000 EUR, by bank transfer) (art. L.112-6-1 and R.122-5 of monetary and financial code); • Tax payment can be made by cash up to 300 EUR (art. 1680 of tax general code). <p>No cash allowed at all in case of purchases of metals (art. L.112-6, I, al. 3 of monetary and financial code) or delivery of cereals to cooperatives (art. L.112-8 of monetary and financial code).</p>
Exemptions	<p>Restrictions don't apply to cases indicated below :</p> <ul style="list-style-type: none"> • payments made by persons that are unable to pay by cheque or by any other means of payment as well as by those that do not hold a deposit account; • payments made between natural persons that are not acting for professional purposes; • settlement is paid for expenditures of the State or of other public entities. <p>3000 EUR (cash) for pledge loans</p>
Sanctions	In case of infringement, both the consumer and the merchant are liable for a fine that may not exceed 5% of the total amount of the bill.
Enforcement measures	-
Results impact assessment or evaluations	-

Measurement indicators	-
Future changes	<p>Thresholds applied to payments of non resident will evolved soon (publication of the decree transposing the 4th directive) :</p> <ul style="list-style-type: none"> - 10 000 EUR when the payment is for the benefit of a person who isn't subject to the anti-money laundering and terrorist financing disposal; - 15 000 EUR when the payment is for the benefit of a person subject to the anti-money laundering and terrorist financing disposal.
Sources	<p>https://www.legifrance.gouv.fr/affichCode.do;jsessionid=C0C4675C1495A50126CBB2EFF5B1C6FE.tplqfr33s_1?idSectionTA=LEGISCTA000019265478&cidTexte=LEGI TEXT000006072026&dateTexte=20171004</p>

*either 3rd and 4th AML directive.

Cash use in French society

In France, cash accounts for just over 50% of transactions, less than in other major euro area Member States (e.g. more than 80% in Germany). For example, only 15% of French people use cash for transactions between 30 and 100 euros, compared to 69% in Germany or 72% in Italy²⁷⁷. However, according a report published in 2012, the French remain particularly attached to the cash: 68% are unfavourable to its disappearance. If Although 92% French prefer credit card for daily purchases, 66% use cash as a second choice.

Furthermore, cash payment restriction and the use of cash in general is often covered by French media, which provide regular updates²⁷⁸.

Policy context

In 2002, France has introduced a cash payment restriction set at EUR 3 000 for residents and non-residents traders and at EUR 15 000 for non-resident consumers²⁷⁹. In 2016, the limitation for residents and non-resident traders has been lowered to EUR 1 000. Other limits are also applied, differentiated by the type of transaction (see Table 1). The 1000 euros amount has been lowered since December 2016 by a Decree, implementing a law passed in June 2016²⁸⁰. These limits apply to business-to-business and business-to-consumer transactions.

Rationale

According to the former Minister of Finance, Michel Sapin, 'to counter terrorist financing, we need to reduce the level of cash circulating in the economy. Anything that makes payments anonymous makes them impossible to trace. In this, we need to be able to conduct ID checks.'²⁸¹

²⁷⁷ See <https://www.banque-france.fr/billets/analyser-et-anticiper/lutilisation-des-especes-en-france-et-dans-la-zone-euro>.

²⁷⁸ See <https://www.lesechos.fr/idees-debats/cercle/cercle-169798-le-cash-une-espece-en-voie-de-disparition-2085368.php>, or http://www.lemonde.fr/argent/article/2015/08/31/paiement-en-liquide-les-regles-changent_4741375_1657007.html.

²⁷⁹ See https://www.economie.gouv.fr/files/dp_lutte_contre_le_financement_du_terrorisme_anglais.pdf.

²⁸⁰ See <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000032627231&categorieLien=id>.

²⁸¹ See https://www.economie.gouv.fr/files/dp_lutte_contre_le_financement_du_terrorisme_anglais.pdf.

For national authorities and especially law enforcement forces, anonymity is an obstacle to carry out a complete investigation. Indeed, a high circulation of cash hinders traceability and encourages trafficking, organised crimes and other criminal or terrorist activities.

Therefore, the objectives behind the implementation of cash payment limitations are multiple. They are to aid in the fight against:

- Tax evasion;
- Money laundering;
- Terrorism and terrorism financing;
- Organised and financial crime;
- Corruption;
- Underground economy.

Supervision

Responsibility for supervision and enforcement is entrusted to the following parties:²⁸²

- TRACFIN (French FIU);
- Public Finances General Directorate (French tax authority);
- Directorate General of the Treasury;
- Customs;
- DGCCRF (Directorate General of Competition, Consumption and Fraud repression).

In addition, on the more operational side, different law enforcement bodies can be listed:

- Police;
- Gendarmerie;
- Intelligence.

Since 2015, the French FIU, TRACFIN, has been strengthened. Indeed, in June 2015, TRACFIN participated in the implementation of a coordination cell between specialized services, allowing a fast and fluid circulation of information between services. According to TRACFIN²⁸³, This new dimension is undeniably a milestone of the year 2015. At international level, collaboration with other FIUs has been strengthened especially with Belgium, Luxembourg, Switzerland and the United States.

After the January 2015 attacks, TRACFIN benefited of a multi-year reinforcement of 10 FTE including six in 2015 and four in 2016. This operational reinforcement led to the establishment, as of 1 October 2015, of a division entirely dedicated to the fight against terrorism financing. This decision is indeed reflected in the data figures from the activity report: 534 TF files (119% of more than in 2014) were treated, not counting the multiple screenings; 179 TF information notes (130% more than in 2014) were sent to the specialized services partners or the judicial authority.

²⁸² See Algemene Rekenkamer [*Court of Audit*] (2014), 'Bestrijden witwassen: stand van zaken 2013', to be found online at <https://zoek.officielebekendmakingen.nl/kst-31477-6.html>. One additionally named party is the Gambling authority (Kansspelautoriteit) and the, which deals with anti-money laundering indirectly.

²⁸³ See <https://www.economie.gouv.fr/tracfin/tendances-et-analyse-des-risques-en-2015>.

FIU-data

Table 0.9 Terrorism financing (table included in the Questionnaire)

Baseline impacts: Terrorism	2016	2015	2014	2013	2012
Financing					
Number of declined cash payment transactions related to TF	No detailed data available.				
Financial amounts involved in declined transactions (EUR)	No detailed data available.				
Number of reported cash payment transactions related to TF	No detailed data available.				
Financial amounts involved in declined transactions (EUR)	No detailed data available.				
Use of financial intelligence related to cash payments for terrorism financing (e.g. investigations)	In 2016 and 2017, TRACFIN has processed a wide investigation by analysing more than 6000 international cash transfer transactions to identify some networks of cash collectors financing foreign fighters and terrorist groups in conflict areas in the Middle East.				
Other indicators?					
How is this expected to develop in the future, absent EU action? (Is there any reason to believe the past average will change significantly in the future?)					

Table 0.10 Data provided in addition to the table above

TF	2014	2015	2016
Received STRs	323	801	1 177
Pending investigations	231 cases	431 cases	162 cases
Disclosures	78	179	396

2016 has been a very important year for TRACFIN since the number of information received and analysed has considerably increased (+43%), notably regarding the suspicious declaration (+44%). In 2016, almost 96% of the information received by TRACFIN emanate from the declaring professionals, 62,259 reports of suspicion (+ 44% compared to 2015). For further information, please see table below.

Table 0.11 Number of information received by TRACFIN in 2016 and 2015/2016 variation in %

Reception	Analysis	Dissemination
64 815 (+43%) information addressed to TRACFIN <ul style="list-style-type: none"> • 62 259 (+44%) declaration of suspicion; • 1 451 (+3) of incoming requests from other FIUs and legal requisition; • 1 105 (+78%) of administrative information. 	13 592 (+28%) investigations in 2016 from information received in 2016 or before. 57 706 investigation actions <ul style="list-style-type: none"> • 30 785 communication rights; • 1 454 requests addressed to other FIUs; • 25 467 researches (data base consultation, questioning of institutional services). 	1 889 (+16%) of transmission notes <ul style="list-style-type: none"> • 448 (+0) judicial transmissions; • 1 441 (+21) administrative transmissions.

In its annual report of 2016, TRACFIN has gathered the number of declarations that were received over the year. The report differentiates the financial professions and the non-financial professions (see tables below).

Table 0.12 Overview of declarations (financial professions). Source: Annual report TRACFIN (2016).

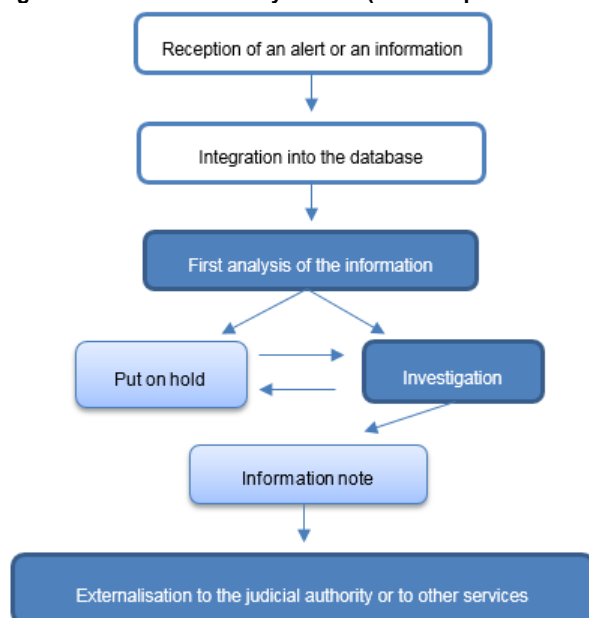
Financial professions	2010	2015	2016	Evolution 2015-2016
Bank, credit establishment	13 206	31 276	46 901	+50%
Manual exchange office	3 002	1 709	2 255	+31,9%
Insurance companies	808	2 159	3 200	+48,2%
Payment institutions	0	4 535	5 110	+12,7%
Issuing institute	608	142	477	+235,9%
Investment enterprise	134	105	120	+14,3%
Mutual fund and social security institution	56	320	213	-33,4%
Financial investment advisor	78	35	32	-8,6%
Insurance intermediary	3	65	107	+64,6%
Payment system participants	0	NA	0	
Portfolio management company	10	58	60	+3,4%
Electronic payment institution	NA	10	36	+260%
Participatory financial intermediary	NA	0	6	NA
Total	17 905	40 414	58 517	+44,8%

Table 0.13 Overview of declarations (non-financial professions). Source: Annual report TRACFIN (2016).

Non-financial professions	2010	2015	2016	Evolution 2015-2016
Notary	674	996	1 044	+44,8%
Gambling sector	269	212	272	+28,3%
Casinos	137	422	601	+42,4%
Administrator of justice and judicial representative	55	528	995	+88,4%
Accountant	98	286	442	+54,5%
Real estate professional	14	35	84	+140%
Auditor	46	88	132	+50%
Precious metal dealers	2	29	15	-48,3%
Auctioneer	8	33	51	+54,5%
Bailiff	0	39	73	+87,2%
Lawyer	0	0	4	NA
Domiciliation company	0	3	9	+200%
Online gaming operator	0	146	20	-86,3%
Total	1 303	2 817	3 742	+32,8%

From the day of the reception of an alert or an information until the day of the externalisation of the case to another service, the information follows a specific course and goes through a structured flow. Indeed, it has to be integrated in the database before it's analysed. Based on the information collected, a first analysis is conducted which leads to the launched of an investigation or an adjournment. Once the investigation is completed, an information note is prepared and sent to external services for further examination.

Figure 0.1 Information analysis flow (from suspicious declaration to the finalisation of an investigation).



Impacts on Terrorist Financing

According to the French FIU, cash is used in the main part of the received STRs dealing with TF. However, a precise split between STRs, in which cash is related, and STRs in which other payment instruments are used, is not available.

The main STRs and investigations processed by TRACFIN are of the following types:

- Detection of radical behaviours and leaving or coming back (foreign terrorist fighting);
- Humanitarian or cultural associations financing terrorist groups;
- International collector's networks.

Cash payments keep playing an important role in TF. The radicalised people leaving France to fight in the Middle East or the associations financing terrorist groups use commonly cash deposits or withdrawals. International collector's networks use massive international cash transfer services.

Most of the time, the amount of unitary transactions is relatively low. That is why the cash restriction to downsize the payment threshold from 3 000 euros to 1 000 euros did not have any evident effect regarding TF. Furthermore, legal cash restrictions have no effect at all on the black market for weapons.

From the French government's perspective, any international harmonisation of the regulatory framework is a step in the right direction. Regarding the limit that should be applied, it should be as low as possible to enable traceability and investigation. However, a threshold lower than 1 000 euros seems difficult to implement because it could harm various economic sectors. At EU level, as a first step, the limit could be set at 2 000 or 3 000 euros. Furthermore, an exemption should be applied for transactions happening within the family circle.

In addition to the traceability argument, French authorities consider that a uniform regime across all EU countries will significantly help to reduce market distortion. Indeed, with the exception of Greece, France has the lowest cash payment restriction in the EU. This causes important economic distortions especially in the border areas. The neighbouring countries have either implemented higher limitations (Spain, Italy and Belgium) or have not set any cash payment restriction (Germany, Luxembourg or Switzerland). This is particularly detrimental to retailers who see their clientele preferring to cross the border to purchase goods in a country where the limits are less restrictive.

The latter argument has been also raised by the retailer association and the Jewellery and Clocking association.

Concerning declaration, it seems difficult according to the French FIU to implement a declaration on cash transactions above a certain size. Two options could be considered:

- Option 1: Every retailer becomes an obliged entity and sends a STR to its national FIU as soon as a client pays in cash above a certain ceiling. It would increase notably the number of STRs to be processed by the FIUs. Moreover, it would increase controls (need to check that every retailer fulfils its obligations. It is already difficult to control some current obliged entities like the real estate agents;
- Option 2: Create a dedicated declaration system for the retailers accepting cash payment above a certain size, distinct from the STR framework. It would require that a public authority is in charge of analysing and controlling the declarations and sanctioning the retailers, which did not fulfil their obligations. According to the French authorities, this option seems to be an expensive solution for uncertain results.

Impacts on Money Laundering

According to the French authorities, cash remains the most used instrument in many criminal ML schemes, which are largely treated in the STRs received by TRACFIN:

- Charging of pre-paid cards;
- Gaming (betting and casinos);
- Payment of illegal workers;
- Etc.

These cases belong to the low level underground economy that a cash payment restriction could effectively curb, by hindering economic agents to easily expense their illegal cash.

However, the most important cash intensive ML schemes get around the STR process and can not really be hindered by legal cash payment restrictions. These schemes are made up of large international networks collecting cash from smugglers and fraudsters and transporting it physically to foreign countries. They often use *Hawala* channels. They can also use commodities markets (especially physical gold) and obscure foreign exchange markets (especially in countries enforcing an exchange control and/or high exchange rates). Paradoxically, the AML/FT regulatory framework has reinforced such international networks that collect and transport cash, since they remain the best way to avoid the radars of the obliged entities.

Many cases treated by the law enforcement agencies (Gendarmerie, judicial police, judicial customs) prove the importance of such networks and the importance of cash for criminals: prosecuted Corsican gangsters financing a clandestine life, arrest of drug smugglers, Asian fraudsters hiding their illegal activities behind import/export companies, etc.

As noted before for terrorist financing, the French government is in favour of an international harmonisation of the regulatory framework. Even if the effect of cash payment restrictions is uncertain to contain ML schemes, the existence of diverse national thresholds between EU countries weakens the AML/TF framework.

Impacts on Tax Evasion

It is important to stress that according to the French FIU, the activities which are the most impacted by cash payment restrictions are tax evasion and money laundering. The tax fraudsters who live in France and handle some undeclared cash like to use it for leisure and luxury expenses (travels, hotels and restaurants, luxury clothes and accessories, jewellery, etc.). However, only a few of them have the ability to deal with criminal networks to launder their undeclared cash and get around the cash payment restrictions.

Similarly to TF and ML, a European harmonisation of the regulatory framework is necessary, according to the French authorities.

Enforcement costs and measures

According to the French authorities, an EU-wide cash restriction could be monitored through increased accountability of national authorities involved in the enforcement of this measure and reinforcement of international cooperation between existing public agencies.

Compliance costs

According to the retailers association, the current threshold has limited impact on retailers since in practice the vast majority of customers do not pay in cash with high amount of money.

From the jewellery and clockwork association's perspective, the current cash restrictions implemented in France cause important problems:

- The decision to lower the thresholds has created significant distortions of competition between France and the competing European capitals, which have mainly introduced vigilance thresholds but no prohibition. France, with 82.6 million visitors a year, remains the first tourist destination in the world, it is only the 4th in terms of expenditure per visitor;
- A recent study showed that the cash restriction for non-residents of 15 000 euros led to a cancellation of the sale in 34% of cases²⁸⁴.

Impacts on cash-intensive sectors

According to the retailers association, the most impacted sectors are the following:

- Jewellery and clock making;
- Luxury;
- Big Parisian department stores such as *Le Printemps* and *Les Galeries Lafayette*.

Furthermore, and as aforementioned, border areas are particularly problematic for retailers as it creates a market distortion. Indeed, it has been observed that customers prefer to shop in another country, which does not have cash payment restrictions or implements less stringent restrictions.

There are different types of impacts:

- Macro economic: impact on trade and tourism, especially for border regions. Moreover, these restrictions contribute to the impoverishment of certain city centres. Indeed, there is already a problem of vacant premises and desertion of city centres in France and the restrictions imposed in terms of payment in cash, are likely to aggravate the situation. Then, the margin is reduced by the difference of 0.4%, commission applied to electronic payments and checks. Finally, there may be an impact on domestic trade, with a shift in cash transactions abroad rather than in France (see below regarding the UK);
- Data protection: payment in cash allows anonymity, which payment by cheques or card do not allow this. These means of payment are traceable and people can easily be identified.

The case of the United Kingdom is of particular concern with regard to Brexit according to both retailers association and the jewellery and clock making association. Indeed, the UK does not apply any cash payment limitation at the moment. In the case of EU-wide ban, and if the Brexit becomes legally effective, the UK might want to present its regulatory framework as argument vis-à-vis customers to invite them to purchase goods within its territory, instead of doing it in the European Union.

The tourist population now includes more non-Europeans, and in particular Chinese (their presence has doubled in the last 5 years), Russians, Brazilians, Middle Easterners. However, according to a recent study cited by the jewellery and clock making association, these categories of tourists have the habit of paying in cash, mention "shopping" as a key element of their stay (e.g. 44% of Chinese indicate that it is a determining factor in their choice of destination); often carry out short stays (50% of stays are limited to 2-3 days) and travel, as part of "circuits" of travel in Europe, between different European destinations – applying different cash use regimes.

Additionally, the different limitations between resident (EUR 1 000) and non-resident (EUR15 000) is perceived as discriminatory.

²⁸⁴ Impact study on the impact for the luxury markets of the lowering of the cash payment threshold for French residents and foreigners.

Finally, the reasons for such restrictions seems not to be very convincing according to both associations (fight against TF and ML), while effects on ML have been observed by the French authorities.

The heavy metals sector

Since 2011, article 51 of the monetary and financial code prohibits, without any ceiling limit, payment in cash for the purchase of metals. This measure aims to facilitate the control of retail shopping of metals and strengthen the fight against trafficking. From now on, any natural or legal person involved in the retail purchase of ferrous and non-ferrous metals must submit every year a tax return to the tax department of his domicile or head office.

Many private structures (French Building Federation, Confederation of artisans and small enterprises and approved eco-organizations) and public operators (French national railway company, the Transport network of the electricity and other network operators) suffer from this this growing offence. Professionals also face unfair competition.

This measure is supported by some representatives and in 2012, Pierre Moscovici, while he was Minister of Economy and Finance has declared that he was in favour of harmonising the ban on cash payments of metals in the EU in order to "fight more effectively against transnational organized networks and to ensure the conditions for balanced competition in the European recovery and recycling market ".²⁸⁵

There would be two main impacts regarding this measure:

- **Technical impact:** it would encourage economic development through innovation. This type of measure drives the development of FinTech through the creation of applications but also the development of information systems among professionals in the sector. This leads to a strengthening of traceability means as well as a decrease of robberies;
- **Economical impact:** in France, an overall development of the economic activity of the recycling sector has been observed. Moreover, the diminution of criminality (especially at the borders) would lead to an increase of State tax revenue and would encourage to further developing a legal recycling sector, which is still suffering from cross-border crime.

Therefore, according to the persons interviewed, a European harmonisation of the cash restriction would not only support the fight against criminality and illegal trafficking, but would also promote innovation and increase State tax revenue.

Impacts on consumers and vulnerable groups

According to the consumer association, the freedom to choose between different means of payments and the access to information of these means are crucial. According to a recent survey, 84% of French do not want cash to disappear in favour of dematerialized payment methods (stable compared to 2015 and 2016).²⁸⁶

²⁸⁵ See <http://questions.assemblee-nationale.fr/q14/14-996QE.htm>.

In France, when it comes to cash payment restrictions, the consumer association has identified the following vulnerable groups:

- Unbanked people;
- Households living under the poverty threshold²⁸⁷;
- Elderly.

In France, there are more than 1 800 000 unbanked people. Indeed, more than 95% of the population possess a bank account while 4-5% do not.²⁸⁸

According to a study conducted by the Centre of research of public opinion, for purchases of less than 45 euros to retailers, almost half of poor households use cash. Nearly 43% use the credit card, while 9% mention the cheque. For purchases over 45 euros, the card is more used (up to 57%) and cash less (it decreases to 25%)²⁸⁹. According to this study, vulnerable people, such as households living under the poverty threshold, use more cash than credit card.

According to the consumer association, a too stringent restriction of cash payment would be detrimental to vulnerable groups since they would have to look for alternative ways of payments, which might be more costly and/or more complicated to use.

Impacts on economic freedom and privacy

The main preoccupation when it comes to cash payment restriction is the breach of privacy and anonymity. According to a recent study, 62% consider that measures to limit the use of cash are an infringement of individual freedoms²⁹⁰. Indeed, cash allows anonymity while alternative means of payment, like electronic cards or cheques, do not. The concern is that transactions will become more and more traceable and information on both the debtor and the creditor will be made available.

Sources

The table below gives an overview of sources, such as data sources, FIU reports, policy papers, academic reports, media reports used to compile the present report.

Table 0.14 Sources

Source	Type of source
Code monétaire et financier (Monetary and financial code). To be found online at: https://www.legifrance.gouv.fr/affichCode.do?sessionId=C0C4675C1495A50126CBB2EFF5B1C6FE.tplgfr33s_1?idSectionTA=LEGISCTA000019265478&cidTexte=LEGITEXT000006072026&dateTexte=20171004 .	Legal text
Loi n° 2016-731 du 3 juin 2016 renforçant la lutte contre le crime organisé, le terrorisme et leur financement, et améliorant l'efficacité et les garanties de la procédure pénale (Law strengthening the fight against organised crime, terrorism and its financing, and improving the effectiveness and the guarantees of criminal procedure). To be found online at : https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000032627231&categorieLien=id .	Legal text

²⁸⁷ In France, the threshold is set at 900 euros.

²⁸⁸ See <https://www.wsbi-esbg.org/press/latest-news/Pages/Close-to-40-million-EU-citizens-outside-banking-mainstream.aspx>.

²⁸⁹ See <https://www.cbanque.com/r/rapport-credoc-100428.pdf>.

²⁹⁰ See <https://www.brinks.fr/actualites-brinks/observatoire-brinks-ifop-2017-francais-largent-liquide/>.

Source	Type of source
Rapport d'activité 2016 de Tracfin (Annual activities report, TRACFIN). To be found at https://www.economie.gouv.fr/tracfin/rapport-dactivite-2016-tracfin?language=fr .	Report
Rapport annuel de l'Observatoire de la sécurité des moyens de paiement, Banque de France, 2016 (Annual report of the payments means Observatory). To be found online at https://www.banque-france.fr/sites/default/files/medias/documents/osmp2016_web.pdf .	Report
The use of cash in euro area countries, Banque de France. To be found at: https://www.banque-france.fr/billets/analyser-et-anticiper/lutilisation-des-especes-en-france-et-dans-la-zone-euro .	Website (Banque de France)
L'avenir des moyens de paiement en France, Ministère de l'économie et des finances, 2012 (The future of payment means in France). To be found at: https://www.tresor.economie.gouv.fr/Ressources/File/340371 .	Report
Press kit 'Countering terrorist financing', 18 March 2015. To be found at: https://www.economie.gouv.fr/files/dp_lutte_contre_le_financement_du_terrorisme_anglais.pdf .	Press kit
Tendances et analyses des risques de blanchiment de capitaux et de financement du terrorisme en 2015 (2015 Money laundering and terrorist financing risk trends and analysis). To be found at: https://www.economie.gouv.fr/tracfin/tendances-et-analyse-des-risques-en-2015 .	Report
Le cash, une espèce en voie de disparition?, 2017 (Cash, an endangered species ?). To be found at : https://www.lesechos.fr/idees-debats/cercle/cercle-169798-le-cash-une-espece-en-voie-de-disparition-2085368.php .	Article
Paieement en liquide : les règles changent, 2015 (Cash payment, rules are changing). To be found at : http://www.lemonde.fr/argent/article/2015/08/31/paiement-en-liquide-les-regles-changent_4741375_1657007.html .	Article
Les français et l'argent liquide, 2017 (The French and cash). To be found at: https://www.brinks.fr/actualites-brinks/observatoire-brinks-ifop-2017-francais-largent-liquide/ .	Website (IFOP ²⁹¹)
Close to 40 million EU citizens outside banking mainstream. To be found at: https://www.wsbi-esbg.org/press/latest-news/Pages/Close-to-40-million-EU-citizens-outside-banking-mainstream.aspx .	Article
Les conditions d'accès aux services bancaires des ménages vivant sous le seuil de pauvreté, 2010 (Conditions of access to banking services households living under the poverty threshold). To be found at : https://www.cbanque.com/r/rapport-credoc-100428.pdf .	Report
Le financement des attentats de Paris (7-9 janvier et 13 novembre 2015), Octobre 2016 (The financing of the 2015 Paris attacks). To be found at: http://cat-int.org/wp-content/uploads/2017/03/Financement-des-attentats-2015-VF.pdf	Report (Summary)
Étude d'impact L'impact pour les marchés du luxe de l'abaissement du seuil de paiement en espèces pour les résidents français et les étrangers, 2016 (Impact study on the impact for the luxury markets of the lowering of the cash payment threshold for French residents and foreigners).	Report

²⁹¹ IFOP stand for Institut français de l'opinion publique, French Institute for public opinion.

5. GERMANY

Overview of interviews

Representing organisation	Date of interview
Ministry of Finance (Bundesfinanzministerium)	14 September 2017
German Customs (Generalzolldirektion)	27 October 2017
Federal Police (Bundeskriminalamt/Financial Intelligence Unit)	19 October 2017
Public Prosecutor Office (Oberstaatsanwaltschaft)	24 October 2017
German Retail Association (Deutscher Handelsverband)	24 October 2017
Federation of German Consumer Organisations (vzbv) Verbraucherzentrale Bundesverband (vzbv) e.V.	21 August 2017
German Central Bank (Deutsche Bundesbank)	x
Gambling association (DSbV Deutscher Spielbankenverband e.V.)	27 October 2017
Martin-Luther-Universität Halle-Wittenberg Chair of Criminal Law Criminal Procedure Law and Criminology	18 October 2017


GERMANY

Restriction

Declaration

4th AML directive transposed

National measures more restrictive than EU directive*



Restriction

Gesetz über das Aufspüren von Gewinnen aus schweren Straftaten
(Geldwäschegesetz - GwG) [Anti-Money Laundering Act]

Legal basis

Adopted on 13 August 2008, updated 23 June 2017

Rationale / main policy goals Combating money laundering and combating terrorist financing

Competent authority

- The Financial Intelligence Unit (FIU) under the auspices of the Ministry of Finance.

(In June 2017, the FIU has moved from the Federal Criminal Police (Bundeskriminalamt) to the Central Customs Authority (Generalzolldirektion)

Other involved authorities

- Federal Ministry of Justice;
- Financial Supervisory Authority (Bundesanstalt für Finanzdienstleistungsaufsicht, BaFin).

Police forces of the federal states (specifically the “money laundering clearing houses” and other financial investigation units).

Current threshold(s) Due diligence obligation for certain sector and declaration obligation if entering Germany from another European Union member state, and if exiting Germany to another European Union member state, carrying cash money or equivalent means of payment in a total amount of 10,000 euros or more this amount of money to the customs control unit verbally when asked. Person trading in goods are obliged persons and must watch for indicators raising suspicions of money laundering and terrorism financing, and they are obliged to identify the counter-party and assess the risks if they are involved in a cash payment of EUR 10.000 or more. (For Casinos: 2.000 EUR)

Former threshold(s) N.a.

Targeted sectors/ Type of transaction Due diligence obligation for:

- Credit institutions;
- Financial services institutions;
- Payment Institutions and e-money institutions;
- Agents pursuant to section 1 (7) of the German Payment Services Supervision Act 5. self-employed traders who: (a) on behalf of a payment service provider pursuant to Article 1 (1) (1) of the Payment Services Supervision Act Payment services pursuant to section 1 (2) of the German Payment Services Supervision Act execute or (b) distribute electronic money from a credit institution pursuant to Article 1a (1) (1) Financial companies;
- Insurance companies;
- Insurance agent;
- Capital management companies;
- Attorneys, Advocates of Chamber Attorneys, Patent Attorneys and Notaries;

- Legal advisers who are not members of a lawyers' chamber
Auditors, sworn accountants, tax consultants and
Steuerbevollmächtigte service providers for companies and for
trusteeship or trustee;
- Real estate brokers;
- Organizers and intermediaries of gambling, as far as it is not is
about a) Operators of gambling machines pursuant to § 33c of
the Trade Regulations, (b) associations representing the
undertaking of a totaliser in accordance with Article 1 of the
Racing betting and lottery law, (c) Lotteries offered and marketed
outside the Internet and which have a state authorization, d)
Sociolotteries.
- Merchants.

