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**REPORT**

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| From: | Presidency |
| On: | 18 June 2025 |
| To: | Permanent Representatives Committee (Part 2) |
| Subject: | Single Currency Package |

- Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the establishment of the digital euro;
- Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the provision of digital euro services by payment services providers incorporated in Member States whose currency is not the euro and amending Regulation (EU) 2021/1230 of the European Parliament and the Council;
- Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the legal tender of euro banknotes and coins

- Progress report

## GENERAL REMARKS

1. **This Progress Report has been prepared under the sole responsibility of the Polish Presidency of the Council, having regard to the opinions expressed by delegations during Working Party meetings and in written comments in the first half of 2025.** This report should therefore be viewed as reflecting the Presidency's own assessment of the outcome of such discussions and is not construed as binding on any delegations. This report is intended to provide continuity with previous Presidencies and facilitate the task of the incoming Danish Presidency towards reaching the Council's negotiating position on the Regulations under negotiation. The Presidency invites COREPER to take note of this Report, with a view to progressing work decisively to that end.

2. **On 28 June 2023, the European Commission put forward three legislative proposals within a 'Single Currency Package'.** This package includes, first of all, a proposal to establish and set the framework for the distribution of a new digital form of the euro that the Eurosystem may issue in the future as a complement to euro cash (Regulation on the establishment of the digital euro, hereinafter "the digital euro Regulation" or "the draft Regulation" – see section "The establishment of the digital euro"). Second, to ensure consistency with Single Market rules, the Commission complemented the digital euro Regulation with a proposal for a Regulation on the provision of digital euro services by payment service providers established in Member States whose currency is not the euro (hereinafter "the non-euro area Regulation"). Third, in order also to anchor in the public the expectation that euro banknotes and coins will continue to constitute widely accessible and accepted means of payment throughout the euro area, the Commission also put forward, as part of the package, a proposal to ensure that citizens and businesses can continue to access and pay with euro cash (Regulation on the legal tender of euro banknotes and coins, hereinafter "the Legal tender of cash Regulation" or "LTCR").

3. **The previous Presidencies of the Council** thoroughly engaged and progressed discussions by covering a wide range of topics. **The Polish Presidency is very grateful for their considerable work** and has **aimed to further deepen and complement such effort,** with a view to effectively **opening the way to a possible comprehensive agreement** in the Council on **negotiating positions covering the full package.**

4. **The Polish Presidency organised five Council Working Party meetings to deepen relevant discussions on the main digital euro Regulation, having also regard, as needed, to the non-euro area Regulation.** These discussions focused on topics related to (i) the compensation model for a digital euro, (ii) the role of the digital euro in strengthening the resilience of the euro area's payment landscape, (iii) the use of the digital euro outside the euro area, both within and outside the EU borders ("international use"), (iv) the legal tender status of the digital euro, having regard to provisions underpinning the legal tender status of euro banknotes and coins in the LTCR, and (v) provisions on privacy and data protection as well as fraud prevention and detection. The Presidency also organised a dedicated technical seminar with the ECB for the benefit of the Working Party on the processing of data in the digital euro infrastructure. A further technical seminar with the ECB will also be held on 30 June, focusing on the offline modality and fraud detection and prevention.

5. In addition, the Polish Presidency organised two further Working Party meetings on the LTCR in order to **bring this proposal as close as possible to completion**. The Presidency's aim has been therefore to pave the way for a formal Council negotiation mandate when the time is politically ripe for it. The Presidency notes that delegations hold split views on the most relevant juncture in this respect. On the one hand, several Member States aim for a comprehensive Single Currency Package agreement, i.e. combining the three Regulations in one go, in particular to reassure citizens on the permanence of widespread cash access and acceptance alongside the distribution of the digital euro. On the other hand, many other Member States could prioritise spinning off the LTCR, in case of protracted timelines for the adoption of the Council negotiating mandate on the digital euro Regulation. However, given the continued technical discussions on LTCR, this debate has not been particularly prominent in Working Party discussions under the Polish Presidency.

6. **This report represents the Presidency view on the progress achieved during its term in Working Party discussions on the Single Currency Package Regulations**. The Presidency is grateful for the excellent and constructive exchanges that have taken place between Member States, the Commission, and the European Central Bank during its term.

