



Council of the European Union
General Secretariat

**Interinstitutional files:
2023/0208 (COD)**

Brussels, 15 January 2025

WK 16323/2024 REV 1

LIMITE

ECOFIN

EF

UEM

CODEC

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

WORKING DOCUMENT

From: General Secretariat of the Council
To: Working Party on Financial Services and the Banking Union (Digital Euro Package)
Financial Services Attachés

Subject: Single Currency Package - Presidency drafting suggestions on LTCR (ddl 29 November 2024) - consolidated replies by 19 Member States

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>2023/0208 (COD) Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the legal tender of euro banknotes and coins</p>	<p>2023/0208 (COD) Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the legal tender of euro banknotes and coins</p>	<p>DE (Member States Comments): General comments: We would like to thank the Hungarian Presidency for their efforts to explore potential common ground for compromise on this issue. The Presidency’s proposal contains some elements – namely in Article 4 (2) and Article 5 (1) (b) – that point into the right direction. These changes seem to underline the general principle – as reflected in the 2010 Commission Recommendation – that parties can diverge from the principle of accepting cash by means of an agreement under the applicable national law. However, some other amendments – most prominently in the new Recital 5a – seem to counteract these improvements and thus further work on the alignment of the Recitals and the core text seems pertinent. First, we acknowledge the changes made in Article 4 (2) and – very importantly – the crucial changes applied to the definition of ex ante unilateral exclusions in Article 3. However, we have difficulties understanding the exact legal implications of Articles 4 and 5 as well as the relationship</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>between the new Recitals 4b, 4c and 5a. We appreciate the attempt by the Presidency to find potential space for a compromise. Recital 4b seems to pave a way for such compromise. Recital 4b seems to build on the logic of the initial COM proposal and the former Recital 6. We welcome thinking along these lines, leaving it to MS whether or not to regulate more strict obligations to accept cash.</p> <p>We continue to suspect that a concept which makes an absolute/hard mandatory acceptance the rule for all payees (including public authorities, private companies, individuals) in all circumstances and only carves out certain situations (in Article 5), is likely to miss out important use cases.</p> <p>We are concerned that an absolute mandatory acceptance for any retail transactions could likely impose excessive burdens on the payees in relation to the objective sought be achieved. It might stipulate an obligation to accept cash that is impractical and will likely have adverse effects. In addition, it might lead to the introduction of a de facto prohibition of the usage of standard and consumer contracts concerning cash payments. This would significantly impact the freedom of contract and the freedom of payees (not) to conduct business with a payer.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>We shall refrain from prohibiting certain specific contractual practices by merchants. Instead, the principle of proportionality must be respected.</p> <p>We have difficulties recognising how the prohibition of ex ante unilateral exclusions would be necessary. When assessing whether or not an obligation to accept cash and the proposal is proportionate, it must be considered that the Commission proposal foresees clear obligations vis-à-vis Member States to ensure availability of cash and access to it. Asking Member States to ensure access to cash and its availability – both constituting the corner stones of the Commission proposal – certainly is a means suitable to ensure that euro cash is being safeguarded. However, this must be duly taken into account when assessing (complementing) strict acceptance obligations and the overall proportionality of the Proposal. Thus, we are wondering to what extend a strict mandatory acceptance and, eventually, the possibility for payers to unilaterally impose cash as means of payment on the payee (Recital 5a seems to point in this direction) is truly necessary.</p> <p>In this respect, we take note that recently several MS adopted national measures in order to strengthen cash. In</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		most cases, such measures addressed the access to cash – not the acceptance of cash. Notably, also the COM President, Ms. Von der Leyen, in her mission letter to the incoming Commissioner Dombrovskis, asked the Commissioner to ensure ‘access to cash’. Mandatory acceptance of cash was not mentioned.
THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	<i>(unchanged)</i>	
Having regard to the Treaty on the functioning of the European Union and in particular Article 133,	<i>(unchanged)</i>	
Having regard to the proposal from the European Commission,	<i>(unchanged)</i>	
Having regard to the opinion of the European Central Bank,	<i>(unchanged)</i>	
Acting in accordance with the ordinary legislative procedure,	<i>(unchanged)</i>	
Whereas:	<i>(unchanged)</i>	