Exemptions

Gambling service providers, lotteries which are not organised on the internet and which were approved by German authorities are exempt from the obligations.

Sanctions

Violations characterized as an administrative offence. Penalties depending on category of offence:

Cat	Minimum	Maximum
1	€ 0	€ 1 000 000*
2	€ 0	€ 5 000 000**

*Or with a fine up to two times the economic advantage deriving from the infringement;

**Or 10% of the total turnover of the legal person or persons' association during the financial year preceding the decision of the authorities.

Naming and shaming: Non-appealable fines are published on the website of the supervisory authority.

Enforcement measures

Audits of obliged entities

Results impact assessment or evaluations

None found.

Measurement indicators

Suspicious transactions by type (e.g. cash) and by suspicion (e.g. terrorist financing)

Future changes

Not expected

Sources

https://www.zoll.de/EN/Private-individuals/Travel/Travel-within-the-EU/Restrictions/Cash/cash_node.html
https://www.gesetze-im-internet.de/gwg_2017/BJNR182210017.html

Cash usage in German society

Cash as a means of payment still plays a vital role in German society, especially when it comes to smaller transactions. In a 2017 survey, 90%, German consumers stated that they "frequently" or even "almost always" use cash; this is more than any other EU country.²⁹² 84% of respondents state, "I will never completely get along without cash."

Security and privacy concerns are important motives for the German tendency to cash payments. 48 % consider payment procedures as safe, 77 % of them see the use of cash as safe.

However, only around 30% of Germans also stated that only would pay in cash if they were able to choose which means of payment they could use. This represents an inconsistency with the 84% who never want to live without coins and bills. Possibly, a part of this 30% do not believe that the logistics and infrastructure for a completely cashless society are going to be available in the near future, and concluded that it seems reasonable to hold on to cash at least as a back-up.²⁹³

German consumers carry cash more often and in larger quantities than the European average and wield a greater proportion of their transactions with cash. In 2014, **Germans carried an average of 103 EUR in their wallets**. In addition, the result of three consecutive studies conducted by the German Federal Bank on payment behaviour showed that the population in Germany changes its payment behaviour only slowly and has little willingness to experiment with alternative payment measures.²⁹⁴

Despite the general preference for cash, 34% of Germans indicated that they recently reduced their cash usage.²⁹⁵ Relevant for this study is the finding that most Germans use only for payments up to a certain amount.²⁹⁶ According to a 2011 survey conducted by the European Central Bank, a substantial proportion (91%) of small purchases is paid for in cash, but only 4% indicated that they are using cash for purchases over €10,000, for instance, to buy a new car (see table below).

²⁹² ING Economic Research: "Cash bleibt doch King. Deutsche Verbraucher haben ihre Bargeldnutzung reduziert – ganz darauf verzichten wollen sie aber noch lange nicht", p.1, May 2017, available online at: <https://www.ing-diba.de/pdf/ueberuns/presse/publikationen/ing-diba-economic-research-iis-cashless-society-2017-020517.pdf>, last accessed at: 26/10/2017.

²⁹³ ING Economic Research: "Cash bleibt doch King. Deutsche Verbraucher haben ihre Bargeldnutzung reduziert – ganz darauf verzichten wollen sie aber noch lange nicht", p.1, May 2017, available online at: <https://www.ing-diba.de/pdf/ueberuns/presse/publikationen/ing-diba-economic-research-iis-cashless-society-2017-020517.pdf>, last accessed at: 26/10/2017.

²⁹⁴ European Central Bank: "The Use of Euro Banknotes – Results of two surveys among households and firms" https://www.ecb.europa.eu/pub/pdf/other/art2_mb201104en_pp79-90en.pdf, Montly Bulletin 2011, p.84.

²⁹⁵ ING Economic Research: "Cash bleibt doch King. Deutsche Verbraucher haben ihre Bargeldnutzung reduziert – ganz darauf verzichten wollen sie aber noch lange nicht", p.1, May 2017, available online at: <https://www.ing-diba.de/pdf/ueberuns/presse/publikationen/ing-diba-economic-research-iis-cashless-society-2017-020517.pdf>, last accessed at: 26/10/2017.

²⁹⁶ European Central Bank: "The Use of Euro Banknotes – Results of two surveys among households and firms" https://www.ecb.europa.eu/pub/pdf/other/art2_mb201104en_pp79-90en.pdf, Montly Bulletin 2011, p.84.

Table 0.15 Percentage of respondents always or often using cash for different kinds of purchases by country (percentages)

Category	Percentage (%)
Purchases less than €20 (e.g. newspapers, bread)	91
Purchases between €30 and €100 (e.g. fuel, groceries)	62
Purchases between €200 and €1,000 (e.g. clothing, furniture)	21
Purchases over €10,000 (e.g. a new car)	4

Source: ECB household survey on the use of cash, 2011.

The importance of cash as a means of payment has been emphasized by most stakeholders. The Federal Bank, the German Retail Association and the Consumer association and the gambling association are clearly opposed to cash payment restrictions and/or an obligation declaration and published several position papers and statements which examine the topic in greater detail. The German government remains neutral until further empirical data has been collected,

Table 0.16 Contextual data

Indicators: Description of economy	
Role of cash in society	Very important, please see section above.
Cash-intensive industries	Second-hand car dealerships, real estate brokers, jewellery sector, gambling sector, real estate brokers, notaries.
Bank account coverage (%)	Although Germany has a very high bank account coverage, approx. 1 Mio citizens remain unbanked. ²⁹⁷ Since 2016, the right to have a bank account exist. Banks have to give a free bank account with basic functions to everyone who cannot afford it. ²⁹⁸

Policy context

Germany neither has an automatic reporting obligation for cash payments nor a cash payment restriction, but has adopted the Anti-Money Laundering Act (Gesetz über das Aufspüren von Gewinnen aus schweren Straftaten or short Geldwäschegesetz - GwG) on 23 June 2017.²⁹⁹ The law implements the 4th EU Anti-money laundering Directive (AMLD) (Directive 2005/60/EC) which was adopted in June 2015.³⁰⁰

The existing Money Laundering Act (GwG) instructs that obligated parties - which include goods traders too - have to take special due diligence obligations into consideration for cash payments in excess of € 10,000. This comprises the determination of the identity of the contracting party, the collection of information about the beneficial owner and a duty to notify in the event of a suspected criminal offense.

²⁹⁷ <http://www.zeit.de/politik/deutschland/2015-06/bankkonto-fluechtlinge>, last accessed at: 30.10.2017.

²⁹⁸ See <https://themerke.com/germany-solves-unbanked-problem-by-giving-bank-accounts-to-everyone/> and <http://www.zeit.de/politik/deutschland/2015-06/bankkonto-fluechtlinge>, last accessed at: 30.10.2017.

²⁹⁹ see https://www.gesetze-im-internet.de/gwg_2017/BJNR182210017.html, last accessed at: 30/10/2017.

³⁰⁰ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (Text with EEA relevance).

It includes a strict risk-based approach to the prevention of money laundering. Obligated entities need to assess each business relationship and transaction individually with regards to the risks of money-laundering and terrorist financing and take appropriate security measures as part of an effective risk management approach.

The risk assessment determines the suitable level of due diligence, for instance, whether simplified or enhanced due diligence measures apply for a particular customer. Certain obliged firms are required to appoint a dedicated AML officer, including financial institutions and insurance companies, capital management firms and gambling service providers.

The law lists various risk factors linked to either low or high possibility of money laundering or terrorist financing. The list of factors refers to risks attached to a customer or business relationship, geographical risks concerning the relevant countries and jurisdictions, and risks in relation to the relevant products, services, transactions or delivery channels.

A priori high risk and therefore requiring enhanced due diligence are for example politically exposed persons (PEP), their relatives and persons known to be close associates.

Enhanced due diligence requirements, which follow on from the discovery of the aforementioned high-risk factors and come on top of basic due diligence for verifying the identity of a customer, include for instance the establishment and continuation of a business relationship only with the approval of senior management and continuous monitoring of the business relationship. Real estate agents are obliged to identify the contract parties if they demonstrate a serious interest to buy the relevant real estate property. Insurance companies and agents are obliged if they are involved in lending money.

FIU-data

In the **financial sector** STRs mainly concern deposits and withdrawals to or from bank accounts. The respective STRs show that actual information on the origin or further use of cash is regularly missing.

In the 2014 FIU report, lawyers and real estate brokers mainly filed suspicious transactions reports (STRs) in the non-financial sector. In 2017, in goods trading, suspicious transaction reports were mainly filed for vehicle purchases. In its 2015 annual report, the FIU noted that a declining trend with regard to persons commercially trading in goods and described this development as “disappointing and not plausible”.³⁰¹ In total, 22% fewer suspicious transaction reports were filed than in the previous year, which is in contrast to the slight increase that had previously been observed. In the same report, it has been stated that the absolute number of reports filed by this group is still alarmingly low when taking the size of this group into account. The only positive aspect is a larger variety of business sectors participating in the reporting process, which includes casinos and persons commercially trading in goods.

³⁰¹ FIU Annual Report 2015, see https://www.bka.de/EN/CurrentInformation/AnnualReports/FinancialIntelligenceUnitGermany/financialintelligenceunitgermany_node.html, p. 23.

According to a Dark figure study on the prevalence of money laundering in Germany, the dark figure in the non-financial sector is between roughly 15,000 and 28,000 suspicious cases per year.³⁰² During the year 2016 the German police has secured 49 Million Euro cash through asset recovery, which is an equivalent of 11, 6 % of all crimes in Germany.³⁰³

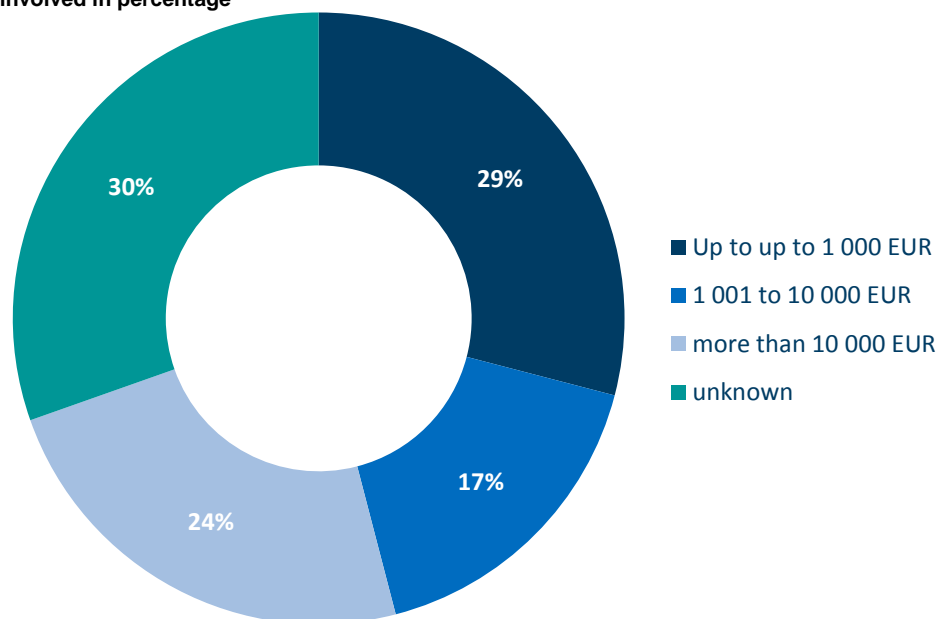
Table 0.17 FIU-data

	2010	2011	2012	2013	2014	2015	2016
Total number of STRs	11,042	12,868	14,361	19,095	24,054	29,108	NA
STRs involving cash payments	NA	NA	NA	NA	NA	15,643	NA
Percentage of STR reports received from the non-financial sector	NA	0.9%	0.9%	0,9 %	1 %	1 %	NA

Source: FIU annual reports.

According to the 2015 report, in many money-laundering proceedings, the law enforcement agencies find it difficult to produce evidence due to the use of cash. Against this background, the FIU has marked and analysed all STRs based on cash transactions since mid-2014. In 2015, more than every second STR (approx. 54%) in total 15.643 cases involved at least one cash transaction. Among these cases, cash amounts of more than EUR 10.000 were found in 7.539 cases, which means that about every fourth STR was concerned. The distribution of the reports according to the amounts involved is illustrated in the illustration below.³⁰⁴

Figure 1 Suspicious transaction reports (STRs) involving cash payments – distribution according to the amounts involved in percentage



Source: FIU Annual Report 2015.

³⁰² See Bussman (2015), Dark figure study on the prevalence of money laundering in Germany and the risks of money laundering in individual economic sectors. Accessible online at https://www.schleswig-holstein.de/DE/Fachinhalte/M/marktueberwachung/Downloads/Geldwaesche/dunkelfeldstudie_geldwaesche_Dtld.pdf?__blob=publicationFile&v=1, p. 4.

³⁰³ Interview with FIU.

³⁰⁴ FIU report 2015.

Impacts on Terrorist Financing

The **Federal Government** takes the view that cash plays a role in money laundering and terrorism financing and refers to a study which has been published by Europol "Why cash is still king". Due to its anonymous nature, criminals use cash to conceal or avoid traces. The Federal government's stance is that it could be useful to introduce either a declaration or a ban to obstruct terrorism financing or money laundering. At the same time, it stresses that **better empirical data** needs to be collected on the actual extent of cash used for money laundering and terrorist financing to determine whether, and if so which regulation could be found in a free common single market to limit the misuse of cash and money laundering and to better fight terrorist financing. Therefore, legislative proposals will only be considered if the measures are indeed appropriate, necessary and proportionate for this purpose. **The personal freedom and self-determination rights of citizens** also in the area of the payment traffic are of high value and must be protected. Therefore, the Federal Government will not support unjustified interventions.

The **German Federal Police** is of the opinion, that if cash payment restrictions were introduced, it would be harder for terrorist organizations to reinvest cash collected through donations to the terrorist organization. However, a phenomenon, which can be observed in all area of crimes, could be worsened and intensified if cash restriction would be in place: the migration of payments into the dark net and virtual currencies. This problem has significantly increased in Germany and, similar to cash payments, it is almost impossible to trace transactions in the virtual space. Cash payment restrictions could lead to a significant displacement effect and hence would make it even harder for law enforcement authorities to detect suspicious payments and chasing offenders. Another substitute mechanism could be the usage of Hawala banking system. All these developments raise questions as to where cash payment restrictions would minimize the problem. After all, criminals often find new ways to circumvent existing obstacles.

The Public Prosecutor's office is clearly in favor of cash payment restrictions, which, in his opinion, should be as low as possible. While the German Public Prosecutor's office is very successful in tracking illicit money flows from electronic payment streams (including the Western Union etc.), cash is non-traceable and entirely anonymous. Even small amounts matter in the terrorist financing, because with small amounts dangerous supplies can be purchased to execute an attack.

Impacts on Money Laundering

In general, the Public Prosecutor Office, the German Federal Police and the German Customs Authority are in favor of cash payment restrictions, stressing that an introduction would make it much more difficult for criminal groups to operate and feed their illicit revenues back into the system. The Federal Government has the same opinion as the in the case of terrorism financing: the problem exists, but further data has to be collected in order to make definite decision.

Ban vs. Declaration

According to the interviewed Public Prosecutor, a declaration obligation would not be a solution due to several reasons. First, underreporting is a severe issue in cash intense sectors such as real estate and notaries in Germany. The vast percentage of real estate objects bought in cash by foreign investors significantly increases the domestic housing prices even leading to social problems in cities such as Hamburg and Berlin, because local buyers cannot compete with foreign investors paying properties in cash.³⁰⁵ In his opinion, the issue of underreporting would further persist if a declaration

³⁰⁵ See also: https://www.schleswig-holstein.de/DE/Fachinhalte/M/marktueberwachung/Downloads/Geldwaesche/dunkelfeldstudie_geldwaesche_Dtld.pdf?__blob=publicationFile&v=1.

obligation would be introduced. Second, even if sellers of high-value goods are sticking to the already existing identification obligation, many criminals either use fraudulent documents or engage scarecrows who complete the purchases for them. He referred to a case in which criminals used fraudulent ID cards to open a bank account at the German Postbank. The bank employees very often do not have the experience and the tools to assess whether an ID document is fraudulent or not.

The Ministry of Finance's assessment is that a ban would be politically tough to introduce in Germany because of the critical role cash still plays in German society. A declaration obligation might be easier to introduce and could present a compromise, as it would tackle the anonymity of payments without restricting citizens' ability to pay even larger sums in cash.

Displacement effects

Due to the lack of harmonisation in the EU internal market the Federal government assumes, that incriminated funds from countries with cash restrictions (e.g. France and Spain) are regularly transported by so-called cash couriers to countries without cash restrictions and are used for cash purchase of high-value goods (such as cars, watches). Joint money laundering investigations by the Customs Criminal Office and the Federal Police as well as the statement of the German Public Prosecutor's Office and various academic studies have confirmed this observation and explicitly mentioned it as an increasing problem.³⁰⁶ To this extent, the Federal government welcomes that the Commission deals with the subject, but stresses again that further empirical data needs to be collected to gain more detailed insights into the possible extent of such a shift.

Thresholds

Due to the current lack of empirical data, The **Ministry of Finance** was not able to make a statement concerning a certain threshold (EUR 1000, EUR 5 000, EUR 10 000).

However, the consensus of most stakeholders was that the more extensive the restriction, the higher the incentive to circumvent this. A lower threshold would, on the other hand, affect the public largely and make it difficult for them to pay in cash. The effectiveness of such a regulation would therefore directly dependent on the chosen threshold. A high threshold might only result in so-called "smurfing". According to the Dark Figure Study, the maximum ceiling should be introduced for cash payments. By setting this between 2,000 – 5,000 Euro, the majority of consumer goods would be exempt.³⁰⁷

Exemptions

There is a consensus that no exemptions should be made. If a ban or a declaration would be introduced, it should apply for all parties. The Public Prosecutor argued that exceptions always lead to a misuse. He stressed that as soon as there is an exception, also for private purchases, criminals will find a way to take advantage of it. However, the German government and the Customs Authorities stressed that statement on this question only possible, if the subject matter and scope are clearly defined.

Impacts on Tax Evasion

Close to no data has been received on the impacts on tax evasion Germany. It is not expected that the shadow economy would decrease through a measure, as those transactions are already illegal now and there is no reason to suspect that an additional measure would prompt those engaging in

³⁰⁶ See: Dark figure study on the prevalence of money laundering in Germany and the risks of money laundering in Individual economic sectors.

³⁰⁷ Dark figure study on the prevalence of money laundering in Germany and the risks of money laundering in Individual economic sectors.

these transactions to stop or declare them. Only the Public Prosecutor's Office pointed out that cash payment restrictions would also be useful to reduce tax evasion. The interviewee mentioned a case of Afghani citizens living and making business in Germany but not wanting to declare their income. To explain the sources of their small income to tax authorities, they feigned documents claiming they have received a credit from a family member abroad in cash and deposited it in their bank account. If cash payment restriction were in place, it would be harder to feign such a case. Due to the non-existence of cash payment restrictions, the tax authorities often do not have any chance to prove that the money stems from illegal sources.

Enforcement costs and measures

Currently, enforcement of the German AML/TF regime consists of the due diligence requirements and the obligation and if exiting Germany to another European Union member state, carrying cash money or equivalent means of payment in a total amount of 10,000 EUR or more this amount of money to the customs control unit verbally when asked.

The costs for enforcing money-laundering measure for the financial sector are more than 46 billion US dollars a year. This calculation is based on a survey carried out between April and June 2017, among 250 responsible for money laundering compliance in five European countries, including 51 respondents in Germany.³⁰⁸ In 2017 alone costs will increase by 15 percent for smaller providers and up to 23 percent for larger providers. The financial sector is supervised by the BaFin.

In Germany, the federal states are responsible for control in the non-financial sector, for example, the real estate and construction sector car, boat and yacht trading as well as shops with jewelry and art. Also vulnerable are a cash-intensive hotel and catering establishments, which would be used as a cover mantle for money laundering.

In the German situation, if a ban were instituted, this would lead to substantial extra costs, as it is a completely new measure. Those costs would mostly accrue to the Federal Police and the Public Prosecutor, as well as the courts, who would need to detect, investigate and prosecute. At the same time, costs for the FIU would decrease, as there would be fewer reports of transactions.

If a uniform declaration obligation were instituted, enforcement costs would rise because of the mandatory nature of issuing a declaration above a certain threshold.

The Public Prosecutor in Germany however takes the view, that an implementation of cash payment restriction in Germany would not necessarily be linked with high implementation costs. He noted that Germany already has *de facto* cash controls in place at the border. People crossing the German border every must declare each amount above 10 000 EUR. Otherwise they risk a fine.

Burden of proof in Germany

Several interviewees stated that an **alternative policy to cash payment restrictions and declaration obligations** could be a change of legislation with regard to the burden of proof. Up until today, the burden of proof in the case of money laundering and terrorism financing lies with the enforcement authorities. In other words, law enforcement authorities are the one who need to prove the connection between illegal assets and the offenses. **A reversing burden of proof** would make it much easier when seizing cash to proving the alleged offense. If this policy were changed, it would be much easier for them to prosecute offenders. The Public Prosecutor's stance is therefore that

³⁰⁸ <http://www.kreditwesen.de/kreditwesen/ergaenzende-informationen/kreditwesen-meldungen/geldwaesche-praevention-kostet-deutsche-banken-milliarden-id41941.ht>.

Germany needs cash payment restrictions much more than countries where the burden of proof lies with the offender. Hence, due to the constitutional nature of this law, an adjustment is unlikely.

Penalties

Currently, failing to report under the German AML/TF legislation is characterized as an administrative offense. (Suspicious of) Money laundering is characterized as an economic offense and penalties can involve imprisonment for up to five years and in especially serious cases up to ten years.³⁰⁹ Also, the business that has failed to report can be fined up to 1 Million Euro with a fine up to two times the economic advantage deriving from the infringement. In especially serious cases, the fine can be up to 5 Million Euro or 10% of the total turnover of the legal person or persons' association during the financial year preceding the decision of the authorities. In addition, non-appealable fines are published on the website of the supervisory authority.

Impacts on cash-intensive sectors (including displacement effects)

The German Retail Association (Handelsverband – short: HDE) represents the retail industry in Germany, has over 100.000 members (**all sizes and sectors including high-value good traders**) and is the voice of the sector vis-à-vis national and EU-level politics, other business sectors, the media and the public.³¹⁰ The HDE is of the opinion that the existing regulations and, above all, the expected tightening-up are sufficient to be effective against money laundering.

The Handelsverband (HDE) is against any restriction of cash as well as a declaration obligation and rejects measures, which go beyond the fulfilment of the rules resulting from the Money Laundering Act (GwG). Already a **declaration obligation would sustainably damage the reputation** of the cash and impose extensive bureaucratic hurdles on the trade, which would increase with decreasing upper limits. They stressed that it is not possible to quantify the expenses for the reporting paths and bureaucratic processes, which would lead to a declaration of the payments. However, they noted that the expenses would be substantial and unnecessary and without any demonstrable benefit in the fight against terrorism.

The Association holds the view that of the payments of everyday life appear to be inappropriate for concealing serious crimes or promoting terrorism, even beyond the upper limit. If in the course of investigations into the relevance of the goods trade, certain sectors are particularly affected, these special requirements could be defined. Furthermore, a derogation should be foreseen for merchants who do not wish to waive the cash payment of higher amounts, if they are willing to take special care.

The HDE stressed that the **negative effect on revenue streams would be severe**, arguing that consumers of goods from the luxury segment with high value are extremely mobile. If a cash ceiling is introduced nationally, there is the risk of migration to other countries. Especially tourists from countries with traditional cash affinity could change their plans and shop in other countries. German traders in these segments could suffer from location-related disadvantages. In their opinion a possible measure must, therefore, be taken across Europe to prevent tourist purchases from moving to other countries without restriction.

In their stance, a **cash limit would also significantly damage the reputation of cash**. Cash is actually in competition with non-cash funds and is a key benchmark for non-cash payment providers. In their opinion, any restriction of this competition must be justified very carefully. Particularly in the area of transactions with higher amounts, a service area for the payment service providers is offered

³⁰⁹ See https://www.gesetze-im-internet.de/stgb/_261.html.

³¹⁰ https://www.einzelhandel.de/images/presse/Graphiken/HDE_Presentation_eng.pdf.

to set a price policy in the event of a withdrawal of cash payment, which would adversely affect both customers and trade.

A limitation of cash payments has the consequence that **such transactions have to be carried out above the limit using expensive card payment methods**, which can also be technically risky. Insecurity exists, e.g., by often unknown amount limits for the card payment. If payments - especially higher value ones - are subject to uncertainty about the probability of the transaction, this can lead to a waiver of purchases. Also, in the event of a failure of the non-cash payment infrastructure, payment will no longer be possible. As a result, the trade must reckon with purchase restraint, especially in the luxury segment. In addition, the Association stated that consumers are very mobile and would simply move to countries without cash surpluses outside Europe.

The HDE noted that it is not possible to quantify the costs, losses, and losses that can be incurred when a cash cap is introduced. Moreover, the introduction of a cash ceiling should be assessed regarding their benefits, not just regarding possible costs. Ultimately, according to their expectation, there is hardly any demonstrable benefit of an incalculable cost burden.

German Gambling Banks Association (Deutscher Spielbankenverband)

The **German Gambling Banks Association** already have extensive documentation obligations for transactions over EUR 2. 000 as an obligation of the Money Laundering Act (Geldwäschegesetz - GwG). These responsibilities are fulfilled by the German gambling banks, but are personal-intensive. Higher requirements on these documentation obligations would **increase the burden on the employees and could lead to dissatisfaction with the customers**, since the employees could no longer adequately fulfil the core areas of their activities. A **migration of the guests into the area of illegal gambling**, which are not subject to any documentation obligations, would be a logical consequence, which would lead to a decrease in demand in the area of licensed gambling banks. The **degree of demand reduction** would depend on the level of the threshold, which would trigger further documentation obligations. The lower the limit, the higher would be the drop in demand and the financial effect on the legal gambling market. A concrete statement which threshold would lead to which decline is not possible without detailed scientific knowledge.

The Association emphasized that the state-licensed gambling market can only fulfil its regulatory task of channelling the population's gambling drive, if the organizational obligations imposed on gamblers are met and the demand is not shifted to other, particularly illegal areas. The German gambling banks are trying to meet the ever-increasing requirements of the prevention of money laundering. Further tightening in this area will **lead to demand and thus tax reductions**. However, the popularity of the population could be shifted to markets, which are immune to the threat of money laundering. A further tightening of the requirements, at least in the area of state-licensed gambling banks, would counteract the objectives of money laundering prevention if the transactions to be documented were pushed out of the legal market.

An introduction of a **declaration for cash payments should be carefully considered** in order to ensure that it does not create undue bureaucracy. It should also be ensured that these do not unnecessarily duplicate existing efforts, such as the STRs that are submitted to the FIUs by obliged entities. A large increase in the amount of such declarations could also lead to an **unnecessary burden for the FIUs and other investigating authorities** that might overload them with reports. This might increase the workload and strain on resources without improving the quality of the investigation of actual money laundering cases identified.

Impacts on vulnerable groups

Although Germany has a very high bank account coverage, approx. 1 Mio citizens remain unbanked.³¹¹ Nevertheless, since 2016 the right to have a bank account exist. Banks have to give a free bank account with basic functions to everyone who cannot afford it.³¹²

Notwithstanding the above, low-income households less often use the giro card. While the turnover share of giro card in the group of persons with a net household income lies from EUR 1 500 to EUR 3 000 and over EUR 3 000 at 32%, only 19% of sales of the lowest income group are made with this payment instrument.

According to a German Bundesbank study, credit cards from the year and Internet payment methods hardly play a role for the low-income earners in Germany. Low-income households may be increasing forced to monitor their spending. For this purpose many Germans prefer using cash. This number, most likely has increased within the last six years.

Impacts on economic freedom and privacy

Not only the German government, but also most consumer organisation are very sensitive to an introduction of cash payment restrictions. The **Federation of German Consumer Organisation (VDE)** as well as all other consumer organisations in Germany reject the limitation of the possibility of cash payments. In their opinion, perpetrators can still circumvene a cash limit, but normal consumer behaviour would be criminalized. For consumers, in particular, essential payments would be made more difficult. In their view, selling valuable private items, such as the car or a sports equipment, requires the possibility of paying or receiving larger amounts of cash. This is the only way in which the business can be depreciated and the consumer can be sure that the money received will not be deceived by another means of payment. This is also the case, for example, by a previously hacked payment from another consumer. The concept is critical as such, since it makes it more difficult, but not impossible, to abuse at the expense of consumers.

A limit of **EUR 5 000 or even 1 000 is regarded as far too low**. At the very least, exemptions for payments from private to private should be further allowed. In addition, these interviewee stressed that, from a legal perspective in accordance with § 935 paragraph 1 sentence 2 BGB³¹³, cash can be acquired in good faith, even if it was previously stolen. Consequently, it is the only means of payment that allows immediate ("performance upon counter-performance") and irreversible settlement and thus limits the counterparty risk (insolvency of the counterparty, faked payment, etc.). The VDE mentioned a case where a consumer became the victim of an unauthorized PayPal booking and handed over a laptop without actually having received the counter-value. Although it is a damage well below the 5 000 EUR, the example would document how realistic the danger is.

³¹¹ <http://www.zeit.de/politik/deutschland/2015-06/bankkonto-fluechtlinge>, last accessed at: 30.10.2017.