7. **The Presidency will share the technical work that has been prepared and discussed in the Council Working Parties with the incoming Danish Presidency.** The Polish delegation will further collaborate with the Danish Presidency in the forthcoming months.



**THE ESTABLISHMENT OF THE DIGITAL EURO**

## Compensation model and related list of basic services

8. **The Polish Presidency organised three Working Party discussions on this major topic** (in February, May and June)**.** Following up on the debates held under the previous Presidencies, these exchanges were built i.a. on an extremely valuable input from the Spanish delegation.

9. This fresh round of discussions aimed to address the persisting challenges raised by the Commission Proposal as regards laying down a sufficiently detailed and **fair compensation regime** for payment service providers ("PSPs"). Indeed, the Proposal lays down the principle that individual natural persons (outside of their possible business activities as self-employed persons) may generally use so-called "basic" digital euro services, as defined in Annex II of the digital euro Regulation, free of charge. Conversely, a merchant that receives digital euro acquiring services from a PSP would pay a Merchant Service Charge (MSC) for these services, part of which this acquiring PSP would pass on to the distributing PSP in the form of so-called inter-PSP fee. **The Commission Proposal lays down high-level principles** for a fair compensation model based on relevant market data.

10. **A large majority of Member States agree with the principles for the compensation model** being that (i) basic digital euro payment services should be free of charge for consumers, (ii) merchants should be protected from disproportionate charges in the context of their obligation to accept digital euro, and (iii) PSPs should be adequately compensated for basic services, including a reasonable margin of profit, specifically, acquiring PSPs via a MSC and distributing PSPs via an inter-PSP fee. Overall, the compensation model should ensure that all stakeholders benefit from the public good nature of the digital euro.

*Operationalising the principles for a fair compensation model*

11. **A large majority of Member States agree with the principle** of capping the MSC and inter-PSP fees in a standardised manner**.** However, these principles will need to be further operationalised, and Member States largely agree that the necessary details cannot be left unregulated. While discussions in the Council Working Party have shown the complexity of the issue, thus making it premature to fix granular details of the methodology in the text of the Regulation, an enhanced level of detail should be provided in the methodology that would be adopted by means of an implementing act to be adopted by the Commission in comitology by using the examination procedure.

12. **Many Member States agree to a two-staged approach for the application of limits to the MSC and the inter-PSP fees: a transitional regime for the first years after issuance, and a final model thereafter**. Recognising the need for a simplified compensation model during the first years after issuance, since the market will still be adjusting to the digital euro in a context where stable and reliable unit cost data of providing digital euro might not yet be available, Member States generally agreed to a proposal by the Spanish delegation to have a separate, transitional model for the first years after issuance before a final regime kicks in.

13. **As regards the transitional regime**, a number of Member States supported the application of a payee-specific MSC cap that would ensure that merchants would not be worse off when receiving basic acquiring services for digital euro from their PSP compared to the MSC they pay for acquiring services for comparable digital means of payment. Most of these Member States also generally supported a euro-area uniform cap for the MSC that would complement the payee-specific MSC cap; the lower of the two would apply. Some Member States requested further information on (i) the impact of the transitional regime for PSPs and merchants and (ii) the implied workload on the monitoring and implementation of the transitional regime. As regards the inter-PSP fee, many Member States expressed the view that a cap based on the average fee of debit card payments in the euro area would provide an appropriate level of compensation for PSPs in the transitional period, given uncertainty about actual costs for PSPs. Emphasising that these caps would only be applicable during a transitional regime, several Member States raised concerns regarding the complexity of the two parallel MSC caps. These Member States called for the application of only one of the two caps during the transitional regime. A few Member States reject the principle of capping the MSC altogether. While recognising the very substantial progress made on this issue, a large number of Member States emphasised the need for further discussions thereon and called for seeking potential simplifications to the intended transitional regime. Some Member States expressed the view that these capped fees might not adequately compensate PSPs which could affect the capacity to innovate and the competitiveness of euro area PSPs during the transitional regime.