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

Deadline: 29 November 2024

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
(1) According to Article 3(1), point (c), of the Treaty on the Functioning of the European Union (TFEU), the Union has exclusive competence as regards monetary policy for the Member States whose currency is the euro.	<i>(unchanged)</i>	
(2) Pursuant to Article 128(1) of the Treaty on the Functioning of the European Union and Article 10 of Council Regulation (EC) No 974/98 ¹ the euro banknotes are to be the only banknotes which have the status of legal tender in Member States whose currency is the euro. Pursuant to Article 11 of Regulation (EC) No 974/98, euro coins shall be the only coins which have the status of legal tender in the Member States whose currency is the euro.	<i>(unchanged)</i>	
(3) Commission Recommendation on the scope and effects of legal tender of euro banknotes and coins ² provides for a common definition of legal tender of euro banknotes and coins.	(3) Commission Recommendation 2010/191/EU of 22 March 2010 on the scope and effects of legal tender of	CZ (Member States Comments): CZ: We agree. ES

¹ Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro (OJ L139, 11.5.1998, p.1).

² OJ L83, 30.3.2010, p.70.

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
	euro banknotes and coins ³ provides for a common definition of legal tender of euro banknotes and coins.	<p>(Member States Comments):</p> <p>We agree, it is in line with ES PCY proposal</p> <p>FI (Member States Comments): ok</p> <p>MT (Member States Comments): Malta is suggesting the below amendment: ‘Commission Recommendation 2010/191/EU of 22 March 2010 on the scope and effects of legal tender of euro banknotes and coins³ provides for a common definition of legal tender of euro banknotes and, coins <u>and its digital format</u>’.</p> <p>NL (Member States Comments): We support the Presidency’s proposal.</p> <p>SI (Member States Comments): We agree with this additional clarification.</p>

³ OJ L83, 30.3.2010, p.70.

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

Deadline: 29 November 2024

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>(4) In a judgment of 26 January 2021⁴, the Court of Justice of the European Union clarified that the concept of ‘legal tender’ mentioned in Article 128(1) TFEU is a concept of Union law that must be given an autonomous and uniform interpretation throughout the EU⁵. Secondly, the Court held that the concept of ‘legal tender’ of a means of payment denominated in a currency unit signifies that “that means of payment cannot generally be refused in settlement of a debt denominated in the same currency unit, at its full face value, and without surcharges for the payer, with the effect of discharging the debt”⁶. Thirdly, the Court stated that an obligation to accept euro banknotes and coins may, in principle, be restricted by the Member States whose currency is the euro for reasons of public interest and pursuant to their competences outside of the area of</p>	<p>(4) In a judgment of 26 January 2021⁸, the Court of Justice of the European Union clarified that the concept of ‘legal tender’ mentioned in Article 128(1) TFEU is a concept of Union law that must be given an autonomous and uniform interpretation throughout the EU⁹. Secondly, the Court held that the concept of ‘legal tender’ of a means of payment denominated in a currency unit signifies that “that means of payment cannot generally be refused in settlement of a debt denominated in the same currency unit, at its full face value, and without surcharges for the payer, with the effect of discharging the debt”¹⁰.</p> <p><i>[following sentence adapted and moved to first part of new recital (4a)]</i></p>	<p>FI (Member States Comments): ok</p> <p>MT (Member States Comments): Malta agrees with the changes made.</p> <p>NL (Member States Comments): We support the Presidency’s proposal of reallocating this text to a new recital.</p>

⁴ See judgment of 26 January 2021 in Joined Cases C-422/19 and C-423/19, *Hessischer Rundfunk*, EU:C:2021:63

⁵ See judgment of 26 January 2021 in Joined Cases C-422/19 and C-423/19, *Hessischer Rundfunk*, EU:C:2021:63, point45

⁶ See judgment of 26 January 2021 in Joined Cases C-422/19 and C-423/19, *Hessischer Rundfunk*, EU:C:2021:63, point 46.