³¹² See <https://themerke.com/germany-solves-unbanked-problem-by-giving-bank-accounts-to-everyone/> and <http://www.zeit.de/politik/deutschland/2015-06/bankkonto-fluechtlinge>, last accessed at: 30.10.2017.

Sources

Source	Type of source
Preis für eine Welt ohne Bargeld ist hoch. 15. April 2016, available online at: https://www.vzbv.de/dokument/preis-fuer-eine-welt-ohne-bargeld-ist-hoch .	Position Paper
Hintergrunddossier Bargeld-Debatte, Argumente und Fakten, 13. April 2016, available online at: https://www.vzbv.de/sites/default/files/bargeld-hintergrunddossier-vzbv-2016-04-15.pdf .	Report
Annual FIU Report Germany 2013, 2014, 2015 https://www.bka.de/SharedDocs/Downloads/EN/Publications/AnnualReportsAndSituationAssessments/FIU/fiuJahresbericht2010Englisch.html;jsessionid=2FB672B31DF4A03FE7D56CED9C2BCBF.live0602?nn=39788 .	Government paper
Cash bleibt doch King. ING Economic Research 03. Mai 2017, available online at: https://www.ing-diba.de/pdf/ueber-uns/presse/publikationen/ing-diba-economic-research-iis-cashless-society-2017-020517.pdf .	Research report
Zur Diskussion um Bargeld und die Null-Zins-Politik der Zentralbank. Gutachten des Wissenschaftlichen Beirats beim Bundesministerium für Wirtschaft und Energie, 09.02.2017, https://www.bmwi.de/Redaktion/DE/Publikationen/Ministerium/Veroeffentlichung-Wissenschaftlicher-Beirat/gutachten-wissenschaftlicher-beirat-gutachten-diskussion-um-bargeld.html .	Government Research report
Gesetz zur Umsetzung der Vierten EU-Geldwäscherichtlinie, zur Ausführung der EU-Geldtransferverordnung und zur Neuorganisation der Zentralstelle für Finanztransaktionsuntersuchungen.	Legal text
Umsetzung der 4. EU-Geldwäscherichtlinie. Das neue Geldwäschegesetz (GwG-neu) mit erweiterten Sorgfaltspflichten, Kai Osenbrück, M.A. 06. Juni 2017.	Supervisor website
Dark figure study on the prevalence of money laundering in Germany and the risks of money laundering in individual economic sectors http://www.w-t-w.org/de/wp-content/uploads/2016/02/Geldwaesche-Deutschland-Studie.pdf .	Research Paper


6. GREECE

Overview of interviews

Representing organisation	Date of interview
Financial Intelligence Unit	01 November 2017
Researcher Ionian University	01 November 2017
Second-hand car dealer association	29 September 2017
Hellenic Confederation of Commerce and Entrepreneurship	30 October 2017
Association for the Quality of Life - EKPIZO	05 October 2017

Overview of legal regime

GREECE	
Restriction	<input checked="" type="checkbox"/>
Declaration	
4th AML directive transposed	<input checked="" type="checkbox"/>
National measures more restrictive than EU directive*	<input checked="" type="checkbox"/>



Restriction	
Legal basis	2011: L.3842/2010 (Article 20 par.3,5) and Ministerial Decision 1127/09.02.2011). L.4172/2013 (Articles 23, 72) and Circular 1216/01.10.2014.
Rationale / main policy goals	Preventing tax evasion and money laundering.
Competent authority	Independent Authority for Public Revenues
Other involved authorities	-
Current threshold(s)	500 EUR for business to business
Former thresholds	3 000 (introduced in 2011) 1 500 (introduced in 2012 until 2016)
Targeted sectors/ Type of transaction	-
Exemptions	-
Sanctions	117 EUR - 1 170 EUR for business to customers transactions. Expenses above € 500 made in cash (partially or in total) are not deductible from the gross revenue (business to business transactions).
Enforcement measures	The verification of compliance with cash transactions regulations is part of the tax auditing procedure.
Results impact assessment or evaluations	-
Measurement indicators	-
Future changes	Not planned.
Sources	-

*either 3rd and 4th AML directive

Cash use in Greek society

Greece used to be characterised by intensive cash usage, in the recent years the financial crisis and a series of political initiatives which are presented below have affected this. In the period 2010-2016 bank branches and ATMs which are the main sources of cash have been reduced from 4 005 to 2 343 and from 8 550 to 6 820 respectively. On the contrary Point of Sale (POS) terminals enabling card payments have increased, from 361 870 to 410 000³¹⁴ in the period 2011-2017 according to the Hellenic bank association.

As an alternative to cash payments, bank cards' usage (credit and debit cards) has increased both in absolute numbers (from approximately 300 million in 2014 to more than 500 million in 2016) and in value according to bank of Greece. The number and value of internet banking transactions have increased by 40% and 29% on annual basis and the increase of mobile banking transactions was even steeper in terms of value (142%) and value (82%) on annual basis according to Hellenic bank association.

Policy context

Since the outburst of the financial crisis in Greece several measures and political initiatives have aimed at combating tax evasion and increasing state revenues or addressing the financial crisis in general. Some of these measures had a severe impact in cash usage. For instance, according to a recent legislative act (ΦΕΚ Β' 1445/27-04-2017), 85 professional categories and providers of products and services are obliged to possess a POS terminal enabling card payments. Two major measures that impacted cash usage in Greece are cash restrictions and the capital controls which are briefly presented below.

Cash restrictions

Greece introduced cash restrictions in February 2011 banning cash transactions above the threshold of EUR 3 000 during 2011 and EUR 1 500 from 2012 onwards. On 1 January 2017 a lower threshold of EUR 500 entered into force (ΦΕΚ 240 Α', 22.12.2016), making Greece the country with the lowest cash restrictions' threshold in the EU. This restrictions affects businesses as well as private persons as presented in the table below.

Table 0.18 Cash restrictions in Greece, payment methods and sanctions

Transaction parties	Threshold EUR 500	Acceptable payment method above EUR 500	Sanctions
B2B ³¹⁵	✓	Bank payment/ Digital payments/Payment service providers ³¹⁶	Expenses are not deductible from the gross revenue.
B2C ³¹⁷	✓	Bank payment	Sanctions start from EUR 100.
Consumers ³¹⁸	✓	Digital payment/ Payment service providers	Expenses cannot be included for tax reduction.

³¹⁴ Estimate.

³¹⁵ Relevant legislation: περ. β' άρθρ. 23 ν.4172/2013, ΠΟΛ.1216/2014, ΠΟΛ.1079/2015, ΠΟΛ.1055/2016, ΠΟΛ.1158/2016, ΔΕΑΦΒ 1068191/26.4.2016, ΔΕΑΦΒ 1069397/26.4.2016.

³¹⁶ Digital payment and payment service providers can be used for the payment of salaries and the provision of professional services.

³¹⁷ Relevant legislation: Παρ. 3 άρθρ. 20 ν.3842/2010, Περ. ιζ' παρ. 1 άρθρ. 54 ν.4174/2013.

³¹⁸ Relevant legislation: Αρθ. 16 ν.4172/2013, ΠΟΛ.1062/2017, ΠΟΛ.1005/2017, ΠΟΛ.1107/2016.

As alternative payment methods to cash, three categories of payment methods are mentioned in the table 1. Even though not all the alternative payment services under each category are explicitly mentioned, few examples are provided per each method in the relevant legislation. As **bank payment methods** are considered, bank transfers and deposits in bank accounts, use of credit and debit cards, use of bank checks, deposits in payment accounts of the post office and use of post checks, payments through PayPal. As **digital payment methods** are considered, credit cards, debit cards and prepaid cards and transactions through accounts of service providers (credit transfers, checks, e-banking and e-wallet transactions, use of machines such as “easy-pay”). As payments **through payment service providers** are considered, bank transfers and deposits in bank accounts, post checks and deposits in accounts of the post office, bank checks and issuing of checks on receiver’s demand.

The competent authority responsible for the implementation and enforcement of cash restrictions is the Independent authority for public revenue. This authority is also responsible amongst other for tax compliance, combating tax evasion and the facilitation of trade.

Capital controls

Capital controls are the measures introduced in Greece in July 2015 setting restrictions in cash withdrawals from Greek bank accounts, money transactions (cash or digital) from Greece to other countries and opening of new bank accounts. Capital controls were enforced as a measure to avoid an uncontrolled bank run after Greece reached the end of its bailout extension period without having reached an agreement on a further extension. These measures were introduced as temporary and still exist in 2017, even-though they have been eased.

Capital controls severely affected cash usage, in July 2015 a maximum threshold of cash withdrawals was set at EUR 60 per person/day or EUR 420 per person/week from each bank.³¹⁹ This legislative act (ΦΕΚ Α΄ 84, 18.7.2015) also restricted transactions above that threshold from Greece to other countries and banned completely cash withdrawals by credit cards and pre-paid cards. Since the adoption of the capital controls several legislative acts followed aiming to ease the restrictions and facilitate business’ and citizens’ operations. For instance, in 2016 withdrawing cash up to 100% of new cash deposits was made possible. The most recent legislative acts, adopted in August 2017 (ΦΕΚ Α΄ 110/1.8.2017 & ΦΕΚ Β΄2723/3.8.2017) set a monthly maximum threshold of withdrawals at EUR 1 800.

FIU-data

Table 0.19: Number of STRs per issuer

STRs/Year	2012	2013	2014	2015	2016
Total			15 746	23 559	6 295
Investigation cases			6 288	5 530	3 834
Number of reported STRs related to TF ³²⁰	12	2	6	6	9
Number of reported STRs related to ML			5 746	23 559	6 295

Note: Hellenic FIU could not provide additional data due to lack of tracking STRs related to cash and privacy protocol.

Source: Hellenic Financial intelligence unit, annual report 2016 & Hellenic FIU.

³¹⁹ The measures also restricted the opening of new bank accounts.

³²⁰ The amount of cash involved in the majority of the reported cases (in which the cash is underlined) is between 0-1.000 €.

Impacts on Terrorist Financing

The Greek FIU initiates TF investigations for all STRs linked to terrorism financing as well as at their own initiative. Access to a large amount of intelligence information is obtained through the independent authority for public revenues. The shift from cash to digital payments that is observed during the last few years in Greece expands the amount of information such investigations could make use of. For TF purposes mostly low value transactions EUR 0-1 000 seem to be used, thus the low threshold of EUR 500 that has been enforced in Greece is very relevant for investigating TF cases.

However, since money used for TF are often obtained through legal sources and the capacity to interpret complex intelligence information of the Greek FIU is limited, the use of intelligence information for the prevention of TF is less considerable. Also, TF activities may easily stay under the radar of such investigations either by using transactions of less than EUR 500 or by performing non-declared transactions (i.e. through Hawala payment system). Overall, there seems to be only a minor positive effect in TF investigations because of the low threshold of cash restrictions in Greece. Higher thresholds or obligation to declare would be less efficient in combating TF.

Impacts on Money Laundering

Money laundering investigations must be based in a criminal offence, in Greece approximately 90% of the ML cases are linked to tax evasion. Therefore, the effects of cash restrictions to ML are to a large extent similar to those of tax evasion. Generally, cash restrictions in Greece have made ML more resource demanding, as large amounts of money entering the financial system would need to be accompanied with a valid explanation on how they were acquired. Alternatively, high value transactions would have to be broken down to several low value transactions, which can be more challenging and resource demanding for criminals. This may demotivate people from engaging in illegal activities.

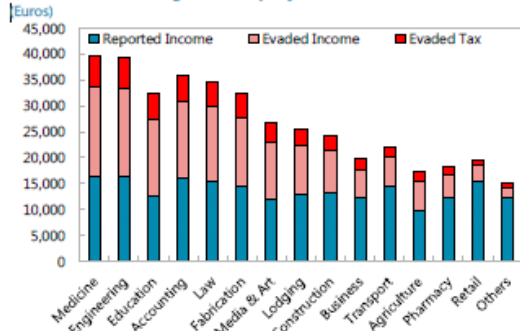
The very low threshold which is in force contributes to a large extent in the AML purposes as it gives to the authorities an overview of most transactions in the investigations they perform. A threshold of EUR 1 000 or EUR 1 500 would probably lead to similar effects in combination with the other measures that have been implemented in Greece during the last few years. However, the effect may have been different if the threshold was much higher (i.e. EUR 5 000- 10 000).

Impacts on Tax Evasion

Tax evasion is one of the major problems of the Greek economy, which existed before the financial crisis and persists. In the recent years, cash restrictions as well as several measures, have aimed at reducing tax evasion in Greece. According to the IMF, tax evasion remains a major issue to be addressed by the Greek government. Tax evasion is particularly high for self-employed professionals and related to VAT tax evasion as presented in the figures below.

Figure 0.2 Tax evasion in Greece

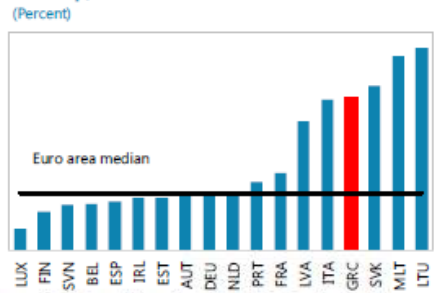
Tax Evasion among Self-Employed



Source: Artavanis et al. (2012).

Source: IMF.

VAT Gap, 2014



Sources: EC, Study and Reports on the VAT Gap in the EU-28 Member States: 2016 Final Report; and Eurostat.

A very large amount of ML cases investigated by the FIU (approximately 90%) include a tax evasion element. Cash restrictions as well as capital controls and other relevant political measures of the last few years had various effects to the levels of tax evasion in Greece. On one side, tax evasion has been made more difficult, as cash (as the main anonymous payment method in Greece) become more scarce and a swift to digital payments obliges businesses to declare many of their transactions. On the other side the shadow economy in Greece is one of the largest in the EU, studies indicate that the informal economy in Greece is 22% of the GDP or higher. Findings vary on whether the informal economy has grown or shrunk during the financial crisis. In any case, more than a fifth of economic activity in Greece belongs to the shadow economy and is not being affected by the cash restrictions or any other measures.

The swift towards digital payments was the main cause of a positive impact in battling tax evasion. As mentioned above, this was a result of multiple political initiatives and other circumstances. Similar to the case of ML, a threshold of EUR 1 000 or EUR 1 500 would probably also be efficient and lead to similar effects in combination with the other measures. However, the effect may have been different if the threshold was much higher (i.e. EUR 5 000- 10 000).

Enforcement costs and measures

Several claims indicate that enforceability of cash restrictions in Greece is insufficient. The aforementioned estimated size of shadow economy, as well as the inputs from several interviewees indicate that the cash restrictions are not implemented to a large extent. Many businesses in Greece face the danger of bankruptcy as a result of the reduced demand and increased taxes. The high levels of tax evasion indicate that it is a common practice for several businesses, for some of which is the only way to maintain their activities and avoid a bankruptcy.

Moreover, public authorities do not have sufficient means for identifying and punishing non-compliant businesses. When it comes to consumers, a tax incentive is offered as mentioned above, giving them tax benefits (non-taxable income depending on their total income), as long as they perform an amount of their transactions with digital payment methods. Another initiative indicates that compliant individuals will be rewarded by a lottery system. However, several interviewees and articles indicate that this is not being implemented in practice yet.

Enforceability of cash restrictions seems to be challenging for Greek authorities. Potential obligations to declare would be even more challenging in terms of enforcement as they would also pose a challenge in the analysis of the received reports. It is estimated that in order to handle the workload of an obligation to declare measure at such a low threshold many more resources would be needed.

Compliance costs

Compliance costs include:

- Credit card fees, which range from 0,7% to 2.5% limiting significantly the profit margin. These fees have been reduced in the last years;
- Bank fees for cash transactions and payments have increased in the last years;
- The POS terminals necessary for accepting credit cards entail a minimum cost of 150 euros, in several cases businesses need more expensive ones in order to accept all credit cards, or several units;
- The use of POS terminals also requires internet connection, which is a new recurring cost for businesses who previously did not use internet;
- Possibly decline in demand due to lost customers, who desire to pay in cash. For instance, during the financial crisis and even after the implementation of capital controls in Greece, consumers withdrew repeatedly from banks the maximum allowed amounts of cash due to lack of trust to the banking system. Thus for several people cash was the preferred means of payment. At the same time, non-compliant businesses who accept cash transactions above the threshold may attract such consumers.

Benefits from cash restrictions:

- The digitalisation of transactions helps SMEs with various operations such as client relations, management (e.g. stock management).

Other effects:

- As mentioned above, the enforcement of the cash restrictions is weak, thus there is an unfair competition between compliant and non-compliant businesses;
- There are also claims that freelancers and independent professionals which are approximately one out of three individuals of the Greek workforce according to Eurostat, are discriminated. These professionals cannot benefit from the tax rewards for conducting their transactions with digital means as employees in the public and private sector, retired people etc.;
- Cash restrictions in combination with the financial crisis may lead businesses to pre-mature bankruptcy or severe problems with maintaining their operations. In Greece during the years of the financial crisis, freezing of assets (e.g. bank accounts) occurs even for small debts. As a result, if businesses are forced to use the banking system for the majority of transactions, thus having no or limited cash reserve, they would not manage to survive even for short periods until their assets are unfrozen. Greek business associations report that freezing and seizures of assets occur in an unregulated manner, without respecting the minimum required funds for running a business (e.g. salaries, daily operations).

Overall, cash restrictions are mostly harmful for businesses and economic activity in Greece. Firstly because the threshold is particularly low affecting almost every business in Greece either in their transactions with clients, with other businesses or both. Secondly, businesses are not protected from possible risks (i.e. seizures of assets necessary for operating) that they are exposed to because of cash restrictions in combination with other measures. Lastly, unfair competition between compliant and non-compliant businesses is being created due to the weak enforcement of the measures. Higher thresholds that would not affect such a large amount of transactions (e.g. EUR 5 000 or higher) benefits would be less harmful for businesses. When designing such policies it is also important taking into consideration and ensuring that the legislative framework protects businesses from the other effects mentioned above.

Impacts on vulnerable groups

Vulnerable groups include elderly, people with disabilities (especially people with visual impairment), people residing in remote areas, newly arrived immigrants, refugees and asylum seekers and lower income classes. According to Worldbank, the unbanked population (above 15 years old) in Greece was 12,5% in 2014, down 10% from 2011. The number of people who did not use bank cards was even higher, but reduced also considerably after the introduction of the capital controls.

Fees for transactions performed in bank branches have increased in the last few years. Computer illiterate population or those who do not have regular access to internet are burdened with these fees as they have no alternative payment methods available to them. In some cases people are dependent on relatives or others for performing their transactions.

Similar to businesses cash restrictions in combination with the financial crisis and the vulnerability of the financial system lead to additional negative impacts for consumers. Consumer organisations receive regularly complaints about seizures of bank assets of citizens. Even-though a legal framework is in place protecting minimum assets that should be protected, complaints concern also seizures of assets below the minimum limits.

Impacts on economic freedom and privacy

Consumer organisations receive less complaints regarding infringements of privacy rights and economic freedoms linked to the cash restrictions. However, it seems unreasonable in principle to burden or alternate the preferred payment methods of several citizens, while aiming to regulate the illegal activity only of a small portion of the society. A fair compromise would be a higher threshold, e.g. EUR 5 000 or higher, that would only affect a smaller number of transactions and citizens (if the positive effects in TF, ML and tax evasion are still relevant).

Additionally, Greek banks have a negative record in dealing with private data of consumers. Several complaints of consumers concern the communication of their contact details and banking information (loans, total debt, delays in payments), to collecting companies, which harass them in order to collect loan payments.

Sources

Source	Type of source
«Επείγουσες ρυθμίσεις για τη θέσπιση περιορισμών στην ανάληψη μετρητών και τη μεταφορά κεφαλαίων» (ΦΕΚ Α' 84, 18.7.2015), όπως ισχύει (ΦΕΚ Β' 1561/24.7.2015), (ΦΕΚ Α' 90, 31.7.2015), (ΦΕΚ Β' 1617, 31.7.2015), (ΦΕΚ Β' 1620, 31.7.2015), (ΦΕΚ Β' 1721, 17.8.2015), (ΦΕΚ Β' 1867, 31.8.2015), (ΦΕΚ Β' 1871, 3.9.2015), (ΦΕΚ Β' 2100, 25.9.2015), (ΦΕΚ Β' 2110, 29.9.2015), (ΦΕΚ Β' 2131, 2.10.2015), (ΦΕΚ Β' 2387, 6.11.2015), (ΦΕΚ Α' 161, 30.11.2015), (ΦΕΚ Β' 2625, 7.12.2015), (ΦΕΚ Β' 4, 7.1.2016), (ΦΕΚ Β' 684, 15.3.2016), (ΦΕΚ Β' 3724, 18.11.2016), (ΦΕΚ Α' 220, 28.11.2016), (ΦΕΚ Α' 110/1.8.2017) και (ΦΕΚ Β' 2723/3.8.2017).	Legislative acts
«Πρόληψη και καταστολή της νομιμοποίησης εσόδων από εγκληματικές δραστηριότητες και της χρηματοδότησης της τρομοκρατίας και άλλες διατάξεις» ΦΕΚ 166, 5.8.200.	Legislative acts
ΝΟΜΟΣ ΥΠ' ΑΡΙΘ. 4172 "Φορολογία εισοδήματος, επείγοντα μέτρα εφαρμογής του ν. 4046/2012, του ν. 4093/2012 και του ν. 4127/2013 και άλλες διατάξεις", (ΦΕΚ. Α' 58/23,4,2010), (ΦΕΚ 240 Α', 22.12.2016).	Legislation
ΦΕΚ Β' 1445/27-04-2017 Pos.	Legislative acts
https://www.taxheaven.gr/news/news/view/id/34634	Website

Source	Type of source
Katsios (2006), The shadow economy and corruption in Greece.	Article
Hellenic Bank Association (2017), Documentation data on the operation of the Greek banking system.	Report
Hellenic bank association website: http://www.hba.gr/Info/CapitalControls http://www.hba.gr/Media/Details/319 .	Webpages
Schneider (2015) Size and Development of the Shadow Economy of 31 European and 5 other OECD Countries from 2003 to 2015: Different Developments.	Article
IMF (2017), IMF Country Report No. 17/40 (Greece).	Report
Ελληνικής Συνομοσπονδίας Εμπορίου και Επιχειρηματικότητας (ΕΣΕΕ), Ετήσια Έκθεση Ελληνικού Εμπορίου 2016.	Report
INE ΓΣΕΕ (2017) Η ελληνική οικονομία και η απασχόληση.	Report

7. ITALY

Overview of interviews

Representing organisation	Date of interview
Banca D'Italia (FIU)	29/09/2017
Agenzia delle Entrate (Tax authority)	13/09/2017
Ministry of Finance (Anti-Money Laundering)	05/10/2017
Altroconsumo (Consumer association)	12/09/2017
Fondazione Italiana del Notariato (Notaries)	14/09/2017
Sistema Gioco Italia (Gambling)	26/10/2017

General indicators

Table Contextual data

Indicators: Description of economy	
Role of cash in society	Based on ECB data, in 2012 87% of the total volume of transactions settled in Italy was performed in cash, against an EU average of 60%. Italy is still a cash intensive country. According to the Cashless Society Index 2017 ³²¹ , Italy scores quite low (3.2/10), as cash usage is dominant among Italian consumers and business. In terms of cash intensity (defined as working capital/GDP) the country is the second worst performer in the EU (cash intensity equal to 11.2%). Finally, based on the Cashless Society Speedometer 2017 ³²² , the growth rate of electronic payments in Italy is rather low (Italy scores 7.1 on a scale from 1 to 100).
Cash-intensive industries	In the framework of the IARM project ³²³ , Italy's most cash-intensive business-sectors fall into the following NACE Rev. 2 sections: <ul style="list-style-type: none"> • J (Information and communication); • Q (Health and social work activities); • R (Arts, entertainment and recreation), which embraces very high cash-intensive businesses, such as gambling and betting activities (R 92) and gaming rooms or night clubs (R 93). In terms of current assets/total assets ratio, NACE division F (Construction) and G (Wholesale and retail trade) are those with the highest scores, followed by sectors P (Education) and C (Manufacturing).
Bank account coverage (%)	Financial services penetration is quite low compared to other MS. Whereas 65% of respondents to the European Commission's Special Eurobarometer ³²⁴ declared to have a bank account, only 13% confirmed to hold a saving account. About 31% of Italians responding to the survey indicated to have a credit card.

³²¹ See Rapporto 2017 Community Cashless Society, The European House Ambrosetti. Available at: https://www.ambrosetti.eu/wp-content/uploads/Rapporto-Community-Cashless-Society-2017_DEF.pdf.

³²² Ibid.

³²³ See Transcrime and UCSC (2017), "Assessing the risk of money laundering in Europe", final report of the IARM Project. The final report includes an in-depth assessment of the ML risks at business level in certain EU MS. In the study, cash intensiveness is estimated by measuring the average value of companies' cash (and other current assets) on the total assets in certain sectors. Available at: <http://www.transcrime.it/iarm/wp-content/uploads/sites/5/2017/05/ProjectIARM-FinalReport.pdf>.

³²⁴ See European Commission, Special Eurobarometer 446 "Financial Products and Services", 2016. Available at: <http://ec.europa.eu/COMMFrontOffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/SPECIAL/surveyKy/2108>.

ITALY



Restriction	<input checked="" type="checkbox"/>
Declaration	<input type="checkbox"/>
4th AML directive transposed	<input checked="" type="checkbox"/>
National measures more restrictive than EU directive*	<input type="checkbox"/>

Restriction

Legal basis	Legislative decree 21 November 2007, no. 231 (AML Law). Article 49, Article 51 and Article 63 (sanctions) of Legislative Decree no. 231/2007, amended by Legislative Decree 25 May 2017, no. 90.
Rationale / main policy goals	To prevent ML and associated predicate offences, with particular regard to organised crime and tax avoidance, and to fight against TF.
Competent authority	Guardia di Finanza (Italian financial police).
Other involved authorities	Ministry of the Economy (Directorate for the prevention of financial crimes), UIF (Italian FIU) and other AML competent authorities.
Current threshold(s)	3 000 EUR. Lower limits are adopted for riskier sectors (1 000 EUR for money remittance activities; 500 EUR for "gold buyers" transactions).
Former threshold(s)	1 000 EUR.
Targeted sectors/ Type of transaction	Transfers of cash in euro or foreign currency between individuals or businesses, even if carried out as a series of payments that appear to be intentionally divided into amounts below the threshold (Art. 49, par. 1). Transfers of bank or postal bearer deposit instruments are forbidden (Art. 49, par. 12).

Exemptions	<p>Transfers of cash above 3 000 EUR can be performed by or through banks, Poste Italiane s.p.a. (Italian Post Office), electronic money institutions and payment institutions (Art. 49, par. 1).</p> <p>An upper limit of 10 000 EUR is set for purchases of tourism-oriented products and services by non-EU citizens (Art. 3, Decree-Law 16/2017, amended by Legislative Decree no. 90/2017).</p>
Sanctions	<p>Violations of the cash payments limits are punished with an administrative sanction between 3 000 and 50 000 EUR (Art. 63, par. 1).</p> <p>The transfer of bank or postal bearer deposit instruments is punished with an administrative sanction between 250 and 500 EUR (Art. 63, par. 2).</p>
Enforcement measures	<p>AML/CFT obliged entities³²⁵ must report to the Ministry of Economy any detected violations of cash payment limits (Art. 51, par. 1). The violation of the obligation is punished with an administrative sanction of 3 000 to 15 000 EUR (Art. 63, par. 5).</p>
Results impact assessment or evaluations	<p>The Mutual Evaluation Report³²⁶ on Italy's AML/CTF measures approved in 2015 by the FAFT stated that "the high use of cash [...] significantly increases the risk that illicit proceeds may be rechannelled into the regulated formal economy. [...] It has been estimated that in 2010 cash accounted for about 90% of all micropayments. However, the use of cash is on the decline for retail purchases, which is consistent with the spread of payment cards and other electronic means of payment." It was recommended to increase the efforts to detect cross-border movements of cash and other bearer-negotiable instruments suspected of being linked to ML, and to domestic as well as foreign predicate offenses.</p>
Measurement indicators	-
Future changes	Not at the moment.
Sources	http://www.gazzettaufficiale.it/eli/id/2017/06/19/17G00104/sg.

³²⁵ This list includes: i) banking and financial intermediaries; ii) other financial operators; iii) professionals; iv) other non-financial operators; and v) gaming service providers.

³²⁶ See FATF (2016), Anti-money laundering and counter-terrorist financing measures - Italy, Fourth Round Mutual Evaluation Report. Available at: www.fatf-gafi.org/publications/mutualevaluations/documents/mer-italy-2016.html.

Policy context

Italy has a mature and sophisticated regime in terms of AML and CTF. In response to the high cash intensity, as of 1991 (Law 197/1991) cash usage for private transactions above a certain threshold was prohibited. The threshold was originally set at EUR 12 500, then in 2010 it was reduced to EUR 5 000, in 2011 to EUR 2 500 and in 2012 to EUR 1 000. Finally, in 2015 the threshold was increased to 2 999.99 EUR; the new threshold entered into force in January 2016. The rationale behind the original rule (one of the first cash restriction measures introduced in the EU) was the fight against ML and organised crime. When in 2012 the Prime Minister Mario Monti lowered the threshold to EUR 1 000, the main goal was the reduction of tax evasion. Finally, in 2015, the threshold was increased to foster household consumption.

There are currently no official plans to change the current cash restrictions. However, the National Parliament is discussing a somewhat related proposal to renew the so-called “Voluntary Disclosure Programme”, which aims to retrieve, *inter alia*, cash savings accumulated by households. In this respect, in 2016 the Italian Government introduced a new version of the Voluntary Disclosure Programme³²⁷ for undeclared assets (cash, shareholdings, artistic works, jewellery, etc.) held by Italian tax residents abroad or domestically. Compared to the 2014 programme, this new version aimed to target undeclared domestic assets in order to fight tax evasion and to encourage the traceability of assets held by individuals.