14. **As regards the "permanent regime**", the Presidency considers that a combination of a cap based on unit-cost plus reasonable profit margin and a cap based on comparable digital means of payment for the MSC and the inter-PSP fee would well resonate with Member States' views. A comparable digital means of payment-based cap would be a necessary safeguard since (a) the unit-cost plus reasonable profit margin cap would only be effective once digital euro volumes reach high levels and widescale usage for payments at the POI; and (b) it may not be easy to identify strictly relevant direct and indirect costs and detect inaccurate or overestimated cost data. However, a few Member States expressed the concern that the permanent application of additional caps referencing comparable means of payment could undermine the cost-plus approach and thus requested further information on the impact of a dual-cap model for PSPs. Moreover, some Member States also expressed concerns regarding the inclusion of account-to-account solutions in the comparable means of payment cap.

15. **The majority of Member States supported the adoption of the detailed methodology via a Commission implementing act** adopted in comitology by using the examination procedure, which would give the Member States the possibility to be involved in shaping the methodology for calculating fee caps.

16. **The Presidency also facilitated discussions on a distinct compensation model for the offline modality of digital euro,** in which Member States preferred not to use transaction-related data for the calculation of applicable inter-PSP fees.

17. **The Working Party also discussed a proposed list of basic acquiring services that enumerates the necessary services for merchants to comply with their acceptance obligation and thus should circumscribe the scope of the capped MSC.** Member States broadly supported both the Presidency's proposal to introduce a list of basic acquiring services and the clarification that, for these basic acquiring services, no fee other than the capped MSC shall apply. However, the specific content of the list may still need to be fine-tuned.

18. The Presidency considers that the work on this block has advanced, but a conclusive discussion on the distribution model of the digital euro clarifying the distribution obligations and the lists of basic services is still needed. The Polish Presidency invites the incoming Danish Presidency to conclude on these topics.

19. Furthermore, the Presidency facilitated discussions on the availability and compensation of reverse waterfall open funding, where the natural person obtains digital euro payment services from a PSP different from the one providing their non-digital euro payment account. While progress has been made, the Polish Presidency acknowledges that discussions on this topic remain to be concluded.

20. Based on recent Working Party discussions, the Presidency considers that cash funding/defunding with digital euro should be aligned with existing market practices. Concretely, availability and charging practices (for consumers and PSPs) of cash funding/defunding for digital euro should be at par with the equivalent services regarding non-digital euro payment accounts.

## Enhancing the preparedness and resilience of the EU payment systems with the deployment of the digital euro

21. **The Polish Presidency organised two Working Party discussions on this new, strategic topic** (in January and May), in the aftermath of the milestone report by former Finnish President Sauli Niinistö on 'Strengthening Europe's Civilian and Military Preparedness and Readiness' (published in October 2024) and recent guidance of the European Council[1] and Euro Summit[2]. The discussions were initially introduced by a joint Note from four delegations (Estonia, Finland, Latvia and Lithuania), along with a Eurosystem technical feasibility analysis of the proposals.

[1] European Council meeting (19 December 2024) – Conclusions (part IV)
[2] Euro Summit meeting (20 March 2025) – Statement (point 4.)

**22.** In their proposed amendments to the digital euro Regulation, these delegations aimed to **ensure that the design and functioning of the digital euro, in particular of the offline version, would fully embrace the objectives of improving strategic autonomy and resilience in payments** along with **innovation and security**, so that the digital euro would be a possible risk mitigating instrument to be used in exceptional circumstances. This would strengthen the Union as a whole and support Member States' crisis preparedness, in particular, by assuring continued digital euro payments in exceptional circumstances where for instance private payment rails and commercial banks' services experience serious and widespread disruptions. However, such cases should be clearly framed and delimited in the digital euro Regulation, in terms of substance and procedure, to ensure legal clarity.



**23.** The Polish Presidency built on the initial reactions of the delegations and EU Institutions to further identify **amendments** to the draft Regulation on the digital euro that would strengthen its resilience. The necessary amendments would aim in particular to frame the '**exceptional circumstances'** in which a Member State may request the adoption of any of the following specific measures:

- the **raising of offline digital euro holding limits within the overall digital euro holding limits, and transaction limits, taking into account AML/CFT risk considerations**;
- **enhancing the distribution** of the digital euro under exceptional circumstances, for instance by enabling Member States to designate an entity that may temporarily take over the distribution of digital euro services or by other means; and
- the **switching** of digital euro services under exceptional circumstances to an entity designated by Member States and in accordance with the user's consent.