⁸ See judgment of 26 January 2021 in Joined Cases C-422/19 and C-423/19, *Hessischer Rundfunk*, EU:C:2021:63

⁹ See judgment of 26 January 2021 in Joined Cases C-422/19 and C-423/19, *Hessischer Rundfunk*, EU:C:2021:63, point45

¹⁰ See judgment of 26 January 2021 in Joined Cases C-422/19 and C-423/19, *Hessischer Rundfunk*, EU:C:2021:63, point 46.

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
monetary law and policy and of other exclusive Union competences, provided those restrictions are justified by a public interest objective and proportionate to it ⁷ .		
	<p>(4a) As acknowledged in the relevant case law¹¹, the mandatory acceptance of euro banknotes and coins may be restricted by the Member States whose currency is the euro for reasons of public interest and pursuant to their own competences outside of the area of monetary law and policy and of other exclusive Union competences, provided those restrictions are justified by a public interest objective and proportionate to it. Such exercise of own competences in a public interest includes the organisation of the public administration by regulating, under public or private law, the procedures for settling pecuniary obligations towards the public administration.</p>	<p>AT (Member States Comments): AT: We understand that the intention behind the changes to Art 2 (4) as well as recitals 4a and 4c is to provide more clarity. We appreciate this intention.</p> <p>CZ (Member States Comments): CZ: We agree.</p> <p>EE (Member States Comments): EE: Agree.</p> <p>ES (Member States Comments): Agree. We support to introduce a new recital on this issue to make as clear and explicit as possible in recitals that MS</p>

⁷ See judgment of 26 January 2021 in Joined Cases C-422/19 and C-423/19, *Hessischer Rundfunk*, EU:C:2021:63, points 67 and 68.

¹¹ See judgment of 26 January 2021 in Joined Cases C-422/19 and C-423/19, *Hessischer Rundfunk*, EU:C:2021:63, points 67 and 68.