FIU-data

According to the Annual Reports³²⁸ of the Italian FIU (UIF – Unità di Informazione Finanziaria), STRs transmitted to the authority by obliged entities in compliance with the national ML regime have steadily increased over the period 2009-2016 (see Table). In fact, the number of STRs went from 21 066 in 2009 to 101 065 in 2016. The sharp increase recorded in the recent past (in 2016 the FIU received 101 065 STRs, +23% compared to 2015) is related, *inter alia*, to the adoption of the so-called Voluntary Disclosure Programme.³²⁹

The lion's share of STRs concerned ML (100 435 out of 101 065 in 2016, about 99%). The FIU has detected, however, an increase in TF-related STRs in recent years, most likely due to the rise of the terroristic threat represented by the Islamic State. The authority explained that the actual number of STRs related to TF reached 741 reports in 2016 if one takes into account those initially classified under the ML category. Data collected by the FIU for the first three months of 2017 confirm the increasing trend recorded in previous years: 209 STRs related to TF were transmitted between January 2017 and March 2017. Against this background, cash plays a rather important role: whereas almost one-third of the STRs related to ML involved transactions in cash, one out of four TF-related reports involved cash payments. Finally, only a few STRs concerned the proliferation of weapons of mass destruction.

³²⁷ Enacted by the Legislative Decree 22 October 2016 no. 193 (Law 225/2016), which repealed Law 186/14 (the first version of the Voluntary Disclosure Programme).

³²⁸ See UIF, Rapporto Annuale dell'Unità di Informazione Finanziaria. Banca d'Italia, 2017. Available at: https://uif.bancaditalia.it/pubblicazioni/rapporto-annuale/2016/Relazione_UIF_anno_2016.pdf.

³²⁹ The first version of the Voluntary Disclosure Programme was introduced in December 2014 by Law 186/14. The Programme allows individuals holding undeclared assets (such as cash) to autonomously report such activities to the authorities. As a result, after the introduction of this Programme, the number of STRs transmitted to the FIU by the obliged entities largely increased. See UIF, Rapporto Annuale dell'Unità di Informazione Finanziaria. Banca d'Italia, 2017. Available at: https://uif.bancaditalia.it/pubblicazioni/rapporto-annuale/2016/Relazione_UIF_anno_2016.pdf.

Table Suspicious Transaction Reports (STRs)

	2009	2010	2011	2012	2013	2014	2015	2016
Money laundering (number of STRs)	20 660	37 047	48 836	66 855	64 415	71 661	82 142	100 435
<i>of which involving cash payments</i>	-	-	-	15 752	18 261	27 447	31 215	32 293
Terrorism Financing	366	222	205	171	131	93	273	619 ³³⁰
<i>of which involving cash payments</i>	-	-	-	13	5	15	41	151
Proliferation of weapons of mass destruction	40	52	34	21	55	4	13	11
Total	21 066	37 321	49 075	67 047	64 601	71 758	82 428	101 065

Source: Italian FIU Annual Report 2016.

The Italian FIU receives STRs from the obliged entities via an electronic platform, “RADAR”, dedicated to the collection, storage, and management of reports. Banks and financial intermediaries provide their input on a monthly basis and their data is processed by the FIU to detect possible ML/TF anomalies. Furthermore, the authority is entitled to request more detailed information. An additional tool used by the FIU to identify potential ML/TF anomalies is represented by the internal customs database, which includes the cross-border currency and bearer negotiable instruments (BNI) declarations collected from travellers and gold dealers. As reported by the FATF’s Mutual Evaluation Report³³¹ published in February 2016, customs do not notify the FIU about suspicious cross-border transactions and this may cause some problems because of the high risk of ML through cash couriers.

Most of STRs is filed by banks and other financial intermediaries (e.g. Poste Italiane; see Table). About 9% of STRs in 2016 were filed by professionals (Designated Non-Financial Businesses and Professions - DNFBPs), mainly notaries.

Table 0.20 Suspicious Transactions Reports (STRs) by category of obliged entity

	2012		2013		2014		2015		2016	
	N	%	N	%	N	%	N	%	N	%
<i>Banks and financial intermediaries</i>	64 677	96%	61 765	96%	68 220	95%	74 579	90%	89 669	89%
<i>Professionals</i>	1 988	3%	1 985	3%	2 390	3%	5 979	7%	8 812	9%
<i>Non-financial operators</i>	382	1%	851	1%	1 148	2%	1 864	2%	2 584	3%
<i>Other</i>	-	0%	-	0%	-	0%	6	0%	-	0%
Total	67 047	100%	64 601	100%	71 758	100%	82 428	100%	101 065	100%

Source: Italian FIU Annual Report 2016.

³³⁰ The revised amount of STRs related to TF in 2016 is 741, as additional reports were initially classified under the ML category.

³³¹ FATF (2016), Anti-money laundering and counter-terrorist financing measures - Italy, Fourth Round Mutual Evaluation Report, FATF, Paris www.fatf-gafi.org/publications/mutualevaluations/documents/mer-italy-2016.html.

Impacts on Terrorist Financing

Based on the assessment carried out by national and international authorities³³², the overall risk of TF in Italy is considered relatively low. Domestic extremist groups are very fragmented and do not pose a significant TF risk. The main concern regarding TF risk is linked to independent, self-funded individuals devoted to Jihad, who tend to operate through small cells. In this respect, cash restrictions currently in place in the country appear to contribute to the fight against TF. In fact, all the authorities interviewed for this assignment confirmed that the current thresholds to cash usage are helpful in enhancing the general awareness of obliged entities in cash-intensive sectors with regard to suspicious transactions. More specifically, the FIU acknowledged that financial intermediaries are becoming stricter in reporting the STRs, including those in the field of TF (as shown in Table 0.20).

Due to the lack of granular data, the impact of cash restriction measures enacted so far can be only partially assessed. In this context, a report issued by Banca d'Italia³³³ emphasised that the 1 000 EUR limit (in force up to December 2015) was effectively curtailing the illicit use of cash in Italy, a country with a much larger underground economy than many of its EU counterparts. According to the FIU, after the introduction of the 1 000 EUR limit, in 2012 the average amount of cash withdrawn over the counter decreased by 25%, whereas the withdrawals from ATM increased by 15%. This means that large withdrawals diminished, whereas small withdrawals expanded. Overall, cash withdrawals diminished.

Terrorism is not only financed by cash. Other TF vulnerabilities are represented by money transfer businesses. According to the Italian FIU, money remittances represent currently the main channel through which terrorist groups fund themselves. Whereas money transfers are scarcely traceable, they allow for a seamless movement of money from one country to another. When the Italian Government was debating on lifting the threshold from 1 000 to 3 000 EUR, the FIU succeeded in maintaining the threshold for money transfers at 1 000 EUR. In this respect, authorities are able to detect suspicious transactions when the transferred amounts and the timing are unusual – e.g. several transactions involving the same parties in a short timeframe, just below the legal threshold.

EU level

Authorities interviewed for this study confirmed that an EU harmonisation measure could be appropriate and would facilitate their work especially when tackling cross-border violations. The best system would consist of banning cash transactions above a certain threshold (as in the Italian case), combined with an obligation for certain entities to report suspicious transactions. As regards the specific threshold, although the limit to cash payments was raised in recent years (from 1 000 EUR to 3 000 EUR) in Italy, a lower limit (e.g. 1 000 EUR) would facilitate the work of the FIU. Nonetheless, the introduction of a lower limit should be accompanied by exemptions as well as higher thresholds for specific sectors, e.g. financial intermediaries and the gambling sector. By contrast, introducing a declaration obligation might have a weaker impact as well as impinge on enforcement by discouraging intermediaries, such as banks, professionals and other financial intermediaries, from controlling and reporting suspicious transactions. In fact, compared to a restrictive measure, a

³³² See for instance UIF, Rapporto Annuale dell'Unità di Informazione Finanziaria. Banca d'Italia, 2017; FATF (2016), Anti-money laundering and counter-terrorist financing measures - Italy, Fourth Round Mutual Evaluation Report, FATF, 2016.

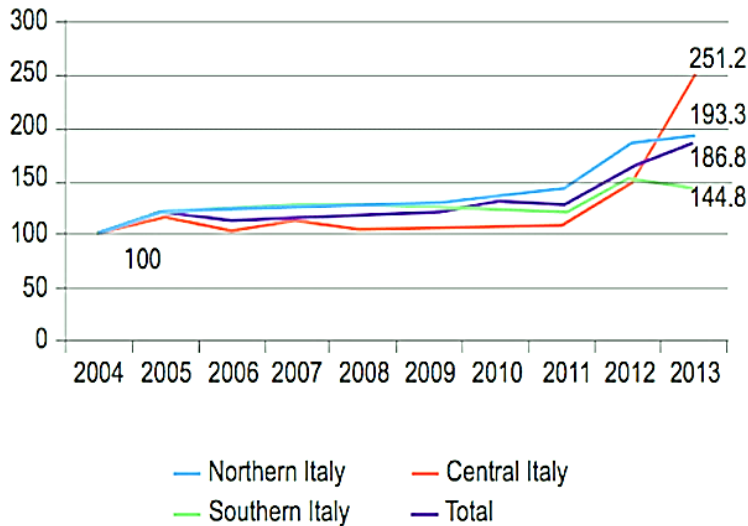
³³³ See Guerino Ardizzi, Pierpaolo De Franceschi and Michele Giamatteo, 'Cash Payment Anomalies and Money Laundering: An Econometric Analysis of Italian Municipalities', Banca d'Italia, January 2016.

declaration obligation would most likely shift the duty to inform (and the responsibility) from obliged entities to individuals.

Impacts on Money Laundering

According to the Mutual Evaluation Report³³⁴, Italy faces high ML risks but has a “mature and sophisticated AML/CFT regime, with a correspondingly well-developed legal and institutional framework”. The number of ML offences has been steadily growing over the years, from 977 in 2004 to 1 825 in 2013 (See Figure). More specifically, Central Italy has recorded a 250% increase, whereas the upward trend in Southern Italy has been less prominent.

Figure ML offences per macro region. Index 2004=100



Source: Transcrime – UCSC (2017).

According to the FIU, over the recent past, the number of STRs escalated: in 8 years the number of suspicious transactions reported has increased by almost five times, from 20,660 in 2009 to 100,435 in 2016 (see Table). This might be explained by the fact that the overall awareness of AML is steadily growing, as well as by the operators’ understanding of the problem and their cooperation in reporting suspicious transactions. The improved efficiency of the FIU across years played a key role in that sense, and the existence of rules on cash restrictions is considered a facilitating factor.

EU level

Generally speaking, the stakeholders consulted for this assignment agreed on the need for an EU measure, as harmonisation is key to allow cross-border cooperation in fighting ML. When it comes to AML, some stakeholders believe that the difference between a threshold of 1 000 EUR and 3 000 EUR is not relevant, as most of the payments can be allotted in many small payments just below the legal threshold. Stakeholders emphasised, however, that a lower threshold would make ML more expensive and time-consuming. In addition, according to the national AML provision, it is prohibited to perform the so-called “structuring” of the payment, i.e. allotting the total amount into small instalments with the specific aim of circumventing the law. According to the FIU, the EU could set a minimum threshold and MS should be free to set their own threshold. The new measure should oblige MS to perform risk assessments when setting a higher threshold.

³³⁴ See FATF (2016), Anti-money laundering and counter-terrorist financing measures - Italy, Fourth Round Mutual Evaluation Report. Available at: www.fatf-gafi.org/publications/mutualevaluations/documents/mer-italy-2016.html.

Impacts on Tax Evasion

The Italian Tax Authority (Agenzia delle Entrate) usually detects tax evasion through risk assessments, comparing costs and revenues reported by merchants. Tax evasion is defined as the omitted declaration of revenues by merchants/individuals and represents a critical issue in the country. The underground economy in Italy is estimated to be worth 21% of GDP. In this context, tax evasion is worth some 110 billion EUR, i.e. around 7% of GDP, and is mostly generated by omitted declaration of revenues by B2C retailers.

Against this background, the government is putting in place many initiatives to fight tax evasion. On the one hand, the Italian Tax Authority is taking actions to discourage cash usage; on the other hand, it is implementing the digitalisation of tax collection and billing systems. Moreover, the authority is gradually improving the process of communication with merchants and professionals: for instance, since 2017, all the invoices should be digitally transmitted to the central authority.³³⁵

Two major initiatives are already in place:

- With regard to the housing sector, the Italian system envisages tax deductions for renovation and repair work, provided that individuals pay by bank transfer³³⁶;
- For B2C transactions, since 2016 merchants and professionals have been obliged to install point-of-sale terminals and to accept credit/debit cards for all payments above five euros.³³⁷ Nevertheless, there is no evidence of the impact of this provision, since the rule does not envisage any sanction. Recently, attention was paid on a governmental proposal to fine (up to 30 EUR) those merchants that do not comply with the above mentioned mandatory requirements.³³⁸

A further recent legislative initiative contemplates the implementation of a tax lottery system. This tool will help fight tax evasion by encouraging citizens to demand electronic confirmation (the receipt) of their purchases. These receipts will then be entered into a draw, with both customers and retailers benefiting from a winning ticket.³³⁹ The rule stipulates that the probability of winning the prize increases by 20% if the payment is made via an electronic method. This provision is formally into force but has never been implemented as not all the merchants have installed the digital tools to transmit the information. It should be, however, effective as of 1 January 2019.

Furthermore, other stakeholders³⁴⁰ are gathering representatives from academia, institutions and business to devise policy initiatives to fight tax evasion. One of the options considered in this context is the introduction of a tax deduction (up to a certain amount), which is proportional to the number and value of electronic payments made by end-users in the fiscal year.

As regards cash restrictions in place in Italy, the former threshold (1 000 EUR) was considered more effective in the fight against tax evasion than the current one (3 000 EUR). Nonetheless, there is no hard evidence of a direct effect of cash limits on tax gap, nor of the ultimate impact of the new

³³⁵ According to the Legislative Decree 22 October 2016 no. 193 (Law 225/2016), as of 2017, all the invoices must be transmitted every six months to the Agenzia delle Entrate via a telematic system.

³³⁶ According to Article 16 bis of d.P.R. no. 917/1986, 50% of deduction (up to 96 000 EUR) is applied to renovation and repair works.

³³⁷ See Article 15 of Legislative Decree no. 179/12 and Law no. 208/2015.

³³⁸ See <http://www.ilsole24ore.com/art/norme-e-tributi/2017-09-19/pos-obbligatorio-sanzioni-fino-30-euro-210052.shtml?uuid=AEQpQoVC>.

³³⁹ See Law No 232/16, Article 1, paragraphs 540 to 544.

³⁴⁰ Among others, the Osservatorio Mobile payment & commerce of the Politecnico of Milan; Community Cashless Society, a platform by The European House Ambrosetti.

threshold. In this respect, the Italian Ministry of Finance has recently gathered representatives from relevant institutions in a task force aiming to provide a new (and more accurate) estimate of the underground economy in Italy and its underlying factors, including tax evasion.

EU level

The Italian Tax Authority is in favour of a European restriction to cash payments. The introduction of an EU measure regulating cash transactions would most likely contribute to the fight against tax evasion. Again, the EU initiative should be devised as a restriction rather than as a declaration obligation. In this respect, a declaration would not lead to simplification but it would impose administrative burdens on taxpayers. In this respect, if a declaration was introduced, it should be digitally conveyed from merchants to the governmental authorities.

From a technical point of view, the agency is in favour of setting an EU threshold to limit cash payments. This threshold is likely to have deterrent effects on tax evaders both internally and across borders, as evasion is eased by cash payments. The largest impact is expected at the retail level and in the construction sector. In fact, high-value payments in cash for real estate is quite frequent in Italy. Ideally, cash restrictions should be accompanied by initiatives aiming to reduce/ban the usage of high-value banknotes.

Enforcement measures

As envisaged by the Legislative Decree no. 90/2017, violations of cash payment limits are punished with an administrative sanction between 3 000 and 50 000 EUR (Art. 63, par. 1). The same rule states that the transfer of bank or postal bearer deposit instruments is punished with an administrative sanction between 250 and 500 EUR (Art. 63, par. 2). Sanctions are established by the Ministry of Finance.

The authority responsible for the enforcement of cash restriction provisions is the Italian Financial Police (Guardia di Finanza), as set out by the Legislative Decree no 68/2001. The Italian Financial Police contributes to the fight against TF through preventive investigations on financial flows that fuel TF and is responsible among others for:

- carrying out inspections/checks at the premises of the obliged entities (financial intermediaries, professionals and other operators);
- conducting police investigations on request from the Judicial Authority;
- reporting the omitted/irregular declarations by seizing the "cash" exceeding the legal threshold;
- performing inspections on the cross-border circulation of currency through surveillance services, to identify any undeclared money;
- checking lawfulness of cross-border currency flows, whether incoming or outgoing, by verifying compliance with the obligation to declare (Art. 3 of Decree 195/2008) amounts equal to or greater than 10 000 EUR;
- detecting any elements, data and evidence to trace cases of ML, TF or other fraudulent transactions deriving from cross-border transfers.

As mentioned, the AML/CFT obliged entities must report to the Ministry of the Economy any detected violations of the cash payment limits (Art. 51, par. 1). With regard to sanctioning procedures, the AML regime includes administrative sanctions to the obliged entities infringing their duty to report suspicious transactions. The FIU is responsible for ascertaining the infringement and the Ministry of Finance for starting the procedure and fining the entity. According to the Italian FIU, from 2012 to 2016 there have been about 120 cases of omitted STRs. Data confirms that infringements by the obliged entities are hard to identify and tackle. As for the time needed to complete the enforcement, according to the FIU, it takes generally five years.

Impacts on businesses

Notaries

Notaries play a key role in the current framework for cash restrictions. The category is best positioned to identify high-risk transactions in real estate and corporate deed transfers. In the recent past, the number of STRs transmitted by notaries has been steadily increasing. Out of the 8 812 STRs transmitted by professionals in 2016, about 40% was sent by notaries and the National Council of Notaries (CNN). In this context, the role of the CNN is pivotal, as it acts as a collector entity: it receives the information from their members and then transfers the STRs to the FIU. In 2016, the Council has transmitted 3 484 STRs, whereas notaries directly transferred only 98 STRs.

The Fondazione Notariato (i.e. the umbrella association representing the Italian notaries), believes that the current threshold equal to 3 000 EUR represents a balanced compromise between safety and freedom. The association is in favour of an EU threshold that would lead to harmonisation across MS, as it would ensure legal certainty, better traceability of payments and safer circulation of money. Interestingly, the Fondazione Notariato appears to be against the introduction of exemptions, in case an EU threshold was adopted; clear rules applying to all individuals and companies are crucial to fight against terrorist financing.

Gambling sector

The Italian gambling sector consists of about 120 000 stores (including bingo clubs, betting shops and lotteries) and more than 6 000 companies. With regard to the sector's involvement in the debate on cash restrictions, the general 3 000 EUR limit applies also to gambling stores. In addition, the current AML/CTF national regime sets out rigid identification obligations for the gambling sector, such as:

- Customer identification above a 2 000 EUR threshold for betting;
- Customer identification above a 500 EUR threshold for Video lottery equipment;
- Customer identification for online gambling through the creation of a gaming account, and obligation to keep track of the money flows.

According to the assessment carried out by the European Commission³⁴¹ in 2017, the role played by the gambling sector in terms of TF appears to be negligible.

The Umbrella Association “Sistema Gioco Italia” welcomes the approach adopted by the EU with the 4th AML Directive based on risk assessment of activities potentially entailing ML and/or TF. However, the national legislation is more rigid than the Directive and, therefore, it impacts the gambling sector more than in other MS.

The authority in charge of providing guidelines and technical standards to the gambling business is the “Agenzia delle Dogane e dei Monopoli”. The Agency is responsible for controlling and enforcing AML and CTF laws in the sector. Currently and in light of the new threshold at 3 000 EUR, an assessment of the compliance costs borne by casinos, bingo etc. is premature. In fact, they are still assessing the impact of the former 1 000 EUR threshold on the business, and there is no evidence yet of any impact.

³⁴¹ See European Commission, COMMISSION STAFF WORKING DOCUMENT Accompanying the document Report from the Commission to the European Parliament and to the Council on the assessment of the risks of money laundering and terrorist financing affecting the internal market and relating to cross-border situations (COM(2017) 340 final). Available at: http://ec.europa.eu/newsroom/document.cfm?doc_id=45654.

The position of the gambling business towards the current and the former payment restrictions (3 000 and 1 000 EUR respectively) is positive. In the same vein, their position towards a potential EU initiative on payment restriction is quite positive. The association would opt for an EU wide ban to cash payments above a certain threshold, looking at the Italian example. In this respect, according to the association, the EU initiative could reflect the Italian experience and combine a threshold to cash usage with a reporting system for suspicious transactions in line with the AML requirements.

Impacts on vulnerable groups

Italian Consumer Associations had an active role in the national debate on cash restrictions. In 2011, when the 1 000 EUR limit was introduced, the associations recommended an even lower limit of 500 EUR. Firstly, cash is costly. Consumers are often unaware of the hidden costs such as withdrawal costs, the cost of 'handling' cash, insurance costs in case of loss. Secondly, as a cash-minded society is less keen on making online purchases, consumers miss the opportunities created by e-commerce (price transparency, availability of price comparison tools, potentially better offers). Conversely, alternative payment methods are beneficial for consumers, as they contribute, *inter alia*, to boost online purchases.

Nonetheless, restrictions on cash payments above a certain threshold may impinge on those consumers that do not have access to any bank account and related means of payments (e.g. credit transfers, debit cards, credit cards, cheque, etc.). Consumers are often the weak party of the transaction, suffering more from a shortage of alternative payment methods. In Italy, about 15 million consumers do not have access to bank services. This, combined with the high fees paid by merchants to banks and with the large number of merchants that did not install point-of-sale terminals complicates the implementation of cash restriction measures. In addition, fees (up to 2%)³⁴² charged by merchants to consumers to pay with debit/credit cards are still quite common in Italy, thus making electronic payments less attractive. In this respect, after the entry into force of the 1 000 EUR threshold, some consumers filed complaints to consumer associations, as they were not able to make certain purchases. This problem was confirmed by the representatives of the Ministry of Finance.

Therefore, while cash payment restrictions are welcome by consumers, they should be accompanied by incentives to foster alternative payment methods. In this respect, the national legislation envisages, for instance, some inclusive instruments such as the so-called "basic account", i.e. a special account, introduced in 2012, that is free for citizens with personal income below 8 000 EUR. The potential of this tool, however, is largely unexploited, as the availability of the basic bank account is widely unknown among customers, partially because it is poorly advertised by banks.

Complaints from consumers on cross-border issues appear to be marginal.

EU level

To improve the functioning of the Digital Single Market, the Italian Consumer Association interviewed for this study favours a single EU threshold to restrict cash usage, as the Internal Market requires similar rules across MS. By contrast, declaration obligations are considered less effective and more burdensome for consumers. Any cash restriction measure should come along with measures ensuring consumers to have access to financial services (alternative payment methods). The limit should not be too high, as a 10 000 EUR threshold does not allow for a real change. The threshold should be low and harmonised across Member States, in a range between 1 000 EUR and 5 000 EUR, closer to 1 000 EUR. Exemptions for tourists from third countries should be allowed.

³⁴² See http://www.repubblica.it/economia/2017/09/15/news/pagamenti_carte_di_credito_commissioni-175586573/.

Impacts on economic freedom and privacy

As far as privacy is concerned, Italian Consumer Associations received very few complaints from customers stating that cash restriction measures could hamper their privacy. By contrast, many complaints came from consumers who could not have access to point-of-sale terminals. This is particularly true for retail shops, hotels and other accommodation services, where cards are sometimes not accepted, despite rules obliging merchants and professionals to install point-of-sale terminals and accept credit/debit cards for all payments above five euros. Many consumers reported that some shops apply higher prices or do not apply discounts if consumers wish to pay by card.

Terrorism financing cases

TF Case: Foreign terrorist fighter performing distance adoptions donations³⁴³

The Italian bank account of an NGO based in Northern Italy promoting distance adoptions in Syria received cash deposits and wire transfers (mostly involving small amounts) sent by numerous individuals and entities located in Italy and other European countries. Money was then sent to Turkey, where it would be withdrawn for its final legitimate use (descriptions associated with the transactions referred mainly to “adoptions”). At a later stage, investigations revealed that one of the donors was a member of an extremist group located in Northern Italy, which aimed to recruit people to engage in violent extremism. Financial analysis eventually showed that this individual, who subsequently died fighting in Syria, used the organisation as an unwitting conduit to transfer funds allegedly connected to his terrorist activity.

Sources

Source	Type of source (policy paper, report, media etc.)
European Commission, COMMISSION STAFF WORKING DOCUMENT Accompanying the document Report from the Commission to the European Parliament and to the Council on the assessment of the risks of money laundering and terrorist financing affecting the internal market and relating to cross-border situations (COM(2017) 340 final). Available at: http://ec.europa.eu/newsroom/document.cfm?doc_id=45654 .	Report
European Commission, Special Eurobarometer 446 “Financial Products and Services”, 2016. Available at: http://ec.europa.eu/COMMFrontOffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/SPECIAL/surveyKy/2108 .	Report
FATF (2016), Anti-money laundering and counter-terrorist financing measures - Italy, Fourth Round Mutual Evaluation Report. Available at: www.fatf-gafi.org/publications/mutualevaluations/documents/mer-Italy-2016.html .	Report
FATF REPORT Financing of the Terrorist Organisation Islamic State in Iraq and the Levant (ISIL), February 2015.	Report
Guerino Ardizzi, Pierpaolo De Franceschis and Michele Giamatteo, ‘Cash Payment Anomalies and Money Laundering: An Econometric Analysis of Italian Municipalities’, Banca d’Italia, January 2016.	Paper

³⁴³ Source: FATF REPORT Financing of the Terrorist Organisation Islamic State in Iraq and the Levant (ISIL), February 2015.

Source	Type of source (policy paper, report, media etc.)
Il Sole 24Ore, "Pos obbligatorio, sanzioni fino a 30 euro". Available at: http://www.ilsole24ore.com/art/norme-e-tributi/2017-09-19/pos-obbligatorio-sanzioni-fino-30-euro-210052.shtml?uuid=AEQpQoVC .	Media
Pagamenti con carte e bancomat: tetto alle commissioni e più tutele per i consumatori, La Repubblica, September 15th 2017 http://www.repubblica.it/economia/2017/09/15/news/pagamenti_carte_di_credito_commissioni-175586573/ .	Media
Rapporto 2017 Community Cashless Society, The European House Ambrosetti. Available at: https://www.ambrosetti.eu/wp-content/uploads/Rapporto-Community-Cashless-Society-2017_DEF.pdf .	Report
Transcrime and UCSC, "Assessing the risk of money laundering in Europe", final report of the IARM Project, 2017.	Final report
UIF, Rapporto Annuale dell'Unità di Informazione Finanziaria. Banca d'Italia, 2017. Available at: https://uif.bancaditalia.it/pubblicazioni/rapporto-annuale/2016/Relazione_UIF_anno_2016.pdf .	Report

8. THE NETHERLANDS

Overview of interviews

Representing organisation	Date of interview
Ministry of Finance	15 September 2017
Banking expert	18 September 2017
Holland Casino	19 September 2017
Ministry of Security and Justice	25 September 2017
Anti-Money Laundering Centre (AMLC)	26 September 2017
Financial Intelligence Unit	29 September 2017
Dutch Central Bank	19 October 2017
National Payments Council (Maatschappelijk Overleg Betalingsverkeer)	24 October 2017
Federation of Gold and Jewellery	25 October 2017

Overview of legal regime


NETHERLANDS

Restriction

Declaration

4th AML directive transposed

National measures more restrictive than EU directive*



Restriction: Declaration obligation for unusual transactions above objective thresholds, differentiated by entity), in place since 15 July 2008, updated 1 January 2013

Legal basis *Wet ter voorkoming van witwassen en financieren van terrorisme [Law to prevent money laundering and terrorist financing]*

Rationale / main policy goals Combating money laundering and combating terrorist financing

Competent authority (enforcement) 1. Authority Financial Markets (*Autoriteit Financiële Markten*);
2. Dutch central bank (*De Nederlandsche Bank, DNB*);
3. Desk financial oversight (*Bureau financieel toezicht*);
4. Desk supervision Law to prevent money laundering and terrorist financing (*Bureau toezicht Wwft*);

	5. Dean of the Dutch bar association (<i>Deken van advocaten</i>).
Other involved authorities	Financial Intelligence Unit (FIU) Anti Money Laundering Centre (AMLC) Financial Expertise Centre (FEC)
Current threshold(s)	25 000 EUR for high value traders 15 000 for unusual transactions 2 000 for money transfers
Former threshold(s)	n/a
Targeted sectors/ Type of transaction	<p>High value traders: Brokers in real estate and rights to which the real estate is subject, or in the purchase and sale of vehicles, boats, works of art, antiques, precious stones, precious metals, jewellery or jewels.</p> <p>Unusual transactions:</p> <ul style="list-style-type: none"> • Accountants; • Appraisers; • Banks; • Casinos; • Civil-law notaries; • Electronic money institutions; • Institutions, not being banks, that carry out banking activities; • Investment firms; • Investment institutions; • Lawyers; • Life insurers; • Life insurance brokers; • Money exchange institutions; • Natural or legal persons that put their address at another's disposal (domicile-providers); • Pawn shops; • Payment service agents; • Payment service implementers acting by order of a payment service provider with other EU member state license; • Payment service providers; • Safe custody services; • Tax advisors; • Traders / sellers of goods; • Trust offices; • Undertakings for Collective Investment in Transferable Securities (UCITS);
Exemptions	None

Violations characterized as an administrative offence. Penalties depending on category of offence:

Sanctions	Cat	Basic amount	Minimum	Maximum
	1	€ 10 000	€ 0	€ 10 000
2	€ 500 000	€ 0	€ 1 000 000	
3	€ 2 000 000	€ 0	€ 4 000 000	

Enforcement measures Audits of obliged entities.