24. Moreover, in light of the initial reactions of the delegations, the Presidency also sought Member States' views on the optimal combination of **provisions to support a stronger and more resilient digital euro technical infrastructure** in the draft digital euro Regulation and on specific improvements to strengthen the operational continuity of online digital euro payments. Member States presented drafting proposals to reflect in the Regulation the need for a digital euro to adhere to state-of-the-art technological foundations, an idea which was welcomed already in past Working Party discussions. Additionally, the Presidency sought views on how Member States' expectations regarding the resilience of digital euro design could inform the Eurosystem work. This could mean facilitating situations where, for example, merchants could continue to accept digital euro payments even when their payment service providers' operations are disrupted. Several Member States welcomed this additional element and called for such a possibility of batch defunding for merchants also during normal times.

25. The Polish Presidency considers that discussions on the related block of provisions have significantly progressed towards meeting a broad measure of support among delegations.

26. The Polish Presidency invites the incoming Danish Presidency to swiftly complete the finalisation of this block of provisions.

## Legal tender status of the digital euro

27. **The Polish Presidency organised two Working Party discussions on this core topic** (in January and in early April), building on the considerable preparatory work undertaken under previous Presidencies, as the matter, in terms of legal tender status of euro banknotes and coins, had last been discussed at a Working Party meeting in November 2024.

**28.** The Polish Presidency sought in particular delegations' views in respect of the preferred **degree of alignment between the digital euro Regulation and LTCR**. Building on the latest drafting proposals by the Polish Presidency regarding the acceptance of euro cash under the LTCR, a majority of Member States generally supported close alignment between the two Regulations, although not on some specific issues, in particular, on **exceptions to the principle of mandatory acceptance**, which should have different scopes owing to the different nature of the physical and digital forms of the euro (e.g. inherent difficulties to accept cash in e-commerce). For both draft Regulations, a majority of Member States welcomed a focus on the principle of mandatory acceptance in situations where the payer is a consumer acting at the Point of Interaction.

**29.** The Polish Presidency also noted **specific issues to be resolved** in future deliberations, in particular, the request by some Member States to exclude **business-to-business** digital euro payment transactions from the scope of mandatory acceptance, which triggered split views at this stage among delegations.

**30.** The Polish Presidency accordingly considers that **some finalisation work is needed** on this topic. In particular, this includes proposed amendments to exempt from the mandatory acceptance businesses which today only accept direct debits or credit transfers not initiated at the Point of Interaction, subject to the assessment of whether such measure would be justified and proportionate. At the same time, businesses should benefit from using the digital euro by ensuring that the digital euro Regulation is business-to-business ready. However, the Presidency also notes that the **current draft amendments** already meet with a **broad measure of support in terms of the general direction of work**.

## Privacy and data protection

31. **The Polish Presidency organised, first, a technical seminar with the ECB on data processing in the digital euro infrastructure** (in early March). During that seminar, the ECB provided information on how best-in-class privacy and data protection will be ensured for online digital euro. End-to-end flows were presented in order to demonstrate how strict data segregation would be applied, how the Eurosystem would have no access to key information such as payment authorisation data on the payer and payee, and the Eurosystem will not be able to link transactions to users nor infer any of their behaviours and identity attributes (i.e. encrypting it via the use of a hashed user identifier and user aliases).

32. Like previous Presidencies, the Polish Presidency is convinced that it is **essential to reassure the public of the privacy and data protection safeguards for the digital eu**ro in order to ensure its successful take-up by citizens. The promise of state-of-the-art privacy of the digital euro must be **thoroughly substantiated by adequate legal provisions** in the digital euro Regulation.