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>have the power to adopt national exceptions pursuant to their own competences as set out in the <i>Hessischer Rundfunk</i> case law.</p> <p>Recital 4c gives examples on this so it should go right after.</p> <p>FI (Member States Comments): ok. Given the heterogeneity of payment habits among Member States in the EU, we do not see the practical merits to aim at 100% mandatory acceptance of cash everywhere. Also retaining the freedom of contract, at least to certain extent, is supportable from the practical perspective.</p> <p>FR (Member States Comments): France supports this amendment in line with <i>Hessischer Rundfunk</i>, and that the restriction is justified on grounds of public interest and pursuant to MS competences.</p> <p>IT (Member States Comments): IT. We continue to strongly support this recital.</p> <p>LT (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>For clarity purposes it would be preferable to maintain Recital (10) proposed by BE presidency:</p> <p>“(10) The Court case law states that an obligation to accept euro banknotes and coins may, in principle, be restricted by the Member States whose currency is the euro for reasons of public interest and pursuant to their competences outside of the area of monetary law and policy and of other exclusive Union competences, provided those restrictions are justified by a public interest objective and proportionate to it . The exercise of the Member States’ own competences include the regulation of the procedures for settling pecuniary obligations, whether under public law or private law. To that effect, Member States may, within the limits of their own competence, regulate the procedures for settling pecuniary debts and adopt explicit legislative restrictions to the principle of mandatory acceptance of euro banknotes and coins, provided that other means for the payment of monetary debts are available, when that legislation: i) does not have the object or effect of establishing legal rules governing the status of legal tender of euro banknotes and coins, ii) does not lead, in law or in fact, to abolition of euro banknotes and coins, iii) has been adopted for reasons of</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>legitimate public interest, iv) only entails a limitation on payments in euro banknotes and coins that is appropriate for attaining the public interest objective pursued, v) only entails a limitation on payments in euro banknotes and coins that does not go beyond what is necessary in order to achieve the public interest objective. For instance, Member States may adopt such legislation for the organisation of their public administration or when regulating public policy relating to security or the fight against crime provided that the legislation is appropriate for attaining the legitimate objectives pursued and that it does not go beyond what is necessary in order to achieve those objectives.”</p> <p>NL (Member States Comments): We would suggest to add the sentence ‘<i>This Regulation is without prejudice to those competences of the Member States</i>’ to align this recital with article 2.4. <i>(4a) As acknowledged in the relevant case law, the mandatory acceptance of euro banknotes and coins may be restricted by the Member States whose currency is the euro for reasons of public interest and pursuant to their own competences outside of the area of monetary law and policy and of other exclusive Union competences, provided those restrictions are justified by a public interest objective and</i></p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p><i>proportionate to it. Such exercise of own competences in a public interest includes the organisation of the public administration by regulating, under public or private law, the procedures for settling pecuniary obligations towards the public administration. This Regulation is without prejudice to those competences of the Member States.</i></p> <p>SI (Member States Comments):</p> <p>We do not oppose that Recital 4 as initially proposed by the Commission is split into two parts, but we do not support to extend its content as currently proposed by HU presidency. Despite being part of the relevant case law (although only on one such case), we propose to delete the added text “Such exercise of own competences in a public interest includes the organisation of the public administration by regulating, under public or private law, the procedures for settling pecuniary obligations towards the public administration.” as in our opinion this gives further ideas to organisations / entities to restrict cash payments and to potentially undermine the legal tender status of cash in the long term. In our opinion public entities have the same obligation for accepting cash payments as other businesses (payees). Even more so as they are public entities and as such should serve</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>citizens and their preferences. In our opinion, restrictions to cash acceptance in the public interest should not be subject of convenience.</p>
	<p>(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. Member States should regularly monitor that the use of this exception, in its overall effect, does not lead to unjustified or disproportionate restrictions on the mandatory acceptance of cash across their territory. 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.</p>	<p>AT (Member States Comments): AT: The possibility to rely on freedom of contract should not be made dependent on whether it leads to “<i>unjustified or disproportionate restrictions</i>” on the mandatory acceptance of cash.</p> <p>CZ (Member States Comments): CZ: Generally, we support the possibility of payer and payee to agree on different means of payment. Anyway, if there is a contractual freedom guaranteed by the first sentence, what exactly means the third and fourth sentences? Does it mean, that even if there is the will of both the payer and payee on the use of different means of payment, the NCB can restrictively prohibit such agreement in order to force an increase in the level of cash usage?