Results impact assessment or evaluations None found.

Measurement indicators Suspicious transactions by type (e.g. cash) and by suspicion (e.g. terrorist financing).

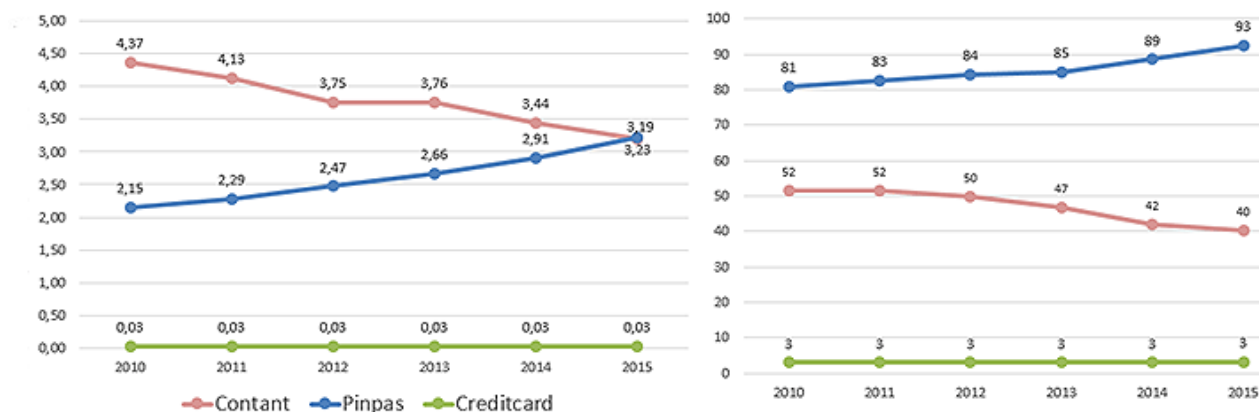
Future changes Implementation of the 4th AML Directive, in which the threshold levels for declaring will most likely be lowered (e.g. high value traders to EUR 10 000).

Sources <http://wetten.overheid.nl/BWBR0024282/2016-08-11>
https://www.fiu-nederland.nl/sites/www.fiu-nederland.nl/files/documenten/fiu_jaaroverzicht_2015_eng.pdf

Cash use in Dutch society

Dutch society has seen several bank-led initiatives promoting the use of bank services for payments and discouraging the use of cash, even for small value transactions. This has been very successful and as a consequence, cash use in the Netherlands has declined significantly. Since 2015, more transactions are made electronically than in cash and the total value of electronic payments is more than twice as high than cash payments (see Figure below).

Figure 0.2 Left: volume of payments (billions); Right: value of payments (billions of EUR)



Source: De Nederlandsche Bank, <https://www.dnb.nl/nieuws/nieuwsoverzicht-en-archieff/dnbulletin-2016/dnb341309.jsp>.

Table 0.21 Contextual data

Indicators: Description of economy	
Role of cash in society (2015 data De Nederlandsche Bank, 2016 data, MOB)	<p>Volume:</p> <p>3.19 billion cash payment transactions vs 3.23 billion card transactions annually (2015); 3 438 million transactions non-cash vs 339 million cash withdrawals annually (2016).</p> <p>Value:</p> <p>40 billion EUR cash payments vs 93 billion EUR card payments (2015). 100 billion EUR transactions non-cash vs 54 billion EUR cash withdrawals annually (2016).</p>
Cash-intensive industries	Cash use is still high with second-hand car dealerships, antique stores, designer furniture stores and the casino industries.
Bank account coverage (%) (2014 data, Global Findex)	99%.
ATM density (2016 data, MOB)	8 210 ATMs in 2016, or approximately 1 ATM per 2 000 inhabitants; 99.76% of all Dutch people have access to an ATM within 5km distance.

Sources:

DNB (2016), DN Bulletin. See <https://www.dnb.nl/nieuws/nieuwsoverzicht-en-archieff/dnbulletin-2016/dnb341309.jsp>.

DNB (2015), DNB Guidance on the Anti-Money Laundering and Counter-Terrorist Financing Act and the Sanctions Act. See <http://www.toezicht.dnb.nl/en/binaries/51-212353.pdf>.

Maatschappelijk Overleg Betalingsverkeer (2016), Bereikbaarheidsmonitor 2016. See https://www.dnb.nl/binaries/Bereikbaarheidsmonitor%202016_tcm46-349693.pdf?2017051722.

World Bank (2017), Global Findex database. See Financial Inclusion Data / Global Findex.

Policy context

The Netherlands has, as part of its broader anti-money laundering and anti-terrorist financing framework, introduced a *de facto* declaration obligation for cash payments under certain conditions. The obligation flows from the Law for prevention of money laundering and terrorist financing (Wet ter voorkoming van witwassen en financieren van terrorisme, Wwft),³⁴⁴ which was introduced in 2008

³⁴⁴ See <http://wetten.overheid.nl/BWBR0024282/2016-08-11>.

and combined two separate laws on declaring 'unusual transactions' and on performing due diligence when providing financial services. The Wwft is the Dutch law transposing the Third European Anti-Money Laundering Directive (Directive 2005/60/EC).

The declaration obligation instituted under the Wwft refers to what are called 'unusual transactions', a category introduced in Dutch law with a less restrictive threshold for reporting than 'suspicious transactions'. Obligated entities are required to report unusual transactions to the Financial Intelligence Unit (FIU), who analyses them and then either declares them suspicious or not. This means that the FIU is relatively more involved in analysis than in other countries, where obliged entities themselves are required to assess whether a transaction is suspicious.

Transactions can be deemed unusual based on different subjective indicators, and depend also on the client profile.³⁴⁵ Nonetheless, the Dutch law has also introduced a number of objective indicators related specifically to cash payments. A distinction is made between different types of institutions:

1. Banks and credit institutions, accountants, lawyers, notaries, realtors, casinos, payment services, tax advisors, appraisers

These businesses have to report cash transactions of 15 000 EUR and above to the FIU. (This obligation for declaring also extends to other anonymous instruments such as prepaid cards).

2. High value goods dealers and pawnshops

These businesses have to declare transactions involving cash payments above 25 000 EUR.

3. Money transfers

These need to report all transactions above 2 000 EUR, for all means of payment including cash.

Cash payments therefore need to be reported by certain obliged entities and for varying thresholds (25 000 for high value goods, 15 000 for most 'other' obliged entities, 2 000 for money transfers).

Rationale

As already indicated in the name of the law, it was introduced mainly to combat money laundering and terrorist financing. The Dutch FIU is a hybrid organisation form,³⁴⁶ falling under the Dutch Ministry of Security and Justice, staffed with law enforcement officers but separated from the national police. The Dutch tax authorities do not have access to its database. The set-up of the law therefore excludes the intelligence derived from analysing the various declarations from being used to combat tax evasion (for which there is a separate investigative agency).

There is no national debate regarding further cash payment restrictions, and no other initiatives apart from the planned update of the Wwft in line with the requirement to transpose the Fourth Anti-Money Laundering Directive (Directive (EU) 2015/849).

Supervision

Responsibility for supervision and enforcement is entrusted to five parties:³⁴⁷

1. Authority Financial Markets (*Autoriteit Financiële Markten*);
2. Dutch central bank (*De Nederlandsche Bank*, DNB);
3. Desk financial oversight (*Bureau financieel toezicht*);

³⁴⁵ The relevant list of indicators can be found here: <http://wetten.overheid.nl/BWBR0024280/2016-09-27>.

³⁴⁶ See Europol (2017), 'From Suspicion to Action'. Accessible online at <https://www.europol.europa.eu/publications-documents/suspicion-to-action-converting-financial-intelligence-greater-operational-impact>.

³⁴⁷ See Algemene Rekenkamer [*Court of Audit*] (2014), 'Bestrijden witwassen: stand van zaken 2013', to be found online at <https://zoek.officielebekendmakingen.nl/kst-31477-6.html>. One additionally named party is the Gambling authority (Kansspelautoriteit) and the, which deals with anti-money laundering indirectly.

4. Desk supervision Law to prevent money laundering and terrorist financing (*Bureau toezicht Wwft*);
5. Dean of the Dutch bar association (*Deken van advocaten*).

The division is portrayed in the table below:

Table 0.22 Supervision of Dutch AML/TF regime

Categories	Supervision by
High value goods dealers and pawnshops, realtors, appraisers.	Tax authority: <u>Bureau Toezicht Wwft</u>
Banks and credit institutions, casinos, payment services.	<u>De Nederlandsche Bank</u>
Investment firms, financial services regarding life insurances	<u>Autoriteit Financiële Markten</u>
Accountants, lawyers, notaries, tax advisors, appraisers.	<u>Bureau Financieel Toezicht</u> <u>Nederlandse orde van advocaten</u>

Source: Dutch Tax Authority³⁴⁸.

In addition, detection and prosecution are handled by the national police and the public prosecutor (*Openbaar Ministerie*) and law enforcement and intelligence have combined efforts in the Anti-Money Laundering Centre, a platform in which the Fiscal Information and Investigation Service (FIOD) of the Tax Authority cooperates with the national police, public prosecutor, FIU, and special investigative services of a number of different Ministries.

FIU-data

Table 0.23 FIU-data

	2013	2014	2015	2016
Total number of unusual transactions				417 067
Total number of STRs (unusual transactions deemed suspicious)				53 533
STRs involving cash payments				47 006
STRs involving terrorism financing (TF)	1 296	1 916	2 014	4 494
STRs involving TF and cash payments				
Use of financial intelligence related to cash payments for terrorism financing (e.g. investigations)	176 files	251 files	286 files	623 files
Use of financial intelligence related to cash payments for money laundering (e.g. investigations)				2 074

Source: FIU annual report 2017, interview with FIU.

Transactions declared suspicious by transaction type, 2015	Number	Percentage of total
Money transfers	36 463	89%
Cash transactions	2 548	6%
Funds transfers	881	2%
Other transactions	1 067	3%
Total	40 959	100%

Source: FIU 2016.

Impacts on Terrorist Financing

Because the involved amounts in terrorist financing are so low, the Dutch government has seen no significant impact on terrorist financing due to the objective reporting requirement. Relevant

³⁴⁸ See also https://www.belastingdienst.nl/wps/wcm/connect/bldcontentnl/belastingdienst/zakelijk/aangifte_betalen_en_toezicht/toezicht/voorkomen_van_witwassen_en_terrorismedinanciering/toezicht_op_de_wwft.

information comes from transactions reported as 'unusual' that do not meet the threshold for the objective indicators but are reported based on subjective assessment. The majority of terrorist financing reports cover money transfers and withdrawals of relatively minor amounts.

The representatives consulted indicate that no impact is expected from an EU cash payment restriction measure for the same reason: amounts involved are too low. Moreover, there are some concerns that such a measure could be relatively easily circumvented.

Impacts on Money Laundering

The declaration obligation (differentiated between entities, see Policy context) has been helpful in the fight against money laundering. Multiple interviewees stressed that they value the risk-based approach to declaring transactions: unusual transactions below the thresholds are reported when an assessment has been made based on subjective criteria (such as client profile and history). At the same time, it was noted that there is severe underreporting from high-value traders.

Examples mentioned by the interviewees point to the importance of considering any policy measure in conjunction with the Cash Controls Regulation as well as the 4th Anti Money Laundering Directive. Furthermore, it should be appreciated that jewellery (including watches)³⁴⁹ and gold can easily be used as an alternative to cash money.

In addition, in the current situation there are various examples of cash payment restrictions introduced in Belgium leading to displacement of the illegal activities to the Netherlands (thereby showing the effectiveness of the Belgian measure while at the same time problematizing the lack of a unified measure). There was one court case regarding the sale of a Belgian second-hand car that was completed with cash in the Netherlands, thereby avoiding the Belgian cash payment restriction. Additionally, there was a court case against a trader in growshop items that handled a lot of cash. Here, it was established that transactions were being split up to avoid the Dutch declaration obligation.³⁵⁰ In both cases, there was a suspicion of money laundering.

It is important to note that in the Netherlands, money laundering can be prosecuted when there is a large amount of cash found for which no reasonable explanation can be given by the person who has the cash on him. This person can give an explanation which should be verifiable; if one is given the public prosecutor is obliged to verify that explanation. The courts then have to judge whether it can be established with a sufficient level of certainty that the money either does or does not have a legal origin.

There is a general consensus that lowering the cash payment limit (either through a ban or through imposing a declaration obligation) would have an effect on money laundering. By instituting a measure, it is less useful to walk around with large amounts of cash. When large amounts of cash are found, it is therefore easier to establish a reasonable suspicion of money laundering.

It was also stressed that the two options serve different policy goals and each policy option implies different investments for enforcement (see section below):

A **ban** would make it harder for criminals to spend illicit money, thereby aiding the *prevention* of money laundering;

³⁴⁹ See for example a piece of investigative journalism from 2015, detailing the use of expensive watches as substitute for cash <https://www.nrc.nl/nieuws/2015/04/18/op-de-kop-getikt-1484842-a953199>.

³⁵⁰ See <https://www.om.nl/onderwerpen/afpakken/@96507/groothandel-leverde/>.

A **declaration obligation** would increase the level of control one has over the use of cash and would provide more intelligence on 'dirty money', enabling law enforcement to confiscate it, thereby aiding the *detection and prosecution* of money laundering.

The Dutch government's stance is that all things considered, it is useful to introduce an EU measure to harmonise the AML/TF framework. The harmonisation itself is more important in this regard than the actual level at which it takes place. On the exact design (ban or declaration, threshold) it is difficult to take a stance, as there is too little information about the actual effectiveness of a measure. Of the possible measures regarding cash payments, a law would be the most logical instrument. It was consistently stressed that an EU measure should seek to align with the Cash Controls Regulation and the 4th AML Directive and therefore, a threshold level of EUR 10 000 would be most appropriate.

One exception to this considers money transfers. The currently existing objective limit for reporting transactions of EUR 2 000 by money transfers is deemed to be too high. The average (and modus) value of remittances through money transfers is about EUR 400 to 500. Expectations are that lowering this threshold to EUR 1 000 would deal a significant blow to money laundering via money transfers.

Impacts on Tax Evasion

No data have been received on the impacts on tax evasion in the Netherlands. It is not expected that the shadow economy would decrease through a measure, as those transactions are already illegal now and there is no reason to suspect that an additional measure would prompt those engaging in these transactions to stop or declare them.

With regard to a future measure, it is expected it would have an effect on sectors where a lot of cash is used at the moment: car dealerships, junkyards, high-end furniture stores and wholesale businesses.

Enforcement costs and measures

Currently, enforcement of the Dutch AML/TF regime including the declaration obligation for unusual transactions consists of two pillars: the due diligence requirements and the reporting obligation for suspicious transactions.

The costs for supervision and enforcement of the whole AML/CFT regime are partly traceable to some extent in a number of reports:³⁵¹

Bureau toezicht Wwft 39 FTE (2014);

Bureau Financieel Toezicht: 13 FTE (2014);

National Police (financial-economic expertise): 840 FTE (2015);

FIU: 63 FTE (2017);

Tax authority/AMLC: 76 FTE (2015).

These figures are useful as an illustration and should be treated with caution, as they are only partially attributable to enforcing the declaration obligation regarding cash payments.

³⁵¹ See Algemene Rekenkamer [*Court of Audit*] (2014), 'Bestrijden witwassen: stand van zaken 2013', to be found online at <https://zoek.officielebekendmakingen.nl/kst-31477-6.html>;
Tweede Kamer [Parliament] (13 May 2015), 'Beantwoording Kamervragen over Algemene Rekenkamer rapport over anti-witwasbeleid in Nederland', to be found online at <https://www.rijksoverheid.nl/documenten/rapporten/2015/05/14/tk-bijlage-antwoorden-126-tk-vragen-nav-ark-rapport>;
WODC (2015), 'De bestrijding van witwassen. Startversie monitor anti-witwasbeleid oktober 2015', to be found online at <https://www.rijksoverheid.nl/documenten/rapporten/2016/02/18/tk-bijlage-de-bestrijding-van-witwassen>.

With regard to a potential future measure, the two categories both merit a different type of approach. In case of a ban, enforcement needs to take place on whether a cash payment has been conducted. In case of a declaration obligation, enforcement would focus on whether cash payments conducted have been declared to the FIU.

In the Dutch situation, if a ban was instituted, this would lead to substantial extra costs, as it is a whole new measure. Those costs would mostly accrue to the National Police and the Public Prosecutor, as well as the courts, who would need to detect, investigate and prosecute. At the same time, costs for the FIU would decrease, as there would be fewer reports of transactions.

If a uniform declaration obligation were instituted, enforcement costs would rise because the scope of those falling under the declaration obligation would increase. Additional costs would mostly accrue to the FIU and the AMLC, who need to process the declarations.

In both cases, the lower the threshold, the bigger the effects.

Penalties

Currently, failing to report under the Dutch AML/TF legislation is characterised as an administrative offence. These can be fined by up to EUR 4 000 000.³⁵²

Representatives from the Ministry of Security and Justice indicated that in their view, if an EU measure were instituted, violations should not be characterised and treated under administrative law, but classified as an economic crime.

(Suspicions of) money laundering are characterised as an economic offence and penalties can involve imprisonment for up to two years, community service, and/or a fine of up to EUR 20 5000.³⁵³ In addition, the business that has failed to report can be partially or completely shut down for up to one year.

If an EU measure were instituted, the Ministry of Finance representative indicated that violations of the ban and/or reporting requirement should be characterised as an economic offence (potentially involving imprisonment), and not as an administrative offence (which can only be fined).

Compliance costs

Overall, effects on compliance costs can be expected to be minimal, as not many cash transactions are being conducted at the various threshold levels.

For the group of cash transactions that would be affected, the consequences for compliance costs depend heavily on the type of measure that would be instituted, as well as on the threshold level.

Casino industry

Within it, the casino industry can be categorised as a special sector that handles much cash. Holland Casino, the sole exploiter of casinos with betting tables in the Netherlands, expects that if a cash payment restriction were instituted, this would have big compliance effects.

Currently, Holland Casino has a full-time national anti-money laundering and terrorist financing coordinator, who is responsible for developing centralised AML/CTF policy and monitoring Wwft

³⁵² See http://wetten.overheid.nl/BWBR0024282/2016-08-11#Hoofdstuk4_Artikel28.

³⁵³ See <http://www.bureaufi.nl/wwft/werkwijze-toezicht/handhaving-3/>.

issues within the 14 Holland Casino branches. Each branch also has a local Wwft-coordinator, for about 0,5 FTE each. In addition, all of the personnel working with customers is trained in Wwft-obligations.

In 2016, it declared 1 475 transactions it deemed 'unusual' below the threshold, and 1 199 unusual transactions above 15 000 EUR (objective indicator). The subjective declarations can relate to cash payments at gambling tables and at the cashier. The objective declarations usually involves cash, but is broader than payments: it also includes deposits and transfers. There are some automatic triggers for unusual transactions, which invariably need to be followed up before a declaration to the FIU can be made.

For a declaration obligation set at 10 000 EUR, it expects 50% more declarations than is currently the case for the 15 000 EUR threshold. This translates into 221 hours a year spent on declarations on objective indicators, as opposed to about 150 hours a year now.

However, the Dutch government is preparing the transposition of the 4th AML Directive within which it will (in all likelihood) lower the reporting threshold to 10 000 EUR, regardless of the means of payment used. This means that a possible cash payment restriction would impose no additional costs to Holland Casino beyond what it would have to invest in complying with Dutch national law.

If the threshold were set lower than 10 000 EUR, declarations would rise exponentially, as would the involved compliance costs. It was emphasized that the quality of declarations would go down, as there is no longer a risk assessment being made by the declaring entity when it is based on such an objective indicator as opposed to a risk-based approach with subjective indicators.

If a cash payment ban were instituted, this would lower the costs associated with reporting. This would however be replaced with costs for ensuring that all cash transactions above the threshold chosen, are transferred digitally. As currently pay-outs below EUR 5 000 are usually done in cash, the casinos would have to spend a significant amount of additional time in ensuring these pay-outs are done digitally. It was stressed that for casinos, transferring money whose origin is unknown (and cannot be verified) to customers involves more risk than paying them out in cash, as transfers in the name of Holland Casino may lend a veneer of legitimacy to the money. To counter that, Holland Casino would have to invest heavily in due diligence measures.

The actual effects of a cash ban would however depend heavily on the threshold level chosen: many larger pay-outs are already not done in cash, as it is considered unsafe to send customers home with a lot of cash on hand due to risks of robbery. At the 10 000 EUR level, it is likely not many transactions are affected so that the added compliance costs are minimal (not taking into account possible revenue effects). At the 1 000 EUR level, the burden of transferring money electronically would rise quite significantly.

It was also emphasized that a negative consequence of a ban is that there would be less information available on cash flows, as the cash money will not disappear but just flow elsewhere.

Jewellery sector

In the Netherlands, there are only three big jewellery chains: Schaap & Citroen, Ducardi and Siebel. Most of the sector is composed of smaller businesses. In addition, the majority of jewellers focuses on the mid-range of the market, there are a lot of *bijouteries* and only a few high-end jewellers.

As it stands, although no data is systematically collected by the Federation for Gold and Jewellery, there are not many high-value cash payments in the Netherlands for jewellery. In this sense, a restriction would only have (significant) effects under the lower thresholds (< EUR 10 000).

Although limited systematic data is available, because not many expensive jewellery is paid with cash it can be posited that compliance costs for a declaration obligation at the various threshold levels would not rise significantly (albeit more for EUR 1 000 than for the higher thresholds). The major added costs are expected to lie in explaining why an ID is being requested, with special difficulties foreseen due to the fact that it is not allowed to be explained this is due to the AML/CFT law.

As is the case with Holland Casino, due to the expected transposition of the 4th AML Directive, a declaration obligation at EUR 10 000 would add zero additional costs.

For a cash payment restriction in the form of a ban, compliance costs would decrease in the form of less reporting being necessary. Here, also special difficulties are expected in explaining to customers why cash is not accepted.

Impacts on cash-intensive sectors

In the case of a declaration obligation, no (significant) revenue impacts are expected for cash-intensive industries, although at the lowest threshold level of EUR 1 000 Holland Casino has a concern that it would make visits to its casinos less attractive to some customers.

In the case of an outright ban on high-value cash payments, depending on the threshold level, the impact on revenues is expected to be significant for the casino industry. One representative voiced his concern that customers would move towards online or underground banking, rather than not being able to pay with cash anymore. Legitimate customers would be hit, as many also use cash as a way to maintain grip on the amount of money they are spending. This effect is expected to be lower for the higher thresholds and vice versa. No systematic data are available.

For the gold and jewellery sector, impacts from a ban on high-value cash payments are expected to be limited as there are relatively few high value payments being conducted in cash. A representative from the industry indicated that it is impossible to give detailed forecasts, as these data are not being gathered systematically.

Impact on Internal Market

As a result of the current situation of cash payment limitations in neighbouring countries to the Netherlands, revenues for some specific sectors may have gone up in the Netherlands.

There are a few examples in the car industry as well as in the casino industry and high-end furniture stores of foreign customers coming to the Netherlands to conduct their transactions in cash. These should be characterised as *displacement effects*, which would disappear if the legal framework were harmonised.

Impacts on vulnerable groups

There is no significant impact expected on vulnerable groups due to the current AML/TF legislation in place. In the Netherlands, a high-quality ecosystem is in place that enables everybody to have access to sufficient alternative means of payment, such as debit cards at very low costs.

Apart from the elderly, other potentially affected groups mentioned were those in debt counselling (who use cash for budget management) and people with a disability. However, even at the lowest threshold level of EUR 1 000, only a negligible amount of cash payments would be affected.

Impacts on economic freedom and privacy

No significant impact is expected due to a potential EU measure, as Dutch citizens (like all European citizens)³⁵⁴ are entitled to a bank account, current cash usage for high value payments is already relatively low, and the cost of banking services is very low. Indeed, lessening the use of cash is associated with a positive impact as it is considered to be safer.

The measure will affect certain groups who wish to conduct payments in cash because 'this is the way it has always been' and because they mistrust banks' usage of their personal information. These groups (such as certain segments of the elderly population) would still have access to alternative means of payment, but may perceive a restriction as an infringement of their privacy. This is related to a lack of trust in the financial system and/or government.

Sources

Source	Type of source
Wet ter voorkoming van witwassen en financieren van terrorisme [<i>Law to prevent money laundering and terrorist financing</i>]. To be found online at http://wetten.overheid.nl/BWBR0024282/2016-08-11 .	Legal text
Algemene Rekenkamer [Court of Audit] (2014), 'Bestrijden witwassen: stand van zaken 2013', to be found online at https://zoek.officielebekendmakingen.nl/kst-31477-6.html .	Report
Tweede Kamer [Parliament] (13 May 2015), 'Beantwoording Kamervragen over Algemene Rekenkamer rapport over anti-witwasbeleid in Nederland', to be found online at https://www.rijksoverheid.nl/documenten/rapporten/2015/05/14/tk-bijlage-antwoorden-126-tk-vragen-nav-ark-rapport .	Government paper
WODC (2015), 'De bestrijding van witwassen. Startversie monitor anti-witwasbeleid oktober 2015', to be found online at https://www.rijksoverheid.nl/documenten/rapporten/2016/02/18/tk-bijlage-de-bestrijding-van-witwassen .	Research report
Europol (2017), 'From Suspicion to Action'. Accessible online at https://www.europol.europa.eu/publications-documents/suspicion-to-action-converting-financial-intelligence-greater-operational-impact .	Law enforcement report
NRC Handelsblad (18 April 2015), 'Op de kop getikt', to be found online at https://www.nrc.nl/nieuws/2015/04/18/op-de-kop-getikt-1484842-a953199 .	Media
Bureau financieel toezicht, enforcement measures. To be found online at http://www.bureaufn.nl/wwft/werkwijze-toezicht/handhaving-3/ .	Supervisor website
Tax Authority, overview of supervisors. To be found online at https://www.belastingdienst.nl/wps/wcm/connect/bldcontentnl/belastingdienst/zakelijk/aangifte_betalen_en_toezicht/toezicht/voorkomen_van_witwassen_en_terrorismedinanciering/toezicht_op_de_wwft .	Supervisor website
Openbaar Ministerie [Public Prosecutor] (31 October 2016), 'Groothandel die leverde aan growshops moet ruim 2 miljoen betalen', to be found online at https://www.om.nl/onderwerpen/afpakken/@96507/groothandel-leverde/ .	Public prosecutor website

³⁵⁴ See Directive 2014/92/EU (Payment Accounts Directive).


Source	Type of source
Maatschappelijk Overleg Betalingsverkeer (2017), Bereikbaarheidsmonitor 2016, to be found online at https://www.dnb.nl/binaries/Bereikbaarheidsmonitor%202016_tcm46-349693.pdf?2017051722 .	Statistical report
DNB (2015), DNB Guidance on the Anti-Money Laundering and Counter-Terrorist Financing Act and the Sanctions Act. To be found online at http://www.toezicht.dnb.nl/en/binaries/51-212353.pdf .	Supervisor report

9. SPAIN

Overview of legal regime

Table 0.24 Country fiche – Spain

SPAIN	
Restriction	✓
Declaration	✓
4th AML directive transposed	✓
National measures more restrictive than EU directive*	✓



Restriction	
Legal basis	Ley 7/2012, de 29 de Octubre; Ley 10/2010 de 28 de Abril
Rationale / main policy goals	Taken in order to combat cash - black economy (this includes of course Tax fraud but also any illicit transaction).
Competent authority	Tax Agency
Other involved authorities	Tax Officials (Tax evasion); Judicial Police Officials (Anti money laundering and financial crimes investigations); National Police Officials (Financing to terrorism investigations).
Current thresholds	2 500 EUR entrepreneurs.
Former threshold(s)	-
Targeted sectors/ Type of transaction	Transactions settled with cash in which any of the parties acts as a business or professional. In particular: national and foreign banknotes and coins; bank checks to the bearer in any currency; and any other payment instrument (including those which are electronic) in bearer form.

Exemptions	Non-resident 15 000 EUR. Limit does not apply in case any of the parties acts as a Credit Institution (mainly Banks).
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Sanctions	Punished with a fine equivalent to 25% of the amount paid in cash.
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Enforcement measures	<p>1) CDD measures: (Anti-money laundering and counter terrorist financing Law 10/2010)</p> <ul style="list-style-type: none"> a. Operations within financial institutions: <ul style="list-style-type: none"> i. Establishing business relations; ii. Occasional transactions: above EUR 1 000. <ul style="list-style-type: none"> i. Wire transfers (CDD measures in every transaction -EUR 0-). b. Operations with non financial business and professions: <ul style="list-style-type: none"> i. CDD measures related to transactions above EUR 1 000. <p>2) Declaration system of movements of cash.</p> <ul style="list-style-type: none"> a. A written declaration system for all travellers carrying amounts into of Spain or out of Spain above the EUR 10,000 threshold (or its equivalent foreign currency or other bearer negotiable instruments) is implemented; b. A written declaration system for domestic cash movements of EUR 100 000 (or its equivalent foreign currency or other bearer negotiable instruments) or more is implemented. <p>3) For tax purposes (introduced in Law 7/2012) a prohibition on the use of cash over EUR 2 500 for transactions of natural persons with professionals has been implemented.</p>
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Results impact assessment or evaluations	-
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Measurement indicators	-
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Future changes	Currently under discussion a lowering of the threshold to 1,000€.
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Sources	<p>Ley 7/2012, de 29 de Octubre: http://noticias.juridicas.com/base_datos/Fiscal/l7-2012.html</p> <p>Ley 10/2010 de 28 de Abril https://www.boe.es/buscar/act.php?id=BOE-A-2010-6737.</p>
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*either 3rd and 4th AML directive

Cash use in Spanish society

The penetration of the banking sector in the Spanish economy is high, especially after the consolidation which took place during the years of the recession. The use of electronic payment has been steadily rising, as the number of credit card owners. During last year the amount of operations involving electronic payments (around EUR 124 billion) surpassed the total cash withdrawn (more than EUR 111 billion), according to Central bank figure. Such a result has been generated also by legal prescriptions aiming to steer the use of electronic transactions (e.g. in Madrid it's mandatory for all the taxi drivers to have a point of sale).