33. During the **Working Party discussion that followed the technical seminar** (in early April), the Polish Presidency sought the delegations' views on a series of amendments related to the introduction of the **user alias**, i.e. a pseudonymous identifier that is unique to a given digital euro payment account. Its purpose is to support data segregation. There would be a compulsory alias, provisionally labelled as 'DEAN', and optional proxy aliases, that users can register through their PSP on their own initiative. Optional proxy aliases, such as phone numbers, can enhance user experience and enable PSPs to innovate further in this area.

34. At the April Working Party meeting, **these directions of work received overall very positive reactions**, which were confirmed by ensuing written comments by delegations. In particular, the users' option to register additional proxy aliases was broadly supported, and the clarifications on the DEAN also received encouraging reactions. Several Member States expressed reservations towards referring to a digital euro account number or DEAN as this might create the misleading impression amongst users that individual users would hold 'accounts' with the ECB, which is ruled out by the digital euro Regulation.

**35.** In order to support the incoming Presidency's work to successfully finalise the amendments to Chapter VII, an additional technical seminar with the ECB is indeed scheduled on 30 June, so as to provide the Member States with additional elements on the intended privacy and data protection safeguards, including those relating to the fraud detection and prevention mechanism.

## Distribution in the EU outside the euro area and in third countries

**36.** **The Polish Presidency organised two Working Party discussions on this topic** (in January and in early April), which is essential for non-euro area Member States. The Polish Presidency built on the very substantial work undertaken under previous Presidencies.

**37.** Combining the January and April Working Party meetings, the Polish Presidency received a broad measure of support for its wrap-up of the proposed amendments, regarding:

- **Distribution in countries or territories under a monetary agreement**: Member States almost unanimously agreed with the wording in the Commission Proposal;

- **Acceptance of digital euro payments by merchants outside the euro area**: Member States broadly agreed with the proposed approach and amendments allowing merchants outside the euro area to receive digital euro payment transactions without being able to hold digital euro, in the absence of a prior arrangement pursuant to Article 18 or an agreement pursuant to Articles 19 or 20;

- **Distribution of the digital euro in non-euro area Member States**: Member States generally agreed with the clarification that the entry into force of the arrangements should be conditional upon adapting national legislation, whereas the signing of the arrangement would be conditional upon the fulfilment of specific requirements already laid down in the draft digital euro Regulation. The Presidency also proposed a definition of 'distribution', which was well received;

- **Distribution of the digital euro to natural and legal persons residing or established in third countries**: Member States also agreed to the Presidency's latest wording, which incorporated an exclusion of the third countries that have been identified at the European level, as posing a specific and serious threat to the Union's financial system, in application of the Directive on Anti-Money Laundering and Combatting the Financing of Terrorism;

- **Cross-currency payments**: Member States also agree to the current wording of the Commission Proposal, which maintains the provision open-ended in order to ensure that there are no future limitations on the interoperability of the digital euro with other central bank digital currencies or potentially other forms of money.



**38.** The Polish Presidency therefore considers the **work on this block of provisions to be practically complete, with one major exception**: the interplay between the digital euro Regulation and the non-euro area Regulation, as one cross-reference in the latter[3] may lend itself to the **interpretation that credit institutions incorporated in non-euro area Member States would be required to provide digital euro payment services to residents from euro area Member States, even** where they would have **no significant activity** in the latter.

**39.** The Polish Presidency, having regard to the concerns expressed by other non-euro area Member States, but also some other Member States and the Commission concerning proportionality principles and the need to ensure a level playing field on the single market, considers that it is necessary to avoid disproportionate obligations and is **confident that a satisfactory legal and political solution can be found** under the incoming Danish Presidency.

[3] Article 4(1), subparagraph 1 of the non-euro area Regulation cross-refers i.a. to Article 14(1) of the digital euro Regulation.

## Modalities of distribution

40. **The Polish Presidency organised one Working Party discussion on this topic** (in February), again, building on the excellent preparations carried out by previous Presidencies. In particular, the February discussion aimed to confirm Member States' support to the amendments delineated under the Belgian Presidency and new amendments introduced by the Polish Presidency, on three outstanding issues:

- **Interoperability**: requiring the ECB to seek to ensure, to the extent possible, the interoperability of standards governing digital euro payment services with relevant standards governing private digital means of payment. Member States emphasized the value of facilitating open standards at the point-of-interaction as soon as the digital euro Regulation is adopted in a timely manner before the first issuance of digital euro. Nascent European account-to-account solutions which are hardly available at the point-of-sale today could thus gain this access by presenting themselves to merchants as "digital-euro-ready" in the context of preparing for its mandatory acceptance. This would enable these account-to-account payment solutions to reduce dependencies on non-European providers and scale up their services throughout the euro area.