</p> <p>DE (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>DEU Proposal:</p> <p>(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. Member States should regularly monitor that the use of this exception, in its overall effect, does not lead to unjustified or disproportionate restrictions on the mandatory acceptance of cash across their territory. 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.</p> <p>(Explanation)</p> <p>We propose to keep the proposal by the ESP PCY. In general, monitoring obligations by Member States are addressed already by Articles 7 and 8.</p> <p>EE (Member States Comments): EE: Agree.</p> <p>ES (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>The agreement on a different means of payment will be formalized according to national law. This will be the case regardless on whether it is stated here or not. It adds clarity and therefore we support it.</p> <p>We also support the obligation to monitor the exception to ensure that there is no abuse of the exception affecting a correct functioning of the mandatory acceptance. However, given that no cash signs are explicitly prohibited, we see that there is less room for possible abuses of this exception.</p> <p>Since this exception is related to the one contained in recital 5a, referring to unilateral exclusions, we would modify the order, introducing 5a right after this recital 4b.</p> <p>FI (Member States Comments): ok. See above.</p> <p>FR (Member States Comments): FR : France is not opposed to a differentiated application of the practice of ‘no cash signs’ but it is important to underline that :</p> <p>1) Using the concept of agreement may not be the best approach to solving this problem (see our comments below)</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>2) The recital requires restrictions to be justified and proportionate because the exception in Article 5(1)(b) raises concerns about effectively protecting the legal tender status of currency.</p> <p>This exception entails the risk that economic operators will adopt practices which de facto circumvent the general principle set out in recital (5a), thereby creating a policy of almost systematic exclusion. This contradiction could considerably weaken the effectiveness of the Regulation and lead to a further marginalisation of cash payments, particularly in the retail sector, which is the sector where cash is most widely used.</p> <p>In order to ensure that exceptions are limited to exceptional situations, we question the value of introducing in level 1 of the text the fact that this exception may not lead to unjustified or disproportionate restrictions.</p> <p>HR (Member States Comments):</p> <p>HR: We suggest emphasising that ex ante exclusions are not subject to interpretations based on national law, as it is already stipulated in the regulation that they are prohibited.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>Consequently, the second sentence of the recital should be amended to read:</p> <p>"Except for 'ex ante unilateral exclusions of cash', which are consistently prohibited, the voluntary nature and the existence of an agreement on the use of an alternative payment methods in other instances should be ascertained in accordance with the applicable national contract law.</p> <p>IT (Member States Comments):</p> <p>IT. We question the meaning and the implications of the reference to “<i>Member States should regularly monitor that the use of this exception, in its overall effect, does not lead to unjustified or disproportionate restrictions on the mandatory acceptance of cash across their territory</i>” related to contractual freedom. The implications of this sentence are unclear and can potentially interfere with the regulation of contract law, which is under the competence of each Member State. Indeed, it seems to imply that there could be a case in which, despite the payer and payee have freely agreed on a means of payment different from cash, there could be a restriction of contractual freedom if their agreement have a disproportionate effect. We cannot agree on this interpretation. If, according to national law, the</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>contract has been validly concluded and the parties have freely agreed on a specific means of payment, there cannot be any kind of external evaluation on the proportionality of the agreement.</p> <p>Furthermore, the reference to the monitoring obligation related to the mutual consent remains ambiguous. It is not clear what NCAs are expected to monitor (Every single agreement? How?). We should be as pragmatic as possible in establishing this monitoring obligation, looking at the information NCAs can access. Therefore, at this stage we continue to prefer the wording of recital 4b as agreed under the ES PCY, and suggest the following amendments (in red):</p> <p>“(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. Member States should regularly monitor that the use of this exception, in its overall effect, does not lead to unjustified or disproportionate restrictions on the mandatory acceptance of cash across their territory. Where necessary, the Member States should take appropriate</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>measures to ensure that the mandatory acceptance of euro banknotes and coins in their territory is upheld.”</p> <p>LT (Member States Comments):</p> <p>Statement “<i>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</i>” seems to contradict with Recital (4): “the Court of Justice of the European Union clarified that the concept of ‘legal tender’ mentioned in Article 128(1) TFEU is a concept of Union law that must be given an autonomous and uniform interpretation throughout the EU. <...> the concept of ‘legal tender’ of a means of payment denominated in a currency unit signifies that “that means of payment cannot generally be refused <...>”. The reference to applicable national laws imposes the risk that the status of cash will not be unanimous across Member States, for example, “No cash” signs could be widely used in some Member States.