The tables below provide data on the trends of the use of electronic payments (mostly by card and cash withdrawn during the last 17 years, outlining the steady catch up of the former over the latter, especially in the pre-crisis years and notably in the post 2012 period, after the approval of the law on cash restriction.

Table.25 Operations of sales. Source: Banco de España

OPERACIONES DE COMPRAS EN TERMINALES DE PUNTO DE VENTA (a)		Número e importe		
Operaciones en miles e importes en millones de euros				
	Totales			
	Operaciones	% variación interanual (b)	Importes	% variación interanual
2002	991.564		46.828,92	
2003	1.070.162	7,93%	53.403,00	14,04%
2004	1.235.093	15,41%	62.515,42	17,06%
2005	1.372.055	11,09%	71.468,43	14,32%
2006	1.571.046	14,50%	79.115,03	10,70%
2007	1.830.000	16,48%	89.395,89	12,99%
2008	1.985.168	8,48%	94.413,92	5,61%
2009	2.030.902	2,30%	91.075,50	-3,54%
2010	2.149.184	5,82%	95.184,09	4,51%
2011	2.232.631	3,88%	98.267,79	3,24%
2012	2.251.098	0,83%	97.385,29	-0,90%
2013	2.305.657	2,42%	98.534,58	1,18%
2014	2.502.611	8,54%	105.854,26	7,43%
2015	2.683.857	7,24%	112.330,26	6,12%
2016	3.045.589	13,48%	124.406,51	10,75%
2017				
1º Trimestre	777.427	12,97%	30.327,46	9,03%
2º Trimestre	848.539	12,88%	33.511,32	9,34%

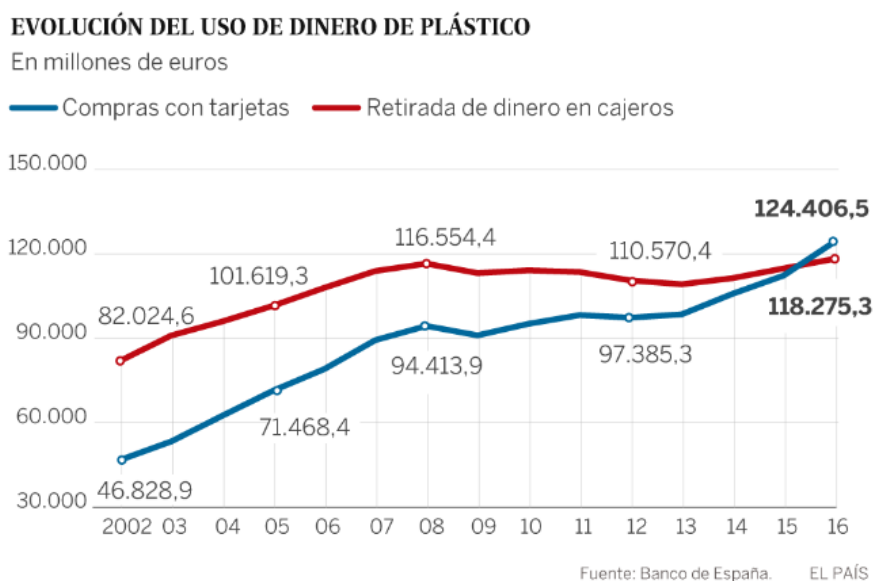
Source: Banco de España.

Table. 26 ATM operations

OPERACIONES DE RETIRADA DE EFECTIVO EN CAJEROS (a)		Número e importe		
Operaciones en miles e importes en millones de euros				
	Totales			
	Operaciones	% variación interanual (b)	Importes	% variación interanual
2002	899.075		82.024,59	
2003	923.126	2,68%	91.023,74	10,97%
2004	942.503	2,10%	96.013,22	5,48%
2005	957.561	1,60%	101.619,36	5,84%
2006	986.399	3,01%	107.976,41	6,26%
2007	1.011.467	2,54%	113.936,79	5,52%
2008	1.018.939	0,74%	116.555,44	2,30%
2009	988.827	-2,96%	113.196,09	-2,88%
2010	987.458	-0,14%	114.161,80	0,85%
2011	969.156	-1,85%	113.570,13	-0,52%
2012	928.193	-4,23%	110.570,43	-2,64%
2013	901.063	-2,92%	109.223,01	-1,22%
2014	905.096	0,45%	111.404,04	2,00%
2015	918.773	1,51%	114.862,75	3,10%
2016	924.127	0,58%	118.275,31	2,97%
2017				
1º Trimestre	215.506	0,91%	27.387,04	2,95%
2º Trimestre	240.307	1,80%	31.113,24	4,68%

Source: Banco de España.

Table 0.27 Evolution of electronic payment (card)



Source: Banco de España.

Policy and institutional context

There are different legislative measures linked to cash movements and cash payments in Spain. A first set of measures focuses on **(1) identification and Customer Due Diligence (CDD) obligations**, required in order to operate within the financial system. CDD measures are laid down in the *Anti-money laundering and counter terrorist financing Law 10/2010*; they apply to both operations incurring **within financial institutions (1.a)** and operations **incurring within non financial business and professions (1.b)**. CDD measures for operations within financial institutions apply to the establishing of business relations and to occasional transactions above EUR 1 000 (in the case of wire transfers every transaction is considered; threshold of EUR 0). CDD measures apply instead to transactions above EUR 1 000, for the case of operations with non financial businesses and professions.

A **(2) declaration system is in place for cash movements to other countries or within Spain**, above certain thresholds. First, all travellers carrying money **(2.a) above the threshold of EUR 10 000** (or its equivalent foreign currency or other bearer negotiable instruments) into Spain or out of Spain have to comply with a written declarations. Second, the written declaration system also apply to **(2.b) domestic cash movements above EUR 100 000**. Declarations shall contain accurate data on the bearer, owner, recipient, amount, nature, origin, intended use, route, and means of transport used. Sanctions are applied if there is no declaration or if the information submitted is incorrect or incomplete.

Finally, there are **(3) limitations on cash payments to professionals or businesses**. The *Law 7/2012* sets the legal framework for the limit to cash transactions. The primary objective of the legislation on cash restriction was to tackle tax evasion and reduce the size of the shadow economy. On a later stage the positive spill overs in addressing the financing of terrorism and money laundering were also acknowledged. Since November 19th, 2012, the law sets the limit for cash to EUR 2 500. The threshold applies to transactions of natural persons with professionals. Non-residents are exempted from this limit, being subject to an higher threshold of EUR 15 000. If the amount is higher

than these (in each case), the payment should be done by transfer bank. The penalty will consist of a proportional monetary fine of 25% of the base of the penalty. There are currently policy proposals under consideration. One potential approach to amend current legislation entails lowering the limit of the use of cash to EUR 1 000^{355 356}, in line with thresholds existing in other countries (e.g. France). However, this proposal not been approved by the Council of Ministers, and was delegated to a project law to be discussed further. An alternative approach considered is to align the threshold existing for non-residents to the stricter baseline threshold of EUR 2 500. In the past months the Government has also communicated that it plans to increase the control on transactions involving foreigners, above the threshold of EUR 10 000.³⁵⁷

As mentioned above, in implementing the UE prescriptions on the control of capital flows between EU Member States and third countries, Spain has approved stricter measures, additionally involving control procedures on capital movements involving also other EU countries, as well as those flows taking place within the Spanish borders. The domestic movements of capital involving sums higher than EUR 100 000 shall be declared to the national taxation agency (*Agencia Tributaria*, AEAT), either filling in an ad-hoc online communication or via the financial institutions involved. If the subjects involved fail to respect these prescriptions sanctions can reach twice the amount of the sum considered (the EU prescription amounts to 20%).

The Executive Service of the Commission for the Prevention of Money Laundering and Monetary Offences (SEPBLAC) acts as the FIU and as the primary authority in contrasting money laundering as well as the financing of terrorism. SEPBLAC is therefore the institutional body receiving and processing the STRs and SARs. Within the Unit of Fiscal and Economic Crimes of the Judicial Police, the Brigade on Money Laundering (UDEP) tackle the investigation activities for AML, from the penal perspective. The fight on terrorism is carried out by the Intelligence Unit within the National Police. The National Taxation Agency is instead in charge of the administrative procedures and sanctions, related to tax evasion. It receives the reports and in case of absence of any declaration it instructs the sanctioning process. As updated by the Royal Decree 531/2017, the subdivision of Inspection and Control of Capital Movements, under the General Secretariat of the Treasury (Ministry of Economy and Finance), is in charge of the approval of the legislation on money laundering. The role of the subdivision is coordinating the public efforts in the anti-money laundering procedures. Finally, the main coordination mechanism is the Commission for the Prevention of Money Laundering and Monetary Offences, part of the Ministry of the Economy.

FIU-data

No detailed data available.

Impacts on Terrorist Financing

The Spanish authorities have been successful in identifying terrorism financing in a number of ways, including through intelligence, STRs, and in the course of broader terrorism investigations. Every terrorism investigation involves a parallel financial investigation.

The traceability of transaction is very important and valuable for the Spanish authorities, especially when they need to conduct an investigation. To this extent, the current legislative framework may have contributed. However the system of obligation declarations, according to Spanish authorities, had a limited impact in terms of STRs related to terrorism financing, as tax evasion was the priority

³⁵⁵ See http://www.mineco.gob.es/stfls/mineco/comun/pdf/170503_np_estabilidad.pdf.

³⁵⁶ Las subidas y reformas de impuestos aportarán 7.000 millones más, *El Periodico*, 02/12/16.

³⁵⁷ El Gobierno endurece el control sobre los pagos en efectivo de los extranjeros, *El Pais*, 10/05/2017.

of the legislative intervention. For instance, approximately 5000 STRs are accounted by year, out of which 3% are TF related and 97% ML related.

This finding is also due to the fact that in the case of terrorism financing the sums tend to be smaller than the legislative threshold.

The transactions of jihadi terrorists tend to be smaller than those of traditional forms of terrorism. For example in the past ETA (i.e. Euskadi Ta Askatasuna, Basque terrorist organisation) used cultural foundations to access financing (e.g. foundation gathering money in support of the Basque culture). This was a more primary form of terrorism, mainly located in France and Spain. Jihadi terrorism has a more advanced network, using third countries, electronic transactions and smaller sums. Criminals opt for alternative means in access financing. Nevertheless, the measures in place are helpful in terms of prevention. They help to avoid that terrorists use traditional ways of financing; in a counterfactual scenario that could not be excluded

Table 28 Terrorist financing investigations

	2010	2011	2012
Proceedings under art.576bis (the TF offence which came into force in 2010)			
TF investigations pursuant to art.576bis	8	9	7
Number of arrests on TF charges pursuant to art.576bis	2	6	7
Number of TF prosecutions under art.576bis	3	3	2
Number of individuals covered by prosecutions under art.576bis	7	6	59
Number of convictions under art.576bis (no prosecutions under this offence have yet completed)	0	0	0
Proceedings in relation to TF conduct which falls within the scope of other offences, such as article 576 "collaborating with or assisting a terrorist organisation", "membership of an armed gang" or "advocacy for terrorism", or court proceedings that were initiated before 2010 (when art.576bis came into force)			
Number of individuals indicted on TF charges	N/A	N/A	121
Number of preliminary proceedings related to TF	N/A	N/A	276
Number of trials related to TF	N/A	N/A	30
Number of judgments issued by the National Court for TF offences	10	9	7
Number of convictions issued by the National Court for TF offences	7	5	4

Source: Committee for the Prevention of Money Laundering and Monetary Offences (2013), Table 29 (p.29)

An EU measure would be beneficial, even though it would not eradicate the problem. It can be expected that terrorists would seek alternative ways to raise financing; as said, to some extent paypal or telephonic payments are already being exploited. An EU wide approach would generate considerable results in terms of cross-country coordination. If transactions in other countries possible, than criminals can be able to access financing across the borders, a result which impairs the overall struggle against terrorism.

Impacts on Money Laundering

The use of cash is one of the procedures used on money laundering operations due to the characteristics that it presents (anonymity, easy exchange, tracking difficulties, etc). Measures established to avoid the misuse of cash for illicit purposes would make more difficult the activities of money laundering of the organised criminal groups.

The aforementioned thresholds linked to Customer Due Diligence measures were established with the aim to avoid the misuse of the financial system and some other businesses and professions for money laundering activities Those measures are also a good tool on the detection of possible money laundering operations and on their investigation. As well as the CDD measures, the declaration

system of movements of cash described is also considered a preventive measure and an important tool on investigation.

The two tables below outlines key statistics related the cross border and domestic cash declarations and seizures of money in case of non-compliance with the legislative obligations.

Table 29 Cross-border cash movements

Operations	2015	2016
Declaration of cross-border cash movements exceeding EUR 10 000	15037 declarations	
Inbound	6228 declarations	--
Outbound	8809 declarations	--
Seizure of cash at border checkpoints for a value exceeding EUR 10 000	658 seizures	643 seizures
Inbound	219 seizures	
Outbound	439 seizures	

Source: <http://www.cpbc.tesoro.es/estadisticas>; <http://www.sepblac.es>.

Table 30 Domestic cash movements

Operations	2015	2016
Declaration of domestic cash movements exceeding EUR 100 000	5479 declarations	---
Seizures on domestic cash movements for a value exceeding EUR 100 000	45 seizures	41 seizures

Source: <http://www.cpbc.tesoro.es/estadisticas>; <http://www.sepblac.es>.

The current legal and enforcement regime seems appropriate, according to the stakeholders interviewed. According to the Multiple Evaluation Report (FATF, 2014), Spain has demonstrated significant successes in money laundering investigation and prosecution. The main focus is directed to disrupting and dismantling the financial structure of organised crime groups and drug trafficking organisations³⁵⁸. There are indeed less payments possible in cash, a situation which increases the costs of laundering operations. Now criminals are forced to look for alternative systems as the creation of fake societies or having *portanombres*.

An EU coordinated measure would help preventing an effect *transvase* or that some countries would become the preferred destination for money laundering. Supervisory authorities and regulators should actively be involved in those activities and automated systems should be put in place for monitoring and control of the declaration system. A system of generating alerts should be put in place in order to avoid structuring operations. A sanctioning system should also be developed.

Impacts on Tax Evasion

The law 7/2012 had its most important impact in terms of the reduction of tax evasion, in line with the original objective of the policy-makers. The existence of a considerable shadow market (estimated to reach one fifth of the GDP³⁵⁹) and the related evasion of taxes constitute a significant problem which impair the public finance of the country. The national Taxation Agency estimates the existence of

³⁵⁸ See <http://www.fatf-gafi.org/media/fatf/documents/reports/mer4/Mutual-Evaluation-Report-Spain-2014.pdf>.

³⁵⁹ *La economía sumergida en España aún supera el 18% del PIB*, El Mundo, 29/11/16.

30.000 taxpayers suspected fraudsters. The law also prescribed new obligations to report all assets and rights held outside Spain, a measure which affected intensely the expatriate community.

The results of the fight on fiscal fraud rose to EUR 15 billions, improving by 14.9% the results of the previous year and 20.8% those of 2014. Another tangible result is constituted by the fall of the circulation of high-size banknotes. These results have been accomplished primarily because of an increase in the inspection activities, which rose to 108.338 in 2016 as compared to the figure of 107.508 of the previous year.

Indeed, an EU coordinated measure would help in fighting tax evasion, especially with regards to the increased traceability of transactions, which would facilitate inspection activities. Because of the positive impacts towards tax evasion, controls and traceability, an EU-wide ban could be envisaged. Some of the stakeholders interviewed at the Spanish authorities would be in favour for restriction set at EUR 1 000 but only targeted towards specific sectors. For instance, as a first step the restriction could be applied to professionals and entrepreneurs. There is however limited consensus on the issues, as other stakeholders also pointed out to the fact that the current limit of EUR 2 500 on cash transactions is sufficient

Enforcement costs and measures

At EU level, an independent entity, such as the European Commission, should be in charge of monitoring and controlling the national bodies.

According to the subjects interviewed, the current legislation does not pose a significant additional administrative burden. Nor it would a change in the legislation, at the EU level. The subject primarily bearing the cost is the national taxation agency, in filing the declaration of transactions. The system is nevertheless digitalised and the administrative processes (as well as the necessary human resources) are already in place. This imply that fixed costs are paid, while the variable costs associated with the number of reports to process tend to be marginal. The additional cost of one more category of inspection would be negligible.

Impacts on consumers and vulnerable groups

As mentioned, the penetration of the banking sector in the Spanish economy is high, and so it is the use of electronic payments among households. In 2014, 93,1% of the Spanish families have a bank account. The percentage is above 84% for all types of households. The current legislation on cash restriction should have limited negative consequences for consumers also in consideration of the reasonable level of the existing threshold.

Nevertheless, the picture may be different for the most vulnerable groups, which in Spain are identified as the inactive households and unbanked people³⁶⁰. Between the end of 2011 and 2014, the percentage of households with payment accounts decreased slightly. The largest declines in the median balance were observed for households in the lowest two quintiles of income distribution, families with inactive householder and families with householder over 54 years old. The average of bank account not used for payments appreciably increased for families with householders aged 55-64 and households in the upper half of the income distribution.

³⁶⁰ See <https://www.bde.es/f/webbde/SES/Secciones/Publicaciones/InformesBoletinesRevistas/ArticulosAnaliticos/2017/T1/fich/beaa1701-art2.pdf>.

Sources

The table below gives an overview of sources, such as data sources, FIU reports, policy papers, academic reports, media reports used to compile the present report.

Table 0.29 Sources

Source	Type of source
Anti-money laundering and counter-terrorist financing measures, Spain, Mutual Evaluation Report. To be found at: http://www.fatf-gafi.org/media/fatf/documents/reports/mer4/Mutual-Evaluation-Report-Spain-2014.pdf .	Report
Actualización del programa de estabilidad, 2017-2020 (Update of the stability program) http://www.mineco.gob.es/stfls/mineco/comun/pdf/170503_np_estabilidad.pdf .	Report
Banco de España website https://www.bde.es/bde/es/ .	Website
SEPBLAC, Memoria de Actividades 2015.	Report
Lucha contra el fraude, Modificación de la normativa tributaria y presupuestaria y de adecuación de la normativa financiera para la intensificación de las actuaciones en la prevención y lucha contra el fraude, Aranzadi Instituciones.	Article
http://www.cpbce.es/estadisticas .	Database

Table.30 Interviews – Spain


Representing organisation	Date of interview
Rafael Abad Prieto, Área Jurídica, Servicio Ejecutivo de Prevención de Blanqueo de Capitales.	11 October 2017
Oscar Rivera Rivera, Sg Inspección Y Control De Movimientos De Capitales, Secretaría General Del Tesoro Y Política Financiera, Ministerio de Economía, Industria y Competitividad.	3 November 2017
Javier Hernández García, Coordinador del Gabinete del Director General, Agencia Tributaria.	2 November 2017
Comisaría General De Policía Judicial, Sección De Legislación.	13 November 2017

10. SWEDEN

Overview of interviews

Overview of legal regime

SWEDEN	
Restriction	<input checked="" type="checkbox"/>
Declaration	
4th AML directive transposed	<input checked="" type="checkbox"/>
National measures more restrictive than EU directive*	<input checked="" type="checkbox"/>



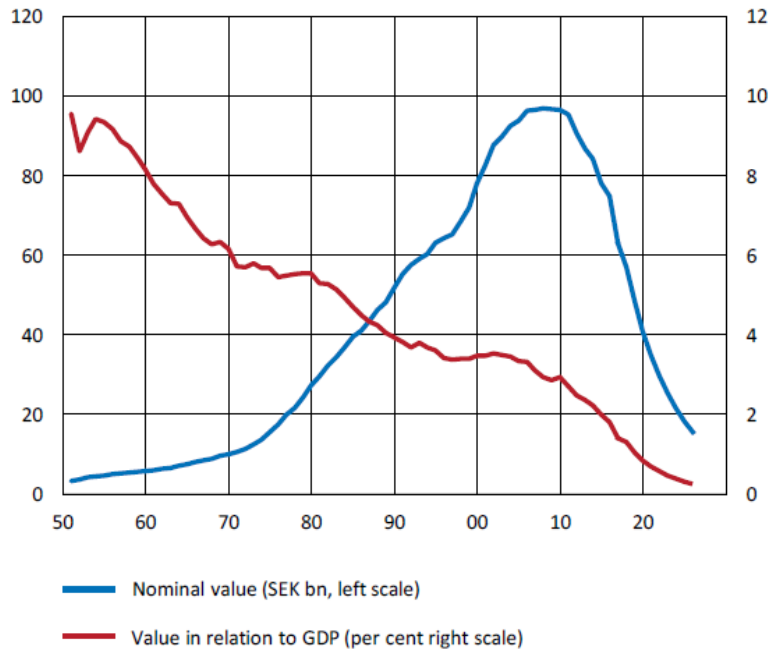
Future changes	Use of cash in general in Sweden is very low. It is very rare that large transactions are carried out on a cash basis. No future changes are foreseen.
Sources	Ministry of Finance

*4th AML directive

Cash use in Swedish society

Cash usage per capita in Sweden is one of the lowest in the world and following a negative slope since 1950s. As illustrated in figure 1 both nominal amount of cash and the percentage of cash in circulation of Sweden's GDP have been decreasing dramatically in the last 5 years. In 2015 cash in circulation accounted for less than 2% of the GDP (the same percentages is 12.2% in Bulgaria, 7,4% in Poland and 7,1% in USA).

Figure 0.3 Cash in circulation measured as an annual average, general public's holdings.



Note: The period 2017-2025 is a scenario based on the use of cash and the demand for cash declining at the same rate as the use of cash during the period 2010-2016.
 Source: The Riksbank and Statistics Sweden (Financial market statistics and National Accounts, GDP on the user side, GDP by expenditure 2016).

This decreasing trend of cash usage has not been the objective or effect of any single political initiative but rather the outcome of a combination of factors. Some of the identified factors of this trend over the time are presented below³⁶¹.

High levels of digital innovation

- Sweden has set appropriate conditions for digital innovation as well as for doing business in general. In 2017 Sweden was 9th out of 190 countries in ease of doing business according to the World Bank;
- In the last few years, digital payments applications such as the Swish app, which was launched in 2012 enable instant payments through smartphones;
- The majority of Swedish population is responding in a positive and engaging way to digital innovation. For instance, 52% of the population used Swish app in 2015.

Reduced trust and convenience in using cash

- The introduction of new bills and coins (of lower value) in 2015 and 2016 which aimed to reduce the risk of forgery also led several banks and merchants to stop accepting cash;
- A similar effect occurred due to the introduction of new requirements for cash handling machines;
- The bankruptcy of Panaxia (cash in transit service company) had a negative effect in the trust in cash transactions;
- Security concerns are also raised for the people working in the carriage and storing of cash due to possible robberies.

Cost of cash

- As several businesses choose to not accept cash, the decreasing interoperability makes cash less attractive payment method for consumers and businesses;

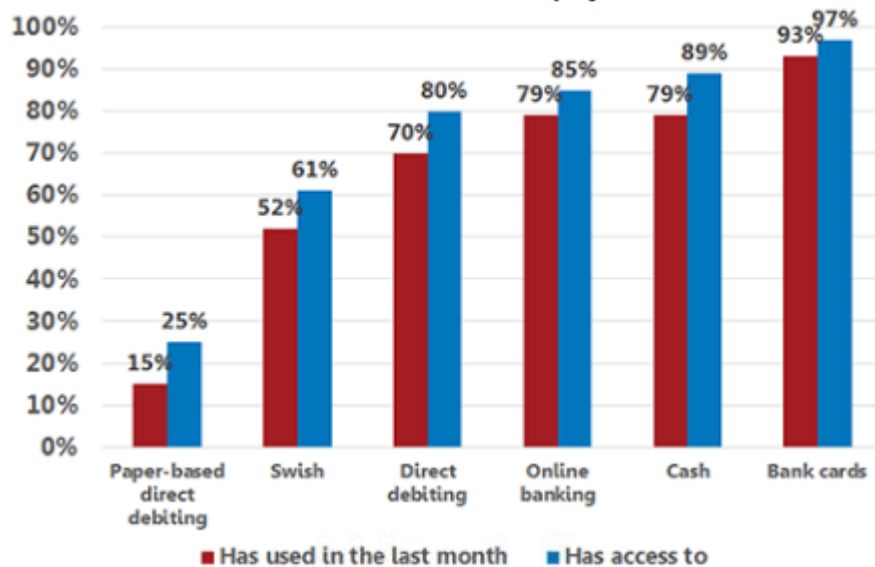
³⁶¹ Niklas Arvidsson(2016), The route towards a cashless society.

- Because of the extensive use of digital payments the social costs of card payments are lower than those of cash payments. For instance fees for cash deposits are quite high compared to card fees.

Despite the steep decline in the use of cash, it remains one of the most common payment methods. According to a survey conducted by the Swedish national bank, 89% of respondents have access to cash. In the same study bank cards were identified as the most common payment method, since they reach 97% of the population in Sweden. In addition, in 2016 only 15% of the survey respondents stated that their last payment was made by cash. The same percentage was 33% in 2012.

Figure 0.4 Access and use of different payment methods in Sweden

Cards and cash are the most common payment methods



Source: The Riksbank.

Policy context

As mentioned above Sweden has neither adopted any cash restrictions nor obligations to declare. The reduced cash usage and swift towards digital payments was not the direct outcome of a political initiative or piece of legislation. In Sweden more restrictive measures than those imposed by the 4th AML directive have been adopted. These measures set the threshold for reporting suspicious transactions at approximately EUR 10 000. The relevant policy framework is not expected to change in the coming years on Sweden's own initiative.

FIU-data

The tables below show the total number of STRs and share of STRs per reason for suspicion.

Table.0.31 Financial Police's STR analysis and share of STRs

	2014	2015
Received STRs	9 183	10 170
Case reports	45	54
Intelligence documents	1 218	796
Ad Acta	7 920	9 320

Source: FATF (2017).

Reason for suspicion	2013	2014	2015	2016
Repeated cash withdrawals/large cash withdrawal	17.1	9.9	6.5	5.0
Repeated cash deposits/large cash deposit	11.7	9.1	10.1	6.5
Repeated cash purchases/large cash purchase	1.7	1.2	0.8	0.6
Terrorism financing	0.1	0.3	0.7	1.7

Source: FATF (2017).

Impacts on Terrorist Financing

Sweden has only prosecuted a small number of TF cases and in the last few years there weren't any conviction cases for TF, except from one crowdfunding case, that only contained low value transactions to a bank account. In the past, there have been cases of people based in Sweden supporting terrorist activities in Syria. There is an ongoing investigation involving cash transactions via Hawala³⁶² system.

Due to the difficulty to trace terrorist financing it is hard to draw any conclusions on how potential EU measures would impact terrorism financing. Any cash restriction of EUR 1 000 or above, is not expected to have a considerable impact in CTF in Sweden. According to authorities' experience, most purchases related to terrorist activities higher than EUR 1 000 are already conducted digitally, also most terrorists are self-financed and do not conduct any large purchases by cash. As mentioned above, high value cash transactions are scarce in Sweden. They are also avoided for most illegal activities, as they would otherwise attract undesired attention.

However, a positive effect in tracing terrorism financing may be noted if Hawala and other similar service providers are regulated under the potential measures. This would support the battle against terrorism financing and other criminal activities that may be performed through Hawala and other similar service providers.

Impacts on Money Laundering

According to the FATF, the Swedish FIU is undertaking several major money laundering investigations and prosecutions. As mentioned above, high value cash transactions are unusual in daily life in Sweden. Even-though several money laundering cases involve cash as it is inevitable, criminals try to avoid using high value cash transactions. It is a common practice for criminals to select cash intensive businesses for ML purposes or to perform only cash transactions in small amounts.

Banks, exchange offices, car dealerships and other businesses that perform high value transactions have to register at a financial institute and report all suspected cases of money laundering to the financial police. These information are most often gathered as intelligence data, in some cases the financial police initiates investigations based on those reports. The 2017 FATF report on Sweden stated that there are some deficiencies in the FIU such as inadequate IT tools and strategic analysis function. As a result, they are less able to make full use of the AML reports to identify complex ML cases. Under the current conditions EU-wide cash restrictions would probably be more efficient than obligation to declare in combatting ML.

³⁶² Hawala is an informal value transfer system based on the performance and honour of a huge network of money brokers.

Moreover, a low threshold (preferably in the form of a ban) would constitute an additional burden for criminals. Even though, criminals seem to always find ways around any legislation and cash restrictions are not an exception, in order to avoid an EU-wide cash restriction or obligation to declare criminals would have to devote more resources. For instance, they would have to perform several transactions just below the relevant threshold or use other payment methods such as pre-paid cards and cryptocurrencies. In this respect, lower thresholds such as EUR 5 000 or EUR 1 000 would be more effective than higher thresholds for AML purposes.

Impacts on Tax Evasion

Tax evasion to a large extent would be impacted in the same way as money laundering as the two are strongly linked. In general since most businesses do not use cash to a large extent, tax evasion is not a prominent issue in Sweden, however there are some exceptions. Undeclared labour is the main concern of authorities when it comes to tax evasion. Newly arrived immigrants who are unable to set-up a bank account are often engaged in construction or other sectors without being declared. This activity requires large amounts of cash, so that it's not easily traceable by the authorities. These not declared payments and other similar transactions are often performed via small exchange offices specialised in such services instead of banks.