  Member States broadly supported the Polish Presidency's amendments.

- **Compliance with Union sanctions adopted in accordance with Article 215 TFEU**: the aim of the text, as amended, laid down in Article 29, is to ensure that PSPs offering digital euro transactions are subject to the same obligations as other PSPs with regard to compliance with restrictive measures. In practical terms, they should be subject to the updated requirements set out in the Instant Payments Regulation[4].

  Member States broadly supported the Polish Presidency's amendments.

[4] Regulation (EU) 2024/886 of the European Parliament and of the Council of 13 March 2024 amending Regulations (EU) No 260/2012 and (EU) 2021/1230 and Directives 98/26/EC and (EU) 2015/2366 as regards instant credit transfers in euro.

- **Switching of digital euro payment accounts**: the Polish Presidency proposed building on amendments introduced by the Belgian Presidency in Article 31 and to add further clarifications on the switching modalities and the type of services that can be switched.

  Member States provided mixed reactions to the proposed amendments. There was broad support for the amendments in Article 31(1) related to the standard switching, particularly those aimed at enhancing clarity and consumer protection. Regarding emergency switching, it appeared that more work was needed, especially to distinguish the switching under Article 31(2) from the emergency switching envisaged in the context of resilience. Following the February discussion, that latter issue was considered more in-depth in the broader context of the provisions on the preparedness and resilience of the EU payment systems (see above).

**41.** As a result of the above efforts, the Polish Presidency considers that, subject to some limited final adjustments, work on the provisions on the modalities of distribution could be completed together with the work on preparedness and resilience.

## Offline digital euro

**42.** The Polish Presidency has further advanced the work on this key modality of the digital euro distribution, especially considering a **specific compensation model** in both the transitional and the permanent regimes, and the necessary enhanced **data protection and "cash-like" privacy** expected by citizens (see above).

**43.** The Polish Presidency notes that the **majority of Member States** have so far expressed their **strong support to requiring the provision of the offline digital euro to citizens from the first day of issuance of the digital euro**. However, given the technological challenges associated with developing this functionality, a few Member States have expressed the view that it may be necessary to follow a staggered approach in this respect.

**44.** The Polish Presidency invites the incoming Danish Presidency to further complete the finalisation of other relevant provisions, not least on: ensuring a fair, reasonable and non-discriminatory (FRAND) access to mobile devices; the interaction of fraud detection and privacy; compliance with anti-money laundering rules; and, the allowed number of local storage devices per digital euro user. Moreover, several Member States have requested that proposals initially presented by the ECB to improve the usability of the offline version, e.g. setting the offline version as a default method of payment, need to be reflected in the Regulation.

## Looking ahead: addressing key outstanding political issues

**45.** The Polish Presidency considers that, in addition to the more technical aspects outlined above and to other issues of importance to individual Member States, two major political issues will need to be solved, in a legally sound manner, in order to pave the way to a package political deal in Council on the digital euro Regulation and, thus, on the whole Single Currency Package. These issues are both related to the institutional governance of the delivery phase of the digital euro project:

- The distribution of **competences** in the possible framing of **limitations on setting holding and transaction limits**, as the majority of delegations requests the involvement of Member States in setting the maximum holding limits for a digital euro;

- The way in which Member States might, once the digital euro Regulation is adopted, be involved before the decision to issue the digital euro is taken.

46. On both topics, the absence of relevant new input from key stakeholders has not provided the Polish Presidency with the necessary updated basis on which to revisit usefully the discussion last held at the November Working Party meeting under the Hungarian Presidency. However, the Polish Presidency notes the urgent call to unblock the political stall as stressed in the Statement of the March 2025 Euro Summit.