</p> <p>Separately, in this paragraph the voluntary agreement on the use of means of payment different from cash, concluded in accordance with applicable national law, is called <u>an exception</u>. Member States should: a) “...regularly monitor</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p><...> <i>the use of this exception...</i>"; and b) take appropriate measures to remedy the excessive use of those exceptions. Theoretically, if applicable national law allows refusing cash for payments in certain cases, this is not an exception anymore, but becomes regular situation. Therefore, it seems that Member States are asked to monitor compliant cases (legitimately refused payments in cash), and if they are too many, Member States should take an action, which might be the amendment of that same national law. This would mean that: a) the law was initially incorrect; and b) <u>the reason for amending</u> the law should be <u>too many compliant cases</u> with that law. All in all, suggested approach might create confusion, and weaken the legal tender status of euro cash even more, contrary to the initial aim of this Regulation to strengthen that status.</p> <p>Please see below suggested editorial changes:</p> <p>“(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. Member States should regularly monitor that the use of this exception, in its overall effect, does not lead to unjustified or disproportionate restrictions</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>on the mandatory acceptance of cash across their territory. 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.”</p> <p>NL (Member States Comments): We support the inclusion of 4b and the reference to the applicable national law of contracts.</p> <p>SI (Member States Comments): In principle we do not oppose to this new Recital 4b, whereby we want to raise our concerns that references to the applicable national law of contracts and/or other national legislation, could probably lead to heterogeneous cash acceptance rules / practices across Euro Area (EA) countries. It means the concept of mandatory acceptance of cash would not be equally implemented across EA countries. Although, we would see it important that these rules would be applied in a harmonised manner across EA, we are ready to support this compromise text.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
	<p>(4c) For recurring payments or advances to receive from payees, it is common that cash is not used. Gas, water, electricity and telecom providers, insurance companies, tax authorities, etc. are receiving on a monthly, quarterly or yearly basis very large numbers of payments from clients and citizens. The European Court of Justice has recognized that Member States may, in the exercise of their own competence, adopt restrictions on the use of cash where the public interest pursued consists of ensuring that monetary debts to public authorities are honoured in a way that does not involve those authorities in unreasonable expense which would prevent them from providing services cost-effectively.</p>	<p>AT (Member States Comments): AT: We understand that the intention behind the changes to Art 2 (4) and recitals 4a and 4c is to provide more clarity. We appreciate this intention. However, it would be more efficient to exclude several recurring payments from the scope of mandatory acceptance. This way, there would be no need to exclude for example the recurring payment examples in the private sphere based on additional national civil law legislation.</p> <p>BE (Member States Comments): ‘tax authorities’ - doesn't this notion fall under recital 4a?</p> <p>Gas, water, electricity and telecom providers, insurance companies, etc. - in what way do private companies fall within the concept of ‘public authorities’? this needs to be clarified</p> <p>CZ (Member States Comments): CZ: We agree.</p> <p>DE</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>(Member States Comments):</p> <p>DEU Proposal:</p> <p>(4c) For recurring payments or advances to receive from payees, it is common that cash is not used. Gas, water, electricity and telecom providers, insurance companies, tax authorities, etc. are receiving on a monthly, quarterly or yearly basis very large numbers of payments from clients and citizens. <u>In these situations, payer and payee regularly agree on a means of payment different from cash, often by using standard contractual terms. This Regulation is without prejudice to such contractual practices. In addition,</u> the European Court of Justice has recognized that Member States may, in the exercise of their own competence, adopt restrictions on the use of cash where the public interest pursued consists of ensuring that monetary debts to public authorities are honoured in a way that does not involve those authorities in unreasonable expense which would prevent them from providing services cost-effectively-</p> <p>[see also Proposal for a new definition of ‘retail transaction’]</p> <p>(Explanation)</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>We continue to believe that the Proposal does not adequately address the important issue of recurring payments. We would need to understand better, how Recital 4c interacts with the definition of ex ante unilateral exclusions and how this is mirrored in the main text.</p> <p>We are concerned that the reference to Hessischer Rundfunk doesn't fully address this issue. In Hessischer Rundfunk, the Court grants MS the possibility to adopt restrictions on cash acceptance if proportionate and "in the public interest". We have difficulties understanding how any national regulation "in the public interest" would address these cases. <u>Additionally, such restrictions at national level would need to be adopted first.</u> In Germany, such rules for private parties do not exist. <u>We are concerned that MS would be forced to adopt very complicated and far-reaching national civil law legislation due to this understanding. Therefore, such recurring payments should be excluded from the scope of the Regulation.