A low threshold of a potential cash restriction, is expected to have similar impact to this type of tax evasion as in the case of ML. For instance if a threshold is as low as EUR 1 000, employers will be unable to obtain enough cash to pay their undeclared workers or use exchange offices to do so. As with money laundering alternative options exist for those who engage in such activities, but the process of tax evasion would be more burdensome.

Enforcement costs and measures

Currently, for the enforcement of the 4th AML directive the financial police is collecting the reports of suspicious transactions. The FIU which is also a part of the Swedish police is responsible for handling and analysing the reports. After the adoption of the 4th AML directive, FIU personnel increased by 4-5 FTEs, however this growth was irrelevant to the directive. The aim was to develop a better ability to analyse data in general.

Swedish authorities are facing difficulties to take full advantage of the collected financial intelligence. The main reasons are inadequate IT tools and strategic analysis function of the responsible department. It is also being suspected that certain organisations (i.e. exchange offices) declare a high volume of transactions as suspicious as they are aware of the difficulties police is facing to analyse the data. This over-reporting worsens police's capacity to analyse complex cases.

In this respect, declaration obligations would constitute a challenge for the Swedish authorities to enforce and supervise such measures. If the threshold is relatively high, it would not affect many transactions, so I would not change radically the current situation. However, many additional resources would be needed for supervising lower thresholds.

In general, enforcement and supervision could be very resource demanding if a similar type of supervision as for AML is applied. An efficient way to supervise potential measures (obligations to declare or restrictions) would be at the moment cash are entering the system. Banks and financial institutes would be responsible for performing due diligence and detecting when somebody is trying to deposit large amount of cash, under what conditions it was obtained. Criminals who own large

amounts of cash, do need to deposit them in a financial institution eventually, otherwise they cannot perform any high value purchases.

The results of enforcement are questionable, as illegal activities are hard to supervise. Even if the FIU cooperates closely with the private financial sector for the supervision of potential measures, criminals would find another way to continue their activities. From an enforcement perspective obligation to declare is less likely to be preferred and the efficiency of supervision is uncertain in both cases but more likely to work in the case of a ban.

Compliance costs

Businesses in Sweden have been responding to the consumer driven demand for cashless payments in the last years by ensuring they accept these methods. Since the cost of cash is higher (1%-2.5% of the total amount) than the cost of digital payments (0.3%-1% of the total amount), this is a cost saver for businesses. In the last years, several businesses have taken the decision to abolish cash transactions without noting any negative impacts in the demand. As a result, any potential EU-wide cash restrictions are not expected to have a negative impact on the compliance costs of most businesses in Sweden.

However, small organisations (NGOs and small businesses) in cash intensive sectors (usually performing mostly low value transactions) are facing raised cash handling costs due to the digital payments trend. Cash transfer and cash handling companies have raised their costs. Additionally, since ATMs and banks that are still handling cash have closed down in the last years, such businesses rely on cash handling companies. This issue affects mostly SMEs located in remote areas.

Any ban in the use of cash, above EUR 1 000 is not expected to make a considerable difference as such transactions are to a large extent already digitalised and they are not expected to occur any additional compliance costs for the majority of businesses. The potential impact of an obligation to declare is harder to measure, as it depends on the way it will be enforced. It is expected that additional resources and training will occur for the businesses that will comply with the measure. It is also expected that more businesses will decide to abolish completely the use of cash in order to avoid any additional compliance costs.

Impacts on vulnerable groups

More than 97% of the Swedish population uses credit cards, 99% are banked and transactions higher than EUR 1000 are rarely conducted by cash by the average Swedish consumer. Therefore, the average consumer in Sweden is not dependent on cash, as they have access to alternative payment methods. Most of the Swedish consumers are expected to be affected only slightly or not at all if any EU wide threshold of EUR 1 000 or above is in place (ban or obligation to declare).

As vulnerable groups are concerned, the situation is different. By vulnerable groups in Sweden the following categories are identified; people with disabilities, refugees, newly arrived immigrants, elderly as well as consumers residing in remote areas. In Sweden there are approximately 400 000 elderly who do not have access to the internet, and according to the Swedish agricultural authority 34 % of the population live in rural areas. In total the amount of people who belong in these categories are estimated to be 1 million in Sweden. However, this amount indicates the amount of people that may potentially be affected and not the actual amount of people who are actually affected (not able to perform digital transactions or being dependent on others).

Individuals belonging in these vulnerable groups often have difficulties to:

- Withdraw cash: Banks respond to the trend of digitalisation of transactions in Sweden by having some of their branches not offering cash at all and bank offices that do perform cash transactions are often crowded with long queues. In addition the number of ATMs reduces year by year;
- Completing transactions by cash: Not all operators accept cash as means of payments, especially, high value transactions. Due to a recent legislation on requirements for cash registers, more businesses chose to avoid using cash and started accepting digital payments only, albeit this practice remains a legal grey zone.³⁶³.

Impacts on economic freedom and privacy

Swedish citizens are generally conscious and aware of privacy issues, however, they do not seem to be concerned by the trend of digitalisation of transactions as a privacy threat. This is probably because the level of trust in the system is relatively high.

The trade association of Sweden in their report they argue that cash must be kept since: they guarantee integrity for persons; they reduce segregation in our society; the payment system would be more vulnerable if cash disappears; and electronic money tend to increase debt and poor financial control by consumers.

The two figures below illustrate that the majority of respondents of a survey conducted by the Swedish central bank are covered by the existing cash services (withdrawals) and a large amount of people did not respond whether cash services (deposits) meet their needs. Also, regarding the attitude of respondents towards the reduce of cash, 43% of respondents stated positive and 31% negative in 2016. The same numbers were 43% positive and 24% negative in 2014.

Due to the raised concerns regarding the digitalisation of payments, the Riksbank is investigating the creation of e-krona in order to counteract some of the negative impacts. E-krona would be a complement to cash, direct claim on the Riksbank, primarily intended for smaller payments and available all the time (24/7) as it could be combined with a value-based solution enabling small offline payments. The final decision on the creation of the e-krona and its functions has not been made yet and the exact functions are also subject to investigation. However, it may be an innovative solution to several problems created by the decrease of cash usage.

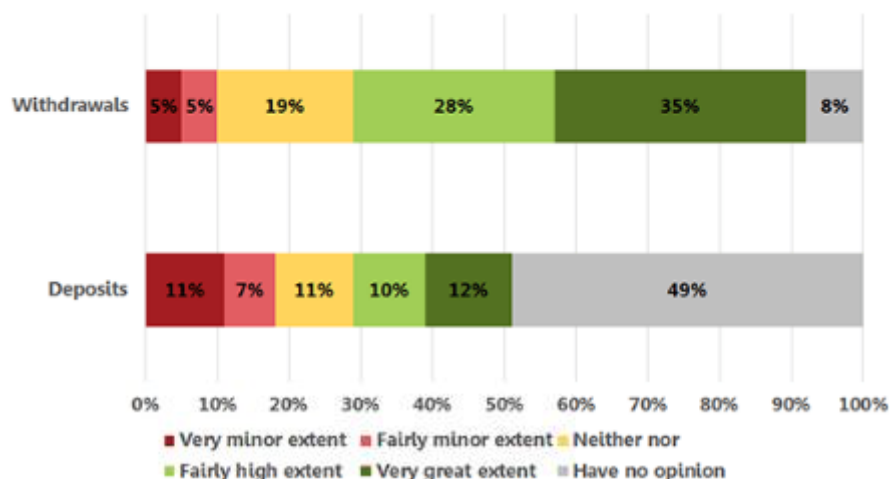
³⁶³ Even though cash is the legal tender, two private parties may reach an agreement to perform business relations in another way. For instance, when stores inform customers in advance that they do not accept credit cards. Such cases have not been challenged in the court.

Figure 0.5 Cash services and attitude towards decline in cash

To what extent do you feel that cash services meet your needs?

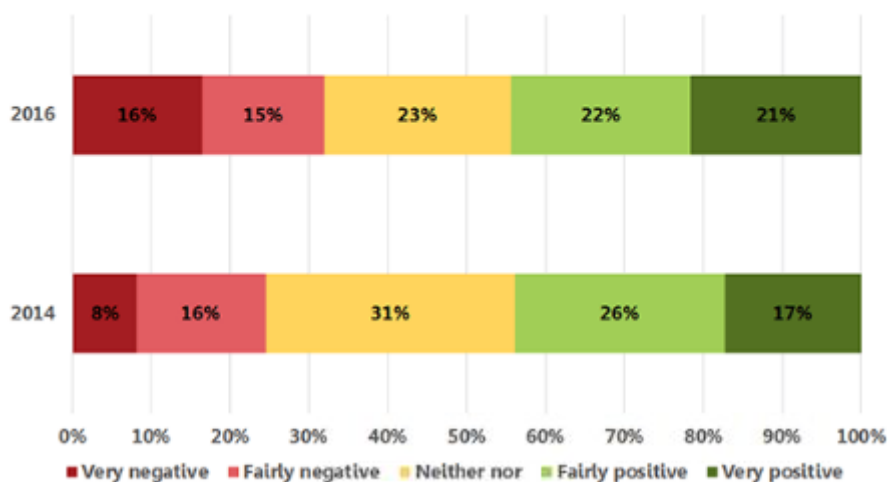
Six out of ten respondents feel that services for withdrawal of cash meet their needs.

With regard to services for depositing cash, almost one fifth were negative and just over one fifth were positive. Many of the respondents do not express an opinion.



Positive or negative attitude to decline in cash?

Three out of ten have a negative attitude towards the increasing decline of cash usage, which is an increase compared with 2014. Four out of ten feel that this development is positive.



Source: The Riksbank.

Sources

Source	Type of source
THE ROUTE TOWARDS A CASHLESS SOCIETY – THE CASE OF SWEDEN	Presentation
Payment statistics: http://www.riksbank.se/en/Statistics/Payment-statistics/	Statistics
County administrative board reports: http://www.lansstyrelsen.se/Dalarna/En/Pages/default.aspx	Reports
http://www.government.se/articles/2016/06/asylum-seekers-to-have-access-to-bank-accounts/	Webpage

Source	Type of source
https://www.jordbruksverket.se/etjanster/etjanster/etjansterforutvecklingavlandsbygden/alltomlandet/sahardefinierarvilandsbygd.4.362991bd13f31cadcc256b.html	Statistics
FATF (2017) Anti-money laundering and counter terrorist financing measures, Sweden, Mutual evaluation report.	Reports
Sveriges Riksbank (2017) The Riksbank's e-krona project	Reports

Annex IV Follow-up questionnaire

Respondents

The survey has been filled out by representatives of the following countries and organisations:

- Austria (National Bank of Austria);
- Belgium (Ministry of Economy);
- Croatia (Ministry of Finance);
- France (French Permanent Representation to the European Union);
- Germany (Federal Bureau of Investigation);
- Ireland (Ministry of Finance);
- The Netherlands (Ministry of Finance and FIU);
- Europol (Operations department and Analytical Project Suspicious Transactions);
- Slovenia (Ministry of Finance);
- Sweden (National Prosecution Authority).

For the sake of clarity, the Dutch and Europol respondents will be treated as one. Whenever their answers differ significantly, this will be noted in the analysis.

The effects of cash payment restrictions

According to the respondents of the survey, cash payment restrictions will predominantly have a strong positive effect on combatting tax fraud. To a lesser extent, the restrictions will benefit the combat against money laundering and terrorist financing. However, the representatives of the Dutch FIU, Ireland and the Austrian national bank argue that installing cash payment restrictions will not have much of an effect on the combat against terrorist financing.

The restrictions on cash payments will have less influence on the addressing of Internal Market distortions. The opinions of the respondents on this aspect vary but the consensus is that such measure will have no to little impact. The Dutch FIU believes that the restrictions will have a slightly negative impact on addressing internal market distortions. Austria, Slovenia and Croatia expect that there would be no effect on addressing Internal Market restrictions. The other respondents expect the effects to be beneficial in addressing Internal Market distortions. The Swedish and Irish representatives answered 'don't know'.

Regarding the revenues of businesses in the cash intensive industries, enforcement costs for the government and vulnerable groups, the cash payment restrictions will hardly make a difference and if they do, the effect will be disadvantageous, according to the respondents.

Interestingly, the responses on the effects on combatting terrorist financing, money laundering and tax fraud show little variance whereas the respondent's expectations of the effects on other aspects differ much more. In particular, the effect of the restrictions on the enforcement costs of the government, addressing Internal Market distortions, economic freedom and privacy and vulnerable groups are disputed. Whereas Germany believes that these variables will be strongly benefit from

the restrictions, the Dutch FIU, Ireland and Austria expect that these aspects will suffer from these measures. Similarly, Austria and Ireland believe that the compliance costs for businesses will rise as a result of the restrictions while Germany expects these costs to decrease.

The representative of the Dutch Ministry of Finance answered 'don't know' for the questions posed regarding the effects of cash payment restrictions and the obligation of declaration. She reasoned that it would not be possible to answer these questions in a generic way and that the specific level of the threshold would need to be communicated in order to answer the questions adequately.

Declaration obligation versus prohibition

The respondents find that installing a declaration obligation rather than a prohibition would predominantly decrease the effects that cash payment restrictions could have. With regards to combatting terrorist financing and tax fraud the respondents are concordant, as they generally believe that implementing the obligation would decrease the impact of cash payment restrictions. Regarding the combat of money laundering, only Austria believes that the declaration obligation would improve the effects cash restrictions would have. Similarly, only Slovenia expects the combat against terrorism financing to benefit from a declaration obligation.

The impact on the effects of cash payment restrictions on revenues of businesses in cash-intensive sectors, addressing Internal Market distortions, economic freedom and privacy and vulnerable groups is assumed to be the same for a declaration obligation and prohibition. Only the Dutch FIU believes that the impact of the obligation on revenues of businesses in the cash-intensive sector would be worse. Ireland answered 'don't know' to this question and Slovenia did so too regarding the impact on vulnerable groups.

Implementing a declaration obligation rather than a prohibition would make the enforcement for the government and compliance for businesses more expensive. Interestingly, Austria and Europol's Operations Department believe that a declaration obligation would increase the revenues of businesses in the cash-intensive sector whereas Germany answered 'don't know'.

Installing a declaration obligation would not change or worsen the impact of cash payment restrictions in the combat against tax fraud.

Austria constitutes an outlier, as it generally perceives the declaration obligation to be a better option. This view conflicts with the Belgian, Swedish and French authorities as well as with Europol who expect the obligation would worsen the effects of such restrictions vis-à-vis a prohibition.

Only Slovenia expects the declaration obligation to have a positive effect on the combat against tax fraud.

High threshold versus low threshold level

Implementing a higher threshold would harm the combat against terrorist financing, money laundering and tax fraud, according to the respondents. The majority of the respondents argue that a higher threshold would harm the effects of the restrictions; only Europol (Operations Department) believes that increasing the threshold would benefit the combat against money laundering and tax fraud. It is not indicated why this would be the case.

The respondents expect a higher threshold to have little influence on the effects of cash payment restrictions regarding addressing Internal Market distortions, revenues of businesses in the cash-intensive industries, economic freedom and privacy and vulnerable groups. Europol (Analytical Project Suspicious Transactions) and Belgium believe that a high threshold would be disadvantageous in addressing Internal Market distortions.

The majority of the respondents believe that increasing the threshold would lower the costs for enforcement and compliance. In particular, Sweden, Croatia and Slovenia believe that a higher threshold would lower the financial burden of the government and businesses.

Interestingly, Germany answered 'don't know' for the majority of the questions. The German representative expects a higher threshold would decrease the effects of cash payment restrictions on combatting terrorist financing and money laundering. Similarly, the Dutch FIU answered 'don't know' on the questions regarding the effects of a higher threshold on economic freedom and privacy and vulnerable groups.

Furthermore, the Dutch Ministry of Finance and the Dutch FIU showed varying perceptions on the topic of a higher threshold. The Dutch FIU believed that a heightened threshold would have little impact on the effects of cash payment restrictions. However, the Dutch Ministry of Finance expects a higher threshold to be a disadvantage in the combat against terrorist financing, money laundering and tax fraud but it would decrease potential negative impacts on revenues for businesses in the cash-intensive industry, enforcement costs for governments and compliance costs for businesses. A similar observation can be made for Europol's respondents; Europol Operation's department is sceptical towards the impact of a higher threshold on combatting money laundering, tax fraud and addressing Internal Market distortions. The Analytical Project Suspicious Transactions, on the other hand, expects these three aspects to be more positively impacted by a higher threshold.

Austria refrained from answering half of the questions in this section, arguing that the effects of cash payment restrictions have not been proven.

Exceptions

The majority of the respondents are against including exceptions in the framework. These would cause criminals to focus predominantly on those exceptional areas (according to Europol) and, thereby, these exceptions would weaken the system as a whole (according to France). Only the Dutch Ministry of Foreign Affairs is in favour of installing an exception that would apply to emergency cases only.

Conclusion

There are large discrepancies in the evaluations of the possible impacts of a cash payment restriction between the different Member States.

Nevertheless, when combining the responses of the respondents, it is found that increasing the threshold is perceived to be the most beneficial method to restrict cash payments (of the ones discussed in the survey). The combat against terrorist financing, money laundering and tax fraud are

not expected to benefit neither from the higher threshold nor from the declaration obligation. However, the effects of cash payment restrictions on addressing Internal Market distortions, the revenues of businesses in the cash intensive industry, the enforcement costs of the government, the compliance costs of businesses and the economic freedom and privacy would benefit from a higher threshold.

Observations

Respondents could share their final comments as part of the follow-up. The most noteworthy observations are noted below:

- In order to ensure the effectiveness of cash payment restrictions, a Harmonised EU approach is required (France);
- A prohibition with a unique threshold seems to be the only solution (France);
- One should take into account that an implemented measure might only have an effect for a certain period of time. Criminal activity might adapt itself to the measure and move underground or start using different modes of transaction (Dutch Ministry of Finance);
- The implementation of the declaration obligation will lead to an overload of data for the FIUs. This vast amount of information will thwart these bodies from processing it all (Europol);
- The negative impacts of cash payment restrictions and the effects they have on civil rights should be carefully considered (Austria).

The effects of cash payment restrictions – graphs

Figure IV.1 The effects of a cash payment restriction on combatting terrorist financing

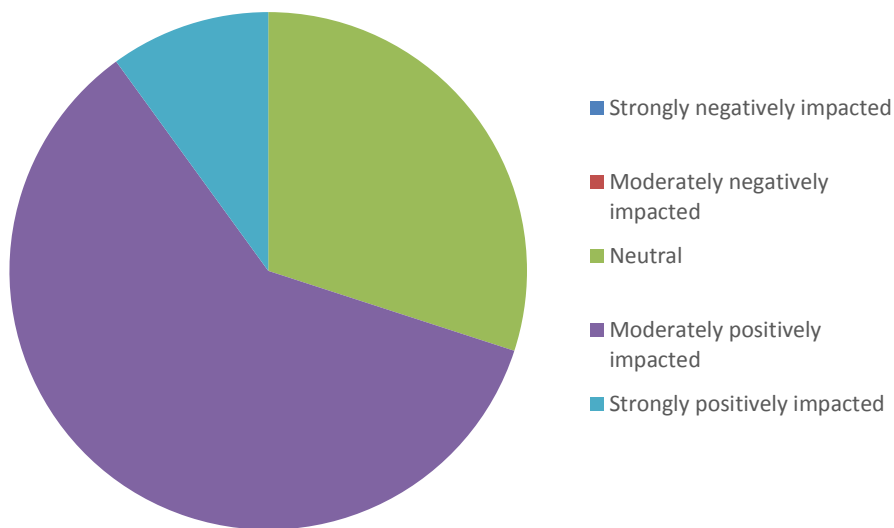


Figure IV.2 The effects of a cash payment restriction on combatting money laundering

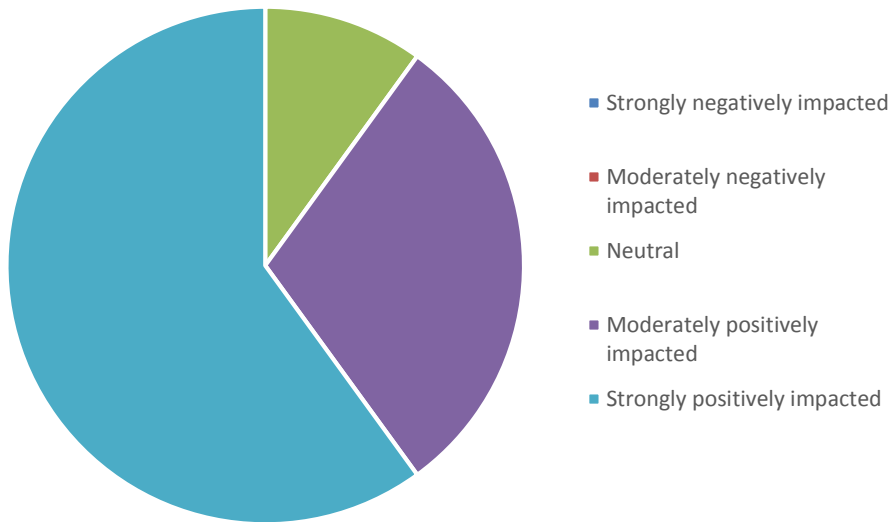


Figure IV.3 The effects of a cash payment restriction on combatting tax fraud

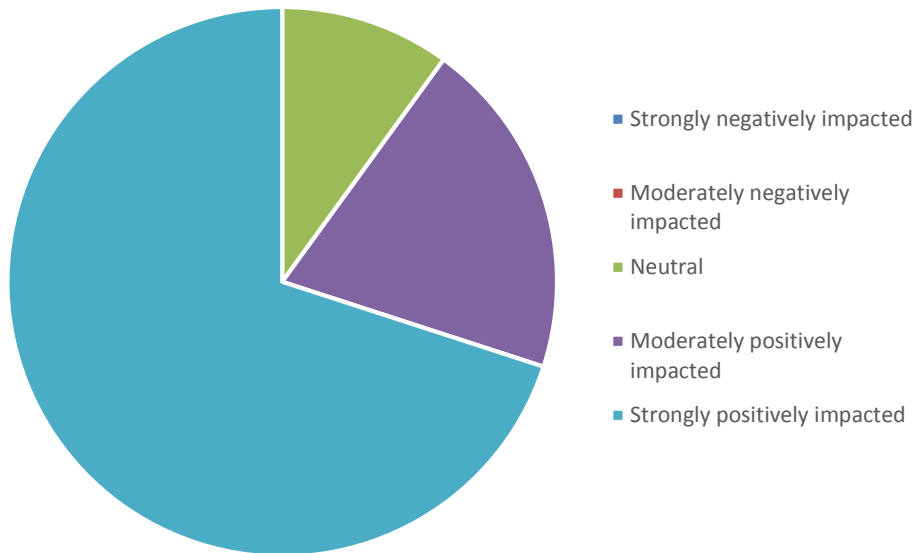


Figure IV.4 The effects of a cash payment restriction on addressing Internal Market distortions

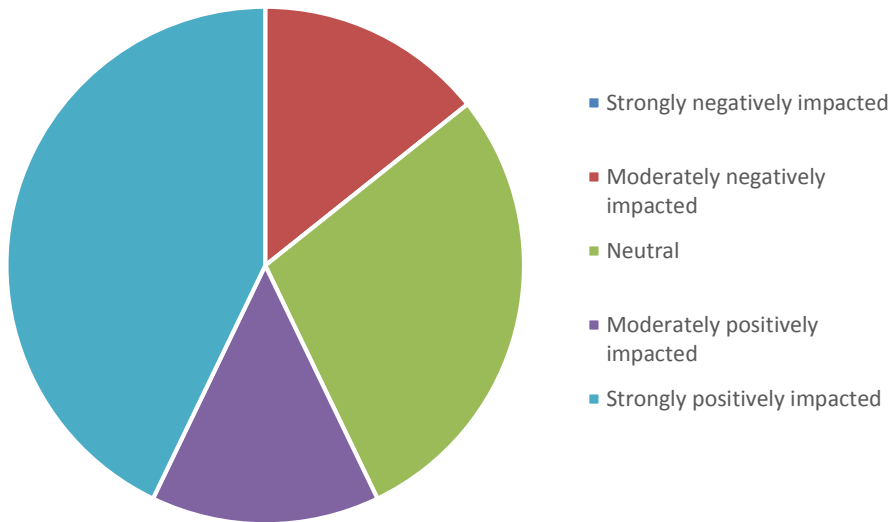


Figure IV.5 The effects of a cash payment restriction on revenues for businesses in cash-intensive sectors

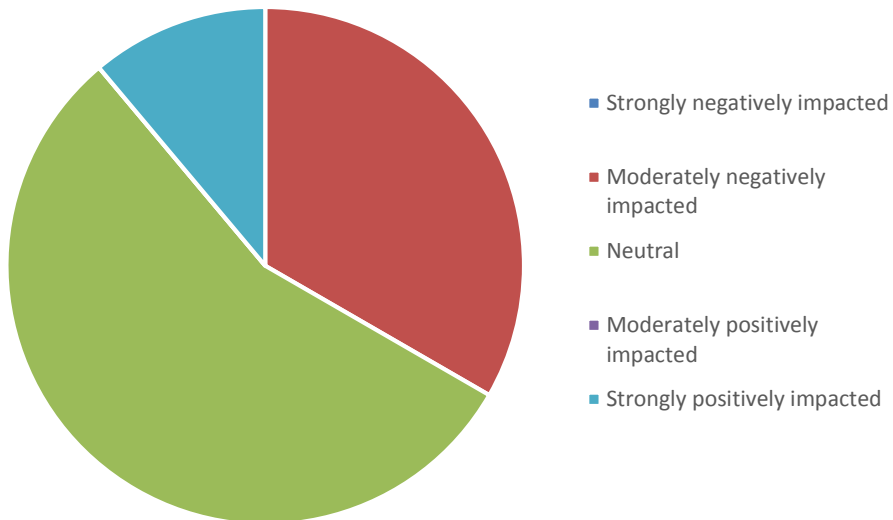


Figure IV.6 The effects of a cash payment restriction on enforcement costs for government

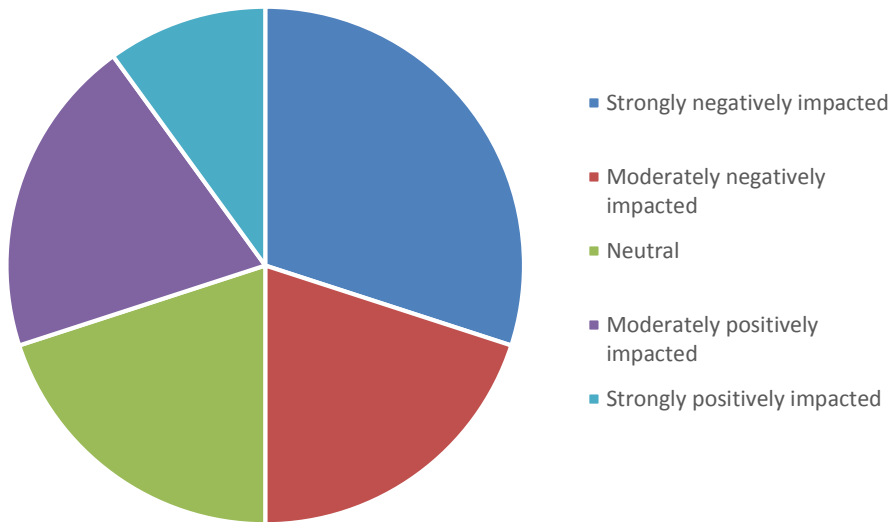


Figure IV.7 The effects of a cash payment restriction on compliance costs for businesses

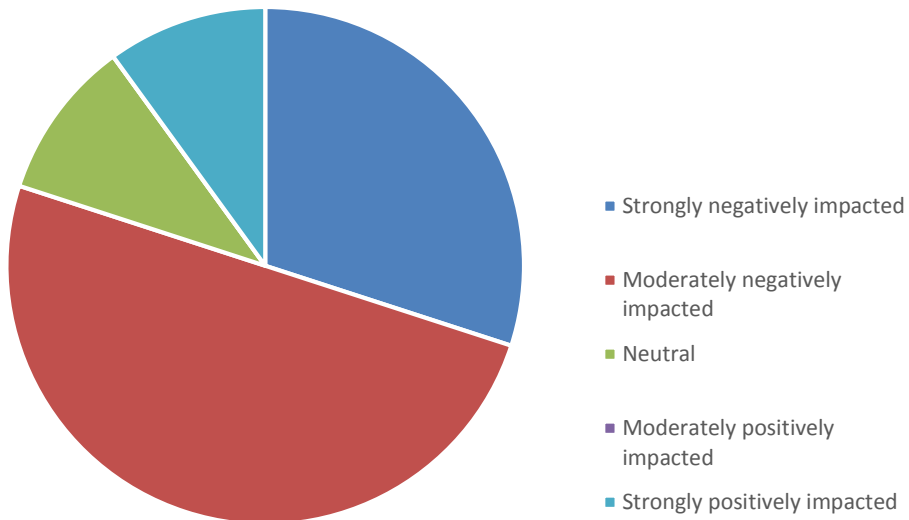


Figure IV.8 The effects of a cash payment restriction on economic freedom and privacy

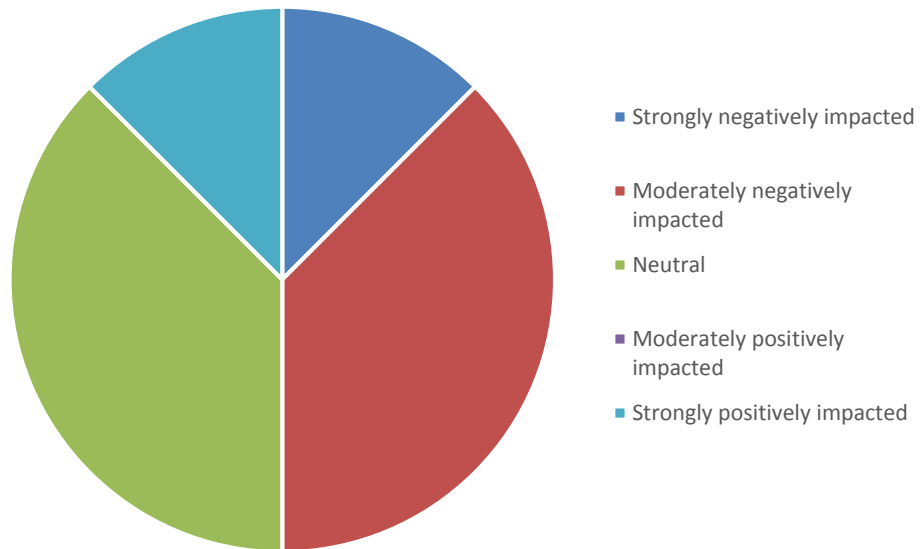
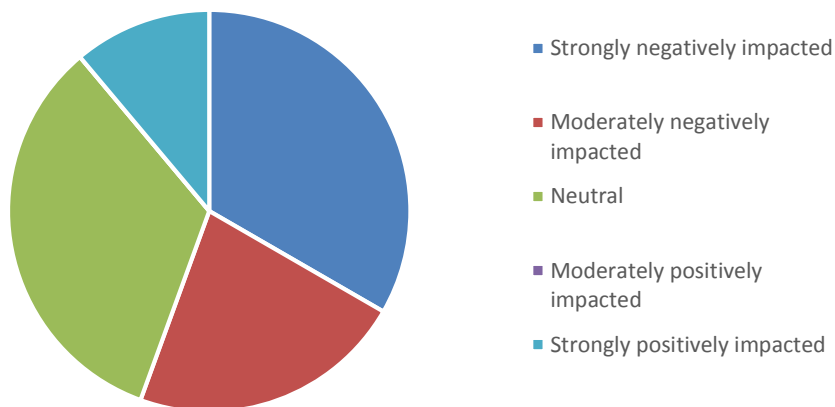


Figure IV.9 The effects of a cash payment restriction on economic freedom and privacy

The effects of a cash payment restriction on vulnerable groups



Declaration obligation versus prohibition – graphs

Figure IV.10 Under a declaration obligation, compared to a prohibition, the impact on combatting terrorist financing is...