**<u>PROVISION OF DIGITAL EURO SERVICES BY PAYMENT SERVICES PROVIDERS INCORPORATED IN MEMBER STATES WHOSE CURRENCY IS NOT THE EURO</u>**

47. **The Polish Presidency takes note that Member States already expressed their overall agreement to the content of this draft regulation, save for some limited outstanding clarifications (especially on the issue mentioned in points 36 and 37 of this Report)**, and subject to final consistency checks with the digital euro Regulation once finalised. Finalisation work should also comprise the alignment of application dates across the two Regulations, as already noted under the Belgian Presidency.

## THE LEGAL TENDER OF CASH REGULATION

### The ex-ante unilateral exclusion of cash by retailers and service providers

48. **To progress on this main outstanding issue, the Council Working Party addressed the matter at its meeting on 31 March.** The Presidency had prepared a discussion note proposing a new standalone Article to find a compromise between Member States that prefer to explicitly prohibit ex-ante unilateral exclusions of cash and Member States that attach a high importance to contractual freedom and that are concerned about disproportionate burdens for merchants. The proposed new article sets out a clear prohibition of ex-ante unilateral exclusion of cash, applicable only at the point of sale and exclusively for business-to-consumer transactions where retailers or service providers offer goods or services on public premises.

49. **Member States generally welcomed the Presidency's approach to include all related provisions in one single article**. Delegations were generally supportive of the explicit prohibition and of limiting it to business-to-consumer transactions, while some continued to argue in favour of taking a more flexible approach by leaving discretion to each Member State, alleging that national authorities are best placed to monitor the situation and counteract any unwanted developments. Member States had split views on whether to retain the reference to national law; while some favour retaining it throughout the text, others favour deleting it especially from the enacting terms of the regulation. Some Member States also asked to add wording to explicitly exclude business-to-business transactions from this new provision and some Member States stressed the importance of clarifying the treatment of recurrent payments under the LTCR and also suggested allowing specific non-temporary exceptions. Some Member States asked for further clarification that unmanned points of sale, 'PoS' (e.g. vending machines) are excluded from the obligation to accept cash, on the ground that the Regulation would otherwise entail disproportionate costs to their operators. However, in this respect, some other Member States pointed to the need for safeguards, considering that a blanket exemption for unmanned PoS could constitute a loophole and lead to avoiding cash acceptance. Several Member States voiced their concerns regarding an obligatory penalty regime that would in their view potentially entail high administrative costs related to monitoring, investigating and prosecuting fines.

## The framework of common indicators

50. **At its meeting on 31 March, the Council Working Party equally discussed the framework of common indicators to be used for measuring acceptance of, and access to, cash.** The compromise put forward by the Presidency in its discussion note and related draft proposals aimed at reaching a common understanding of what is envisaged in this framework, used for individual reporting of Member States, that would allow for comparison and at the same time for the addition of specific national indicators, where considered appropriate by a Member State.

51. **Member States generally felt that the text suggested by the Presidency was a step in the right direction and highlighted that common indicators should be developed in consultation with the European Central Bank, building where possible on existing reporting indicators.** The clear majority of Member States were of the opinion that the common indicators should be complemented by national indicators. On whether a non-exhaustive list of examples of common indicators for cash acceptance should be added in the recitals, since such examples for cash access indicators are already included in a recital, some Member States felt that doing so would provide guidance and clarity, while other Member States felt that setting the framework for the level 2 in the legal text should be sufficient.

## Resilience in exceptional situations

52. **The Council Working Party on 11 June discussed *inter alia* the aspect of resilience also for the Legal Tender of Cash Regulation in light of the previous discussion held on that matter for digital euro.** The Presidency had prepared a discussion note with relevant drafting suggestions including the obligation for Member States to establish a cash resilience plan at national level aimed at preparing plans for ensuring access to and payment in cash in situations where Member States might be faced with serious risks affecting payment services or access to cash.

53. **Member States welcomed the discussion on resilience, in particular given that cash is crucial in situations where electronic payment services might be interrupted**. To avoid duplication with other relevant legislation and excessive administrative burden, Member States indicated a preference for a more general wording.



## Finalisation work ahead

54. The Polish Presidency considers that work on this Proposal has reached a stage where finalisation work can be completed as a matter of only few more meetings of the Working Party.