</u></p> <p>However, with regard to possible restrictions on the use of cash imposed by the Member States, e.g. concerning payments to tax authorities, reference could continue to be made to the case law of the ECJ.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>EE (Member States Comments): EE: Agree.</p> <p>EL (Member States Comments): EL: As a preliminary remark, we note that this recital is not reflected in the main text of the Regulation. Nonetheless, we consider this absolute exception to be disproportionate and find its inclusion, even in a recital, to be problematic. In our experience, many individuals—particularly older generations and other vulnerable groups—continue to prefer settling their bills in cash. This exception could therefore disadvantage such individuals, who are often unbanked (see also recital 14 of the Regulation). Moreover, the Regulation already addresses the possibility for Member States to impose restrictions on cash usage in line with ECJ case law (see recital 4a and Article 2(4)). In light of these considerations, we do not see the added value of this recital and suggest deleting it.</p> <p>ES (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>These are examples of exceptions that can be introduced by Member States, referred to in recital 4a, so we would put this recital right after 4a.</p> <p>We appreciate that the text gives clarity in recitals to the type of exceptions that MS can introduce in the exercise of their own competences for public interest objectives. We nevertheless do not consider that cost-efficiency is sufficient enough to be considered of public interest that a merchant does not accept cash. Basic utilities such as water, or electricity, or tax payments are services to which all citizens should have access and not only people with bank access. These companies can easily enter into agreements with banks to allow cash payments in branches, without the need to require that citizens have accounts to make these recurrent payments.</p> <p>For other services, we do not want, however, that companies have incentives to close physical premises and only sell online to avoid the mandatory acceptance of cash. The loss of sales that this would imply will however most probably pre-empt this from happening.</p> <p>FI (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>ok. See above.</p> <p>FR (Member States Comments): FR : Strongly disagree</p> <p>France proposes the deletion of this recital which calls into question current practice in France regarding the obligation to accept cash, including for gas and electricity operators. It would therefore reduce the protection.</p> <p>The scope of cash protection may be questioned if an entire sector of the economy (distance selling) is excluded from its scope and the possibility of derogating from it for retail sales is accepted (recital 4b).</p> <p>It is preferable to take account of these situations through the existing exceptions.</p> <p>HR (Member States Comments): HR: This recital is unnecessary as it essentially repeats and potentially elaborates on recital 4(a), which could result in the establishment of a no-cash policy for recurring payments in member states. Therefore, we recommend its removal.</p> <p>IE (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>IE notes that recital 4c and recital 14 are not aligned in terms of their intentions. Recital 14 refers to financial inclusion yet recital 4c could be interpreted as encouraging the implementation of measures that would harm financial inclusion by allowing Member States to restrict the use of cash to pay for utilities and basic necessary services. In October 2024, Ireland’s new National Payments Strategy requires all Irish Government Departments and bodies under their aegis accept electronic and cash payments, or facilitate cash payments via a third party. It is critical that nothing in this regulation interferes with this or the ability of Member States to introduce cash acceptance measures in critical sectors or services in the interests of financial inclusion.</p> <p>IT (Member States Comments): IT. We do not support recital 4c. First, it is not clear the reason why this recital has been kept, considering that there is not any correspondent exception in article 5 and that a specific regime for the public administration is already provided by recital 4a) in line with the statements of the European Court of Justice. Furthermore, these specific exceptions are not of a monetary nature, thus going beyond</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>the legal basis of art. 133 TFEU. Plus, it could imply different interpretation, thus jeopardizing the application of the regulation (for instance, when “numbers of periodical payments or advances to receive from payees” could be seen as “large”?). Lastly, as for the rationale behind the provision, doubts could be raised regarding the choice to apply the same treatment to non-comparable situations, such as public administrations or public services operators and insurance companies. Therefore, we ask for its deletion.</p> <p>LT (Member States Comments): It is indicated in this Recital, that “Member States may, in the exercise of their own competence, adopt restrictions on the use of cash <...> ensuring that monetary debts to public authorities are honoured in a way that does not involve those authorities in unreasonable expense <...>.” Recital (10) proposed by BE Presidency did not emphasize that restrictions on the use of cash, as they are defined by European Court of Justice, would apply to public authorities only. Therefore, it would be preferable to remove the reference to public authorities if this is in alignment with the judgement of European Court of Justice.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>If that is not possible, Recital (4c) should be revised, because restrictions to use cash for settlements with gas, water, electricity, telecom providers, which are private entities, would not comply with the judgment European Court of Justice in this case.</p> <p>NL (Member States Comments): We support the Presidency’s proposal.</p> <p>PT (Member States Comments): This new Recital raises strong concerns, and we strongly advocate for the deletion of the first two sentences.