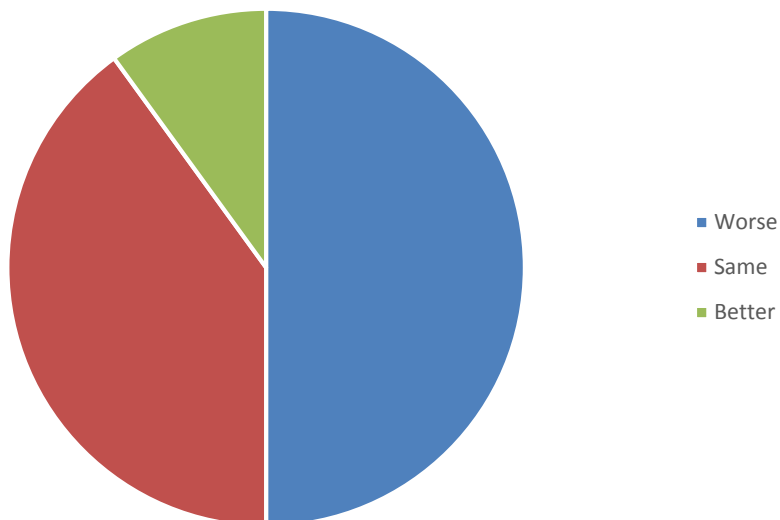


Figure IV.11 Under a declaration obligation, compared to a prohibition, the impact on combatting money laundering is...

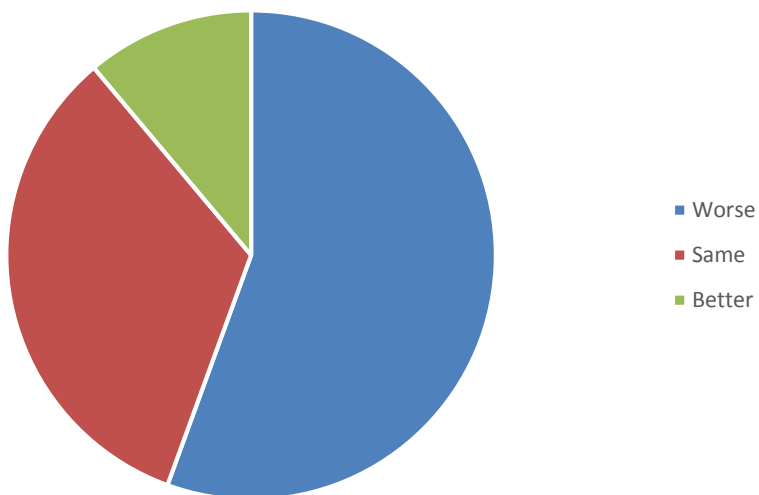


Figure IV.12 Under a declaration obligation, compared to a prohibition, the impact on combatting tax evasion is...

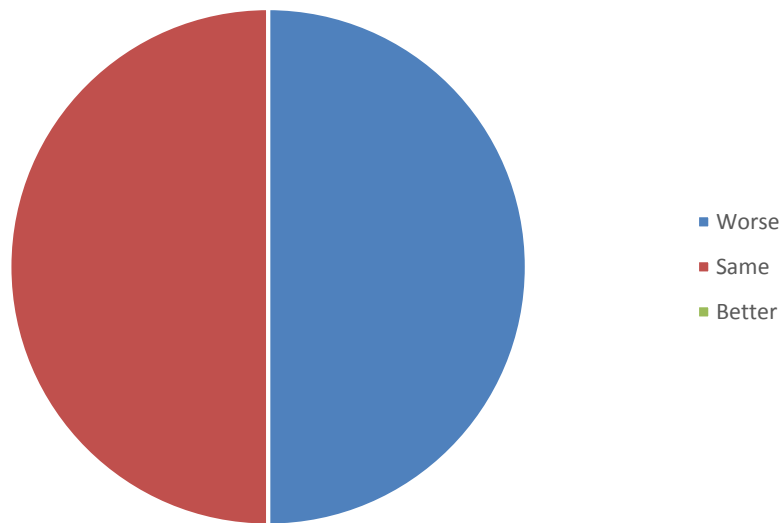


Figure IV.13 Under a declaration obligation, compared to a prohibition, the impact on addressing Internal Market distortions is...

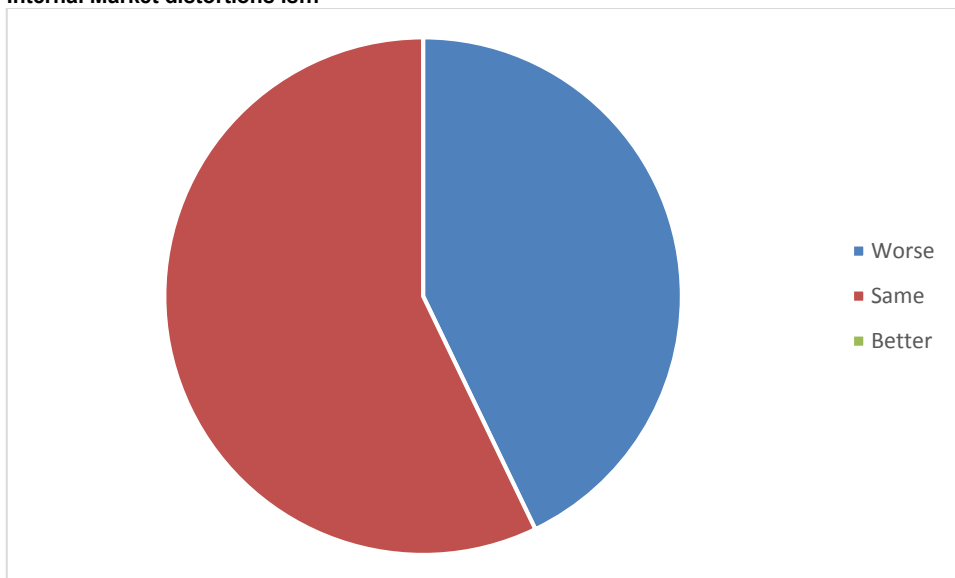


Figure IV.14 Under a declaration obligation, compared to a prohibition, the impact revenue effects for businesses in cash-intensive sectors is...

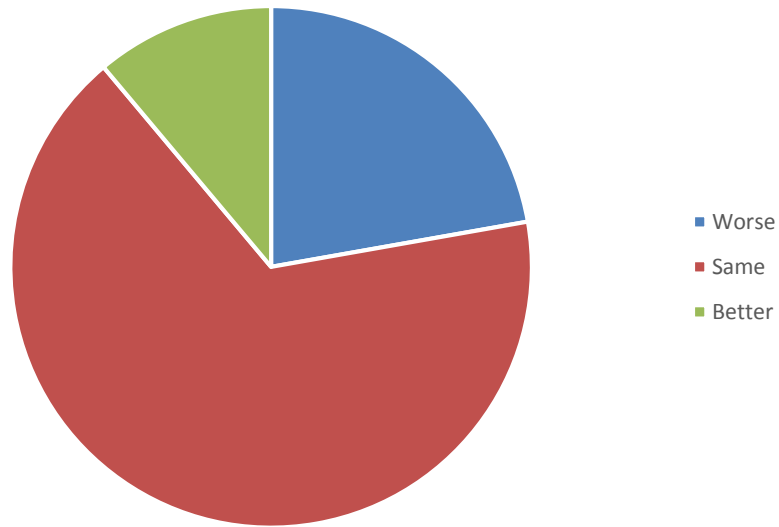


Figure IV.15 Under a declaration obligation, compared to a prohibition, the impact on enforcement costs for government is...

Under a declaration obligation, compared to a prohibition, the impact on enforcement costs for government is...

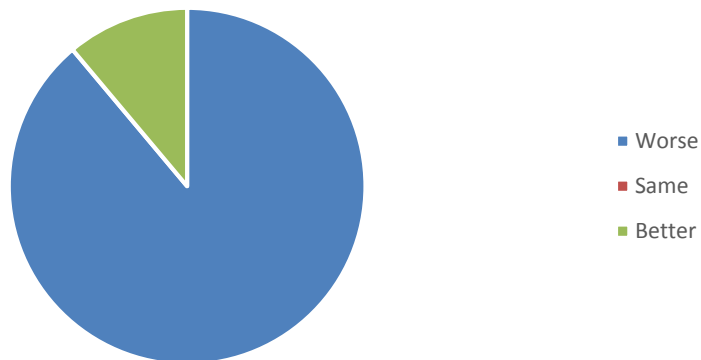


Figure IV.16 Under a declaration obligation, compared to a prohibition, the impact on compliance costs for businesses is...

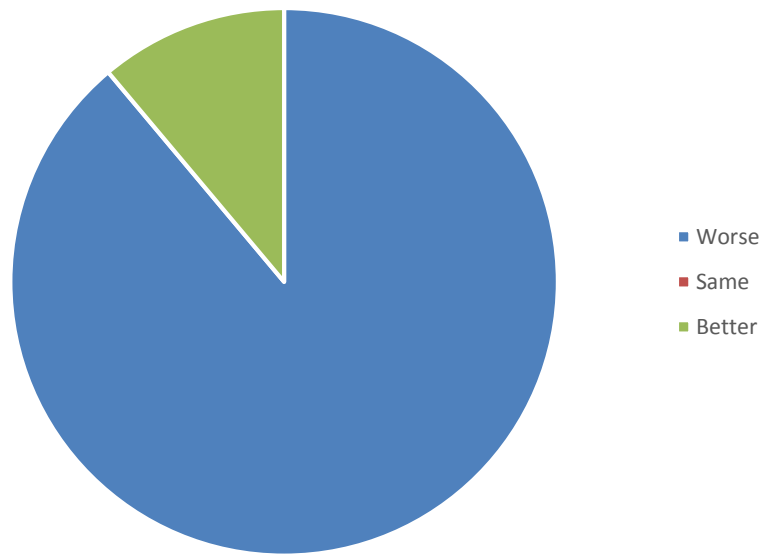


Figure IV.17 Under a declaration obligation, compared to a prohibition, the impact on economic freedom and privacy is...

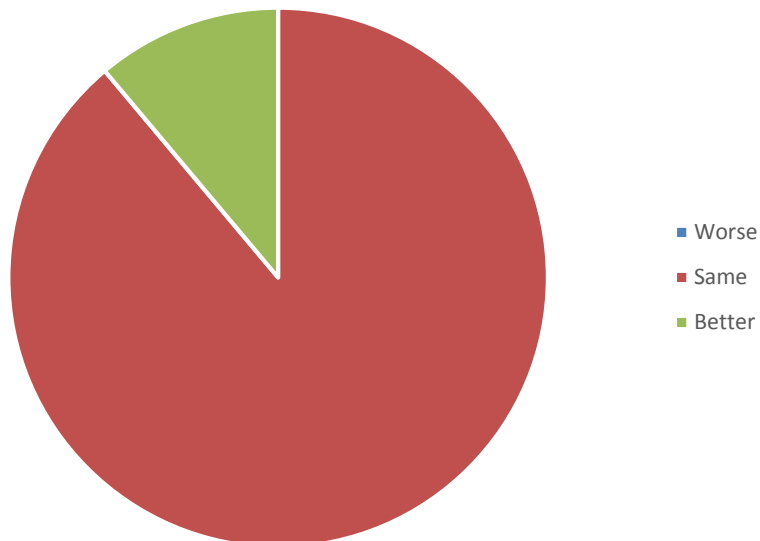
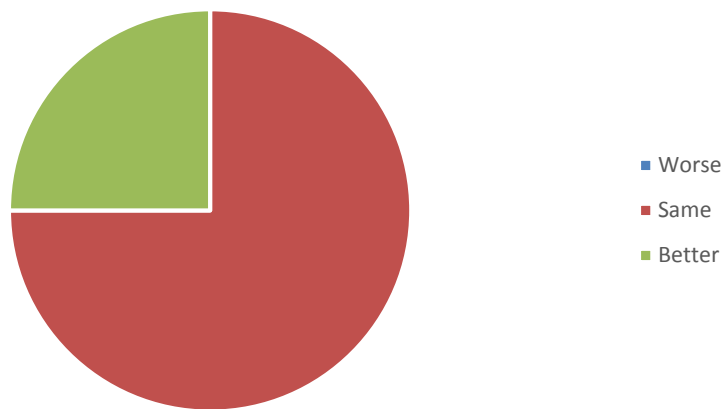


Figure IV.18 Under a declaration obligation, compared to a prohibition, the impact on vulnerable groups is...

Under a declaration obligation, compared to a prohibition, the impact on vulnerable groups is...



Higher threshold level versus lower threshold level – graphs

Figure IV.19 Under a higher threshold level, compared to a lower threshold, the impact on combatting terrorist financing is...

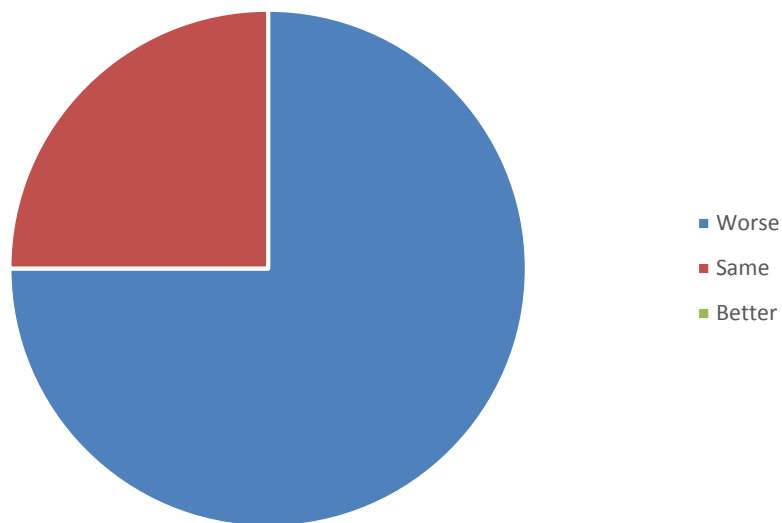


Figure IV.20 Under a higher threshold level, compared to a lower threshold, the impact on combatting money laundering is...

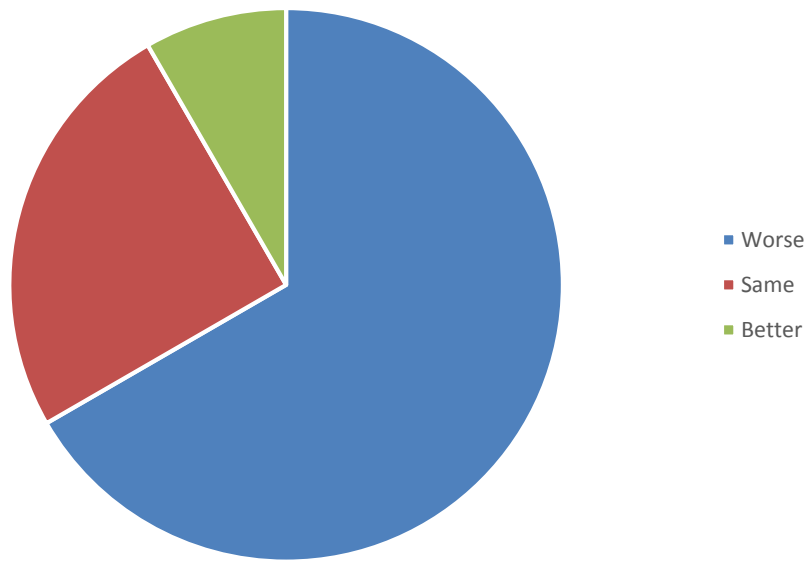


Figure IV.21 Under a higher threshold level, compared to a lower threshold, the impact on combatting tax evasion is...

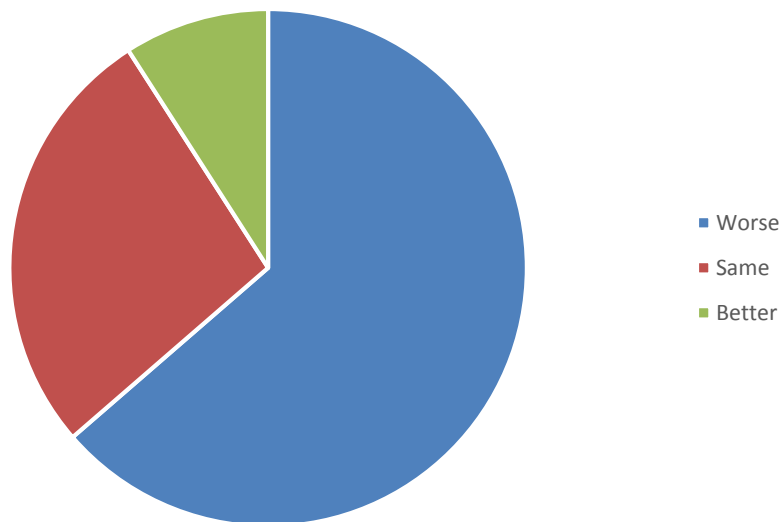


Figure IV.22 Under a higher threshold level, compared to a lower threshold, the impact on addressing Internal Market distortions is...

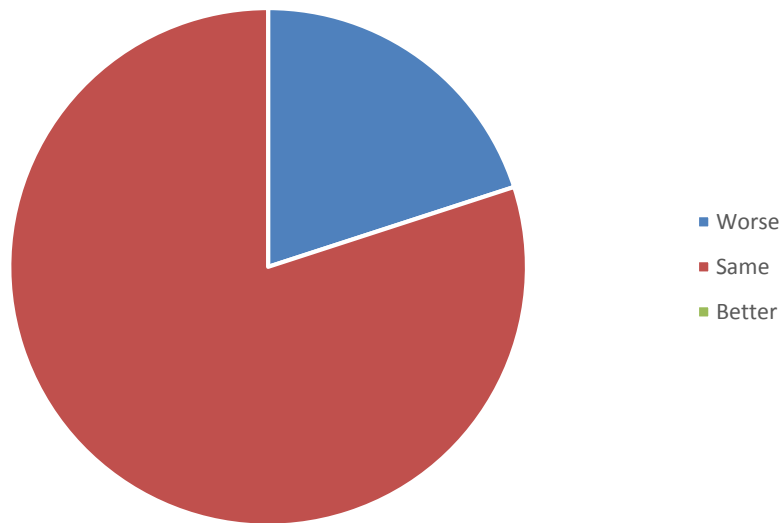


Figure IV.23 Under a higher threshold level, compared to a lower threshold, the impact on revenues for businesses in cash-intensive sectors is...

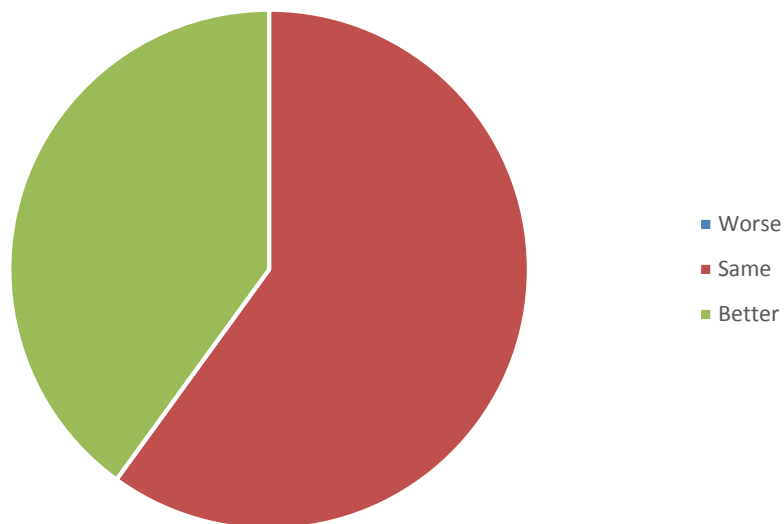


Figure IV.24 Under a higher threshold level, compared to a lower threshold, the impact on enforcement costs for government is...

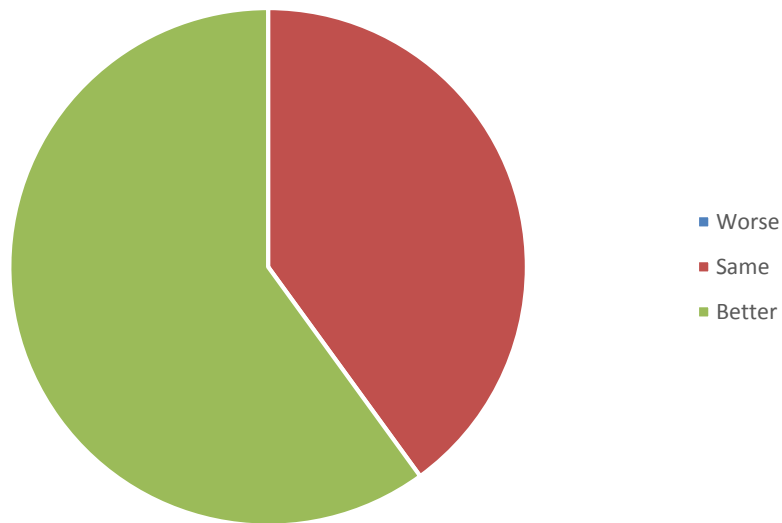


Figure IV.25 Under a higher threshold level, compared to a lower threshold, the impact on compliance costs for businesses is...

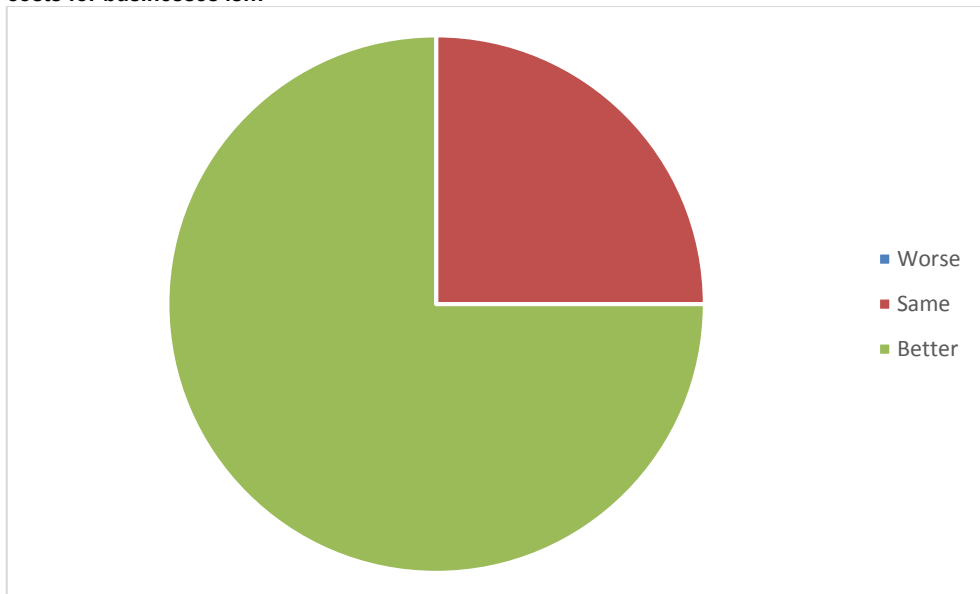


Figure IV.26 Under a higher threshold level, compared to a lower threshold, the impact on economic freedom and privacy is...

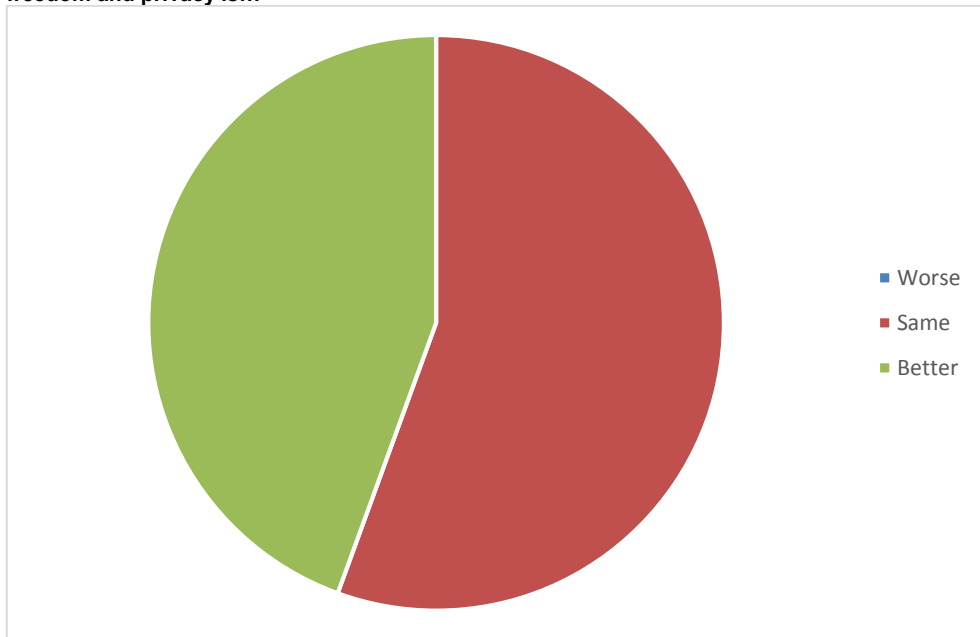
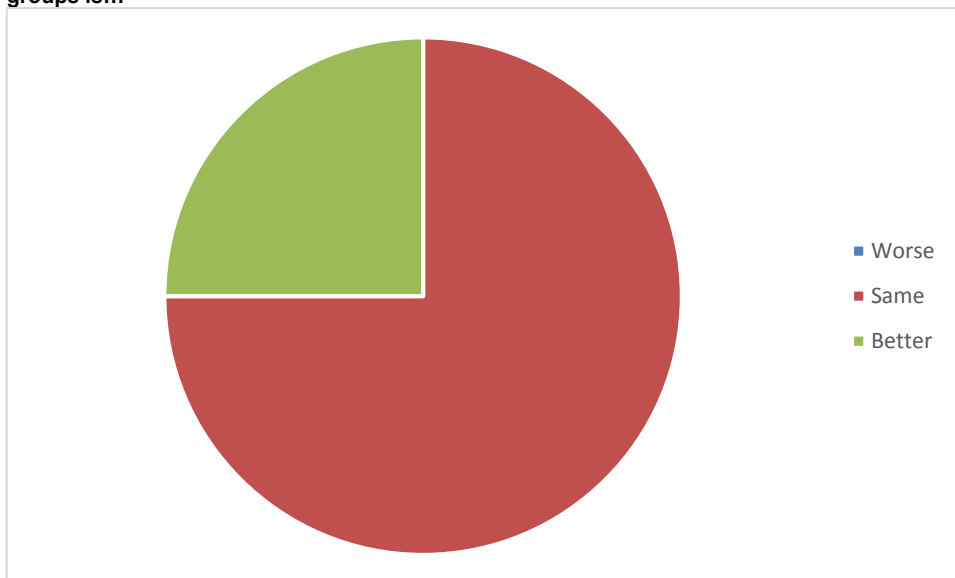


Figure IV.27 Under a higher threshold level, compared to a lower threshold, the impact on vulnerable groups is...



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Rue Belliard 12
B-1040 Brussels
Belgium

T +32 (0)2 743 89 49
F +32 (0)2 732 71 11
E brussels@be.ecorys.com
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