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From:	Presidency
To:	Working Party on Financial Services and the Banking Union (Digital Euro Package) Financial Services Attachés
Subject:	Legal Tender of Cash Regulation: WP on 28 October – Presidency discussion note on unmanned points of sale

Danish Presidency
Council of the European Union

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Legal tender – Presidency discussion note on unmanned points of sale

Working Party on Financial Services and the Banking Union

Proposal for a regulation on the legal tender of euro banknotes and coins

Meeting on 28 October 2025

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Cash Restrictions

1. Introduction

The euro is the single currency of the euro area. The euro banknotes issued by the ECB and the NCBs of the euro area are the only such notes that enjoy the status of legal tender under Article 128(1) of the Treaty on the Functioning of the European Union (TFEU). This status is also granted to euro coins pursuant to EU secondary legislation, namely Council Regulation (EC) No 974/98, which designates euro coins as the sole coins having the status of legal tender within the euro area. The concept of legal tender signifies, among others, that euro cash cannot generally be refused in the settlement of a monetary obligation.

During discussions in the Council Working Party meeting under the Polish Presidency on 11 June 2025, and in their subsequent written comments, several Member States have raised questions regarding the scope of the exceptions to the principle of mandatory acceptance of cash as well as the scope of the possibility for Member States action which, while not encroaching on the EU exclusive competence to determine the status of legal tender of euro cash, nonetheless touches on the concept of legal tender. It should be underlined that, even after the entry into force of the Regulation, Member States retain, subject to conditions, their own competence to adopt national legislation for the purpose of excluding, regulating, or limiting the possibility of cash payments within their territories. The EU, when exercising its competence in the field of monetary policy under Article 133 TFEU, cannot impinge upon national competences of Member States, for instance as regards the determination of the means of payment accepted at national level, nor can it prevent Member States from introducing justified and proportional restrictions on cash payments for legitimate policy reasons.

The Presidency emphasizes that it is not possible to make a catalogue of Member States action given that, according to the relevant case law, Member States may only establish rules when exercising their national competences, i.e. competences that do not belong to the Union. Nevertheless, it is the Presidency's understanding that Member States would value an illustrative overview of cases where the exercise of Member State competence could come into play. The Presidency seeks to accommodate this request with this note.

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Questions have arisen in relation to the permissibility of excluding cash payments in certain unmanned points of sale, notably in the case of unmanned points of sale such as vending machines, ticketing machines and unmanned service stations. Several Member States have expressed a need for legal certainty in the Regulation regarding the use of cash in both vending machines and in broader unmanned points of sale contexts, referring to established national practices in this regard.

Against this background, the Presidency has prepared this note with the aim of fostering a shared understanding of the draft legacy text and the various competences that Member States may exercise in this context. Particular importance is attached to the judgment of the Court of Justice of the European Union (CJEU) in Joined Cases C-422/19 and C-423/19 *Dietrich and Others* v. Hessischer Rundfunk ("*Hessischer Rundfunk judgment*"). Especially because the *Hessischer Rundfunk* judgment recognises the existence of Member States´ powers in the field of shared competence, for example for the organisation of the public administration by regulating, under public or private law, the procedures for settling pecuniary obligations towards the public administration. This is already recognized in recital 4a and Article 2(4) of the Polish Presidency legacy text. The Presidency emphasizes in this regard that the ultimate interpretation of the *Hessischer Rundfunk* judgment naturally falls within the jurisdiction of the Court.

There are several issues that are important to consider when further clarifying the text and they will be described in the next sections of the Presidency non-paper.

2. Member States' competence to adopt national legislation excluding the possibility of discharging a monetary debt in euro cash

In the *Hessischer Rundfunk* judgment, the CJEU examined the legal implications of euro banknotes and coins as "legal tender" within the meaning of Article 128(1) TFEU and Article 11 of Regulation (EC) No 974/98. The Court held that this status of legal tender signifies, in its ordinary sense, that the euro cash cannot generally be refused in settlement of a debt denominated in the same currency unit, at its full-face value, with the effect of discharging the debt (see paragraph 46 of that judgment).

The term "*generally*" was used because the Court acknowledged that mandatory acceptance is not absolute, since Member States may, in the exercise of their own powers, such as the organization of their public administration, introduce restrictions on the use of cash provided that several conditions are complied with (see in particular paragraphs 56, 68 and 78 of the *Hessischer Rundfunk* judgment).

More specifically, the following conditions must be cumulatively fulfilled for a national measure to be considered compatible with the EU's exclusive competence:

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- **The measures do not purport to govern the status of legal tender of euro banknotes and coins:**
  Any national measure restricting the acceptance of cash must not call into question or alter the fundamental legal status of euro banknotes and coins as legal tender within the euro area. Accordingly, such measures may not redefine or undermine the established recognition that euro cash constitutes lawful means for the settlement of monetary obligations.

- **The measures do not result in the de facto or de jure abolition of cash:**
  Restrictions must not lead to the effective elimination of cash either by law (de jure) or in practice (de facto). While certain exceptions may be permissible, cash must remain accessible and usable as a means of payment, preserving both its practical availability and its legal status.

- **The measures are justified by reasons of public interest objectives:**
  Any limitation on the obligation to accept cash must be justified by legitimate and clearly defined public interest objectives. According to the Court, such limitations on payments in EU cash may, in practice, be justified just as much on grounds of public policy relating to security or the fight against crime as by the public interest in ensuring the effective organization of payments in society (see the *Hessischer Rundfunk* judgment, paragraph 66). The Presidency would consider that possible examples include the prevention of money laundering and tax fraud, reduction of administrative burdens on public authorities/efficiency of public administration, including tax collection, protection of public health, combatting crime, security and safety.

- **The measures are appropriate for achieving those objectives:**
  The measures adopted must be suitable and effective in achieving the intended legitimate public interest goals. This requires a rational and demonstrable link between the restrictions imposed and the objectives pursued, ensuring that the measures are capable of producing the desired effect.

- **The measures are proportionate, meaning they do not exceed what is necessary:**
  Any restrictions must be limited strictly to what is necessary to achieve the legitimate objectives, avoiding undue or excessive burdens.

- **Other means for the payment of monetary debt must be available:**
  Member States must ensure the availability of accessible and practical alternatives to cash for the settlement of monetary obligations. Even where acceptance of cash is restricted, debtors must be able to discharge their payment obligations through other widely accepted and convenient means. This will include the digital euro, which will also be legal tender, once established and available.

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3. Exceptions to the obligation to accept cash in the legacy text from the Polish Presidency

Recital 4a and Article 2(4) of the Polish Presidency legacy text recognizes the existence of Member States competence and the conditions for their exercise in this context.

The Presidency notes that the Regulation will not affect the existence of own competences of the Member States. In other words, even after the adoption of the Regulation, the Member States will be able, subject to compliance with the above conditions, to adopt measures that may exclude the possibility of discharging a payment obligation in EU banknotes and coins. Such situations may include purchasing a ticket on board of public transport (possible justification: safety concerns), limiting acceptance of cash in fuel stations (especially in evening and night hours) (possible justification: safety and security).

Apart from the above national measures that may be adopted **at the level of each Member State**, the draft regulation sets out cases under which the mandatory acceptance of cash does not apply **at the level of the payer and the payee.**

The mandatory acceptance of cash shall not apply:

1. **In distance sales**, including online transactions; since these do not fall under the scope of application of the Regulation, see Article 2(2);

2. **Where the payer and the payee have, in accordance with applicable national law, agreed** on a different means of payment, see Article 5(1)(b);

3. Where the refusal is made in good faith, based on legitimate and temporary grounds, and it is proportionate in view of concrete circumstances beyond the control of the payee, see Article 5(1)(a). Such legitimate grounds may include cases:

    1. **Where the banknote tendered is of high denomination and clearly disproportionate** to the amount due; see Article 5(2)(i);

    2. **Where the payee is unable to provide sufficient change** at the time of the transaction; Article 5(2)(ii);

On the other hand, the Polish Presidency legacy text proposed in Article 4a establishes that *ex ante* unilateral exclusions of cash are prohibited in transactions where retailers or service providers offer goods and services in publicly accessible premises and where the consumer is physically present.

4. Member States discussion on unmanned points of sale

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Member States have discussed the exceptions to the mandatory acceptance of cash on several occasions, particularly in relation to unmanned points of sale. Several Member States have argued that the proposal on the mandatory acceptance of cash establishes that the obligation to accept cash generally applies to transactions where the consumer and the retailer are both physically present. For those Member States, the requirement of physical presence is a key condition for the cash acceptance obligation, as it would ensure direct and immediate contact between the customer and the retailer during the sale of goods or services. This condition would, according to those Member States, be crucial in determining when the obligation to accept cash applies.

In situations where there is no physical presence of the retailer, such as in unmanned points of sale, these Member States argue for establishing an exception from the cash acceptance obligation. This exception is in their view justified by the fact that there is no direct contact between the consumer and a sales assistant, which can pose practical and administrative challenges in handling cash payments. Such an exception would also be motivated by the need to avoid undue burdens in payment situations, particularly where payment occurs without physical interaction, for example, at vending machines, parking meters, some public transport environments or other unmanned points of sale.

The Presidency considers that this distinction between situations involving physical presence and those without a physical presence of the payee would ensure a balanced approach, maintaining the cash acceptance obligation in traditional sales with direct customer contact, while also accounting for technological and operational realities in more automated and unmanned points of sale.

There are different options to approach the issue of unmanned points of sale in the Regulation. The Presidency has identified different approaches, all aimed at identifying a pragmatic approach to the mandatory acceptance of cash where there is no physical presence of the retailer. The options described below would be without prejudice for Member States to enact more strict cash acceptance requirements in national law pursuant to their own competences and subject to the above conditions.

For discussions - options for a definition of unmanned point of sale

First of all, the Presidency believes there is a need to establish a definition of unmanned point of sale in order to facilitate legal clarity and ensure uniform understanding of what constitutes an unmanned point of sale. The definition must be clear, both with regard to what is understood by unmanned point of sale and in terms of its intended objectives, which must also be clearly spelled out.

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There are several considerations when defining unmanned points of sale. First of all, the definition must be sufficiently targeted to be legally consistent with the requirement of general cash acceptance, as explained above. A definition that would be too broad could undermine the above general principle as confirmed by the Court of Justice, and could thus leave Member States without the legal certainty pursued that is needed . At the same time, there might be advantages of a technology-neutral definition that can take into account future technological and societal developments, thus not hindering European innovation and allowing a minimum of administrative and operational burden for European businesses. Furthermore, the definition should take existing legal frameworks into consideration and be drafted in a way that does not lead to different interpretations in the Eurozone, and thus to a fragmentation in the understanding of what an unmanned point of sale is in practice.

The Presidency has identified three possible definitions as set out below. The first option can be considered as technologically neutral and very broad. However, such a broad definition risks undermining the objectives of the Regulation, in particular ensuring mandatory acceptance of cash in principle. Furthermore, the risk of differing interpretations of the definition is higher than for the two other options. On the other end of the spectrum, the third option is very narrow, targeting already-in-use technologies where cash acceptance is, in some cases, not considered mandatory. This option, however, may not allow for future technological and societal developments, thus potentially becoming a barrier for innovation in the future. The second option seeks to strike a balance between the two, thus allowing for a large degree of legal certainty while leaving some room for interpretation of future innovations.

New Article 3(13)

Option 1:

Unmanned point of sale means any physical location, facility, or system in which goods, services, or information are provided directly to the payer by or on behalf of the payee, without the continuous physical presence of staff or personnel, and where the payer independently initiates, accesses, or completes transactions, operations, or interactions with the payee, typically through automated systems, vending machines, kiosks, or similar technologies.

Option 2:

Unmanned point of sale means any physical device, facility, or system via which goods or services are provided directly to the payer by or on behalf of the payee, without the physical presence of any staff or agents of the payee, in return for payment. This includes vending machines, automated systems, terminals, or similar technologies.

Option 3:

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Unmanned point of sale means a vending machine, ticketing machine, self-service station, or similar devices via which goods or services are provided directly to the payer by or on behalf of the payee, without the physical presence of any staff or agents of the payee, in return for payment.

Question to Member States:

1. Which option would Member States prefer?

For discussions - options for a compromise on unmanned point of sale

Once a commonly agreed definition of unmanned points of sale has been achieved, the Presidency has identified different options of how to address them in the Regulation. While the Presidency acknowledges that the preferred approach is somewhat dependent on the final definition, we believe a discussion of the possible options is nonetheless needed at this stage in order to reach a final compromise on the single currency package. To this end, the Presidency has identified four options for Member States' consideration.

Option 1: Leave the matter of unmanned points of sale largely open to interpretation

One approach would be to amend Article 4a(1) and expanding the wording of recital 4b to clarify that, in unmanned points of sale like vending or ticketing machines, it is generally understood that a monetary debt is created and settled instantly when the payment is made by the user. As a result, it can be presumed that by choosing to buy at a machine that does not accept cash, the payer has agreed with the payee on a form of payment other than cash. This reflects the actual practice in such settings. This approach has the advantage of not imposing overly prescriptive rules, and avoiding excessively detailed regulation in a rapidly evolving technological area. However, this lack of specific guidance also has disadvantages, as it may not provide legal certainty up front, and risks inconsistent application of the obligation to accept cash across the Eurozone.

Addition to recital 4b

"(4b) The payer and payee may agree on a means of payment different from cash. The voluntary nature, and the existence of an agreement on the use of a different means of payment should be determined in accordance with the applicable national law of contracts. **In the case of unmanned points of sale (such as vending machines, ticketing machines, unmanned service stations et al.), a monetary debt from the payer to the payee is usually created and settled at the moment of payment. In these situations, where such machines do not accept cash but the payer proceeds with the transaction nevertheless, it can be considered that the payee and payer have agreed to accept a payment method other than cash.** Member States should regularly monitor that the use of this exception, in its overall effect, does not lead to widespread and structural refusals of cash that are undermining the principle of mandatory acceptance of cash across their territory.

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Where necessary, the Member States should take appropriate measures to ensure that the mandatory acceptance of euro banknotes and coins in their territory is upheld."

This recital would amount to an interpretation that an agreement exists between the payer and the payee for the purposes of Article 5(1)(b) of the Regulation. However, it would not resolve the issue relating to Article 4a. This issue could be resolved with one of two options below. The first option has the advantage of not imposing overly prescriptive rules, and avoiding excessively detailed regulation in a rapidly evolving technological area. However, the lack of specific guidance also has clear disadvantages, as it does not provide legal certainty up front and risks inconsistent application of the obligation to accept cash across the Eurozone. The second option provides legal clarity and predictability for operators of unmanned points of sale, ensuring clear rules for payment acceptance. However, the main drawback is its lack of flexibility, as the effectiveness of the regulation will largely depend on the chosen definition of an unmanned point of sale. This may limit its suitability for future technological advancements and changing societal needs.

Option 1.1

Addition to Article 4a(1)

"In order to ensure the mandatory acceptance of cash for the purpose of Article 4(2) and without prejudice to the exceptions provided in Article 5, ex ante unilateral exclusions of cash shall be prohibited in transactions where retailers or service providers offer goods and services in public premises and the consumer **and payee both are** ~~is~~ physically present."

Option 1.2

New Article 4a(3) would be inserted:

"This article shall not apply to unmanned point of sale."

Option 2: Introduce a specific exception of unmanned points of sale in the Regulation

The second approach would be to introduce an exception for unmanned point of sale in the Regulation. The exception must remain proportionate and not undermine the principle of mandatory cash acceptance. By specifically excluding unmanned point of sale from the scope through a well-delineated exemption, the Regulation would provide legal clarity and predictability, avoiding ambiguity and regulatory gaps associated with relying solely on the interpretation of primary law. Depending on the definition of unmanned points of sale, this approach would align with functional transaction realities, support harmonised application across jurisdictions, and strike a balance between legal certainty for service providers and the protection of consumers' rights to use cash. The main drawbacks of such an approach is, however, that it is less flexible since it will to a large extend depend on the chosen definition of unmanned point of sale, and thus may not be suitable

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for future technological and societal developments. For this approach to be acceptable the objective of such an exception as well as the proportionality of that exception to that objective would need to be justified in a recital. Importantly, the scope of the exclusion would need to targeted in such a manner as not to undermine the objectives of the Regulation.

New article 5(1)(c) would be inserted:

"(c) where the point of sale is an unmanned point of sale."

Option 3: Possibility of refusing cash if another legal tender is accepted

A third option is to introduce a new article which would address payment situations at unmanned points of sale. The new article would allow payees in these contexts to refuse cash payments on condition that they accept the digital euro, which will be a form of the euro with legal tender status. This solution offers the advantage of clarifying the legal understanding of how payment obligations are formed and fulfilled in unmanned environments. However, a potential drawback is that the process of implementing such a solution could become quite burdensome, demanding significant time, effort, and resources. A long transition period could somewhat alleviate this risk which would furthermore allow the digital euro to materialise. Introducing such an Article may also send the opposite signal that was intended by the Regulation, namely to continue ensuring the use of cash as means of payment in the Eurozone. For this option to be implemented, the Presidency proposes the following:

New Article 5(1)(d) would be inserted:

"Where the point of sale is an unmanned point of sale that accepts payments in the digital euro."

Addition to recital 5

"(5) The acceptance of euro banknotes and coins tendered as means of payment can exceptionally be refused if the refusal is made in good faith, based on legitimate grounds and concrete circumstances, which are beyond the control of the payee, and if the refusal is proportionate. For example, the refusal can be justified if for the settlement of a monetary debt the tendered euro banknote is disproportionate compared to the amount owed to the payee, such as the tendering of a two hundred euro banknote for the settlement of a debt of less than five euro. In accordance with Council Regulation 974/98, except for the issuing authority and for those persons specifically designated by the national legislation of the issuing Member State, no party should be obliged to accept more than 50 coins in any single payment. **The digital euro is perfectly adapted to situations like vending machines, ticketing machines, unmanned service stations or other modalities of payment where the payer is present but the payee is not present. In such cases, if the payee is already accepting digital euro, it is not necessary to require that euro cash also be accepted."**

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Option 4: Require cash acceptance at unmanned points of sale while introducing a grandfathering clause for existing unmanned points of sale

Another option would be to apply mandatory acceptance of cash at unmanned points of sale in the entire Eurozone. This option will clearly respect the objectives of the Regulation, provide legal certainty and ensure uniform application across the Eurozone. However, it would also entail substantial implementation costs, as many unmanned points of sale is already today in practice operating cashless. It will also disable EU businesses to adapt to changing technological and societal developments and lead to higher running costs for EU businesses, with the risk of seriously undermining European competitiveness. Should such an approach, however, be favored by Member States, the cost of transitioning for currently cashless points of sale could be alleviated via a grandfathering clause, exempting these unmanned points of sale from the cash obligation. This would be implemented via a new recital and article:

"(new) Given that retrofitting of existing unmanned points of sale, such as vending machines, ticketing machines or unmanned service stations to accept cash would entail disproportionate costs and given that the acceptance of cash in the existing unmanned points of sale cannot be considered to be necessary for the use of the euro as a single currency, it is appropriate to provide that machines and stations that have been put into operation before the entry into force of this Regulation should be exempted from the mandatory acceptance of cash.

New article 16 – Transitional provisions:

"Unmanned points of sale that have been put to operation prior to the date of entry into force of this Regulation shall not be subject to mandatory acceptance pursuant to Article 2. the."

Question to Member States:

2. Member States are invited to share their views on the proposed options, including stating which option they would prefer.