</p> <p>First, the terms “<i>recurring payments</i>” and “<i>advances</i>” are not further explained in this Regulation. The specific content of these references may not be sufficiently clear, potentially resulting in broadening the scope of situations referred to in this Recital. Moreover, this sentence appears to suggest that cash is rarely used for this type of payments – i.e., for recurring payments or advances – which may not adequately reflect the different realities across Member States.</p> <p>Second, we do not agree with the identification of certain sectors that provide basic services, such as gas, water,</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>electricity, and others. We believe that identifying certain sectors may lead to unwarranted effects as the dissemination of cash refusals. Therefore, we consider that this sentence should also be deleted.</p> <p>Lastly, we do not oppose to maintaining the third sentence, as suggested below, since we believe it adequately captures the restrictions and conditions specified in case law <i>Hessischer Rundfunk</i>, which states that: (i) “<i>such restrictions must be proportionate to the public interest objective pursued</i>” (paragraph 68); and (ii) “<i>(...) it is indeed in the public interest that monetary debts to public authorities may be honoured in a way that does not involve those authorities in unreasonable expense which would prevent them from providing services cost-effectively</i>” (paragraph 73).</p> <p><u>Drafting suggestion:</u></p> <p>“(4c) For recurring payments or advances to receive from payees, it is common that cash is not used. Gas, water, electricity and telecom providers, insurance companies, tax authorities, etc. are receiving on a monthly, quarterly or yearly basis very large numbers of payments from clients and citizens. The European Court of Justice has</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>recognized that Member States may, in the exercise of their own competence, adopt restrictions on the use of cash where the public interest pursued consists of ensuring that monetary debts to public authorities are honoured in a way that does not involve those authorities in unreasonable expense which would prevent them from providing services cost-effectively.”</p> <p>SI (Member States Comments):</p> <p>We do not support adding this new Recital 4c. For the purpose of this LTCR we do not see any added value with adding such text, rather it gives ideas to businesses (payees) and other public entities to refuse cash payments and to potentially undermine the legal tender status of cash in the long term. We oppose to including such references also due to the fact that these practices are indeed current and may not be relevant in the years to come. We propose to delete this Recital 4c.</p> <p>Please also refer to our comment on Recital 4a.</p>
<p>(5) The acceptance of euro banknotes and coins tendered as means of payment can exceptionally be refused</p>	<p><i>(unchanged)</i></p>	<p>BE (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>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.</p>		<p>It could be good to give other examples of “exceptional refusal” and to stress the fact that it should be temporary : ex.: when security system is temporarily out of order, refusals are ok but only pending repair and for the duration of the repair.</p> <p>DE (Member States Comments):</p> <p>In general, we are reluctant to grant to support to this amendment.</p> <p>In light of the comments made by the Legal Service of the Commission, the ECB and the Legal Service of the Council, we understand that regulating in all detail possible exceptions to the mandatory acceptance of cash, could have intrinsic legal boundaries. Therefore, we invite the POL PCY to explore ways how to balance out the two key principles, i.e. mandatory acceptance of cash and the freedom to act (contractual freedom), in a more general and more abstract way without entering into highly granular levels of regulating all possible circumstances. The Commission Recommendation of 22 March 2010</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>(2010/191/EU) might serve as a good starting point in this respect.</p> <p>ES (Member States Comments): To align with the exception mentioned in article 5.1.(a) we would include the reference to temporary grounds (instead of concrete circumstances)</p> <p>FR (Member States Comments): FR: France supported the amendment proposed by the Belgian Presidency (new recital 7), which made it possible to provide useful information on the conditions and/or circumstances that could justify a refusal.</p>
	<p>(5a) Mandatory acceptance of euro cash is a key principle of legal tender. Therefore, retailers or service providers should not be able to unilaterally exclude cash as a payment method ex ante, for example by displaying a ‘no cash’ sign. However, retailers or service providers should be able to indicate their preference to receive payments by card or electronic means, for example by clearly displaying a sign</p>	<p>AT (Member States Comments): AT: While we acknowledge the efforts to enable purchases of goods or services with electronic means of payment, we think that the proposal, particularly as expressed in recital 5a, is not sufficiently flexible, reliable and practical. First and foremost, it lacks flexibility as payees (e.g. businesses) would still have to accept all cash</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
	<p>‘electronic means of payment preferred’. Should the payer agree to pay by electronic means, in line with such an expressed preference, it should be considered, in accordance with applicable national law, that an agreement on the use of a different means of payment was validly concluded. However, where, in spite of the expressed preference of the retailer or the service provider, the payer prefers to discharge a payment obligation by using euro cash, the retailer or the service provider should respect this choice. Competent authorities should monitor refusals to accept cash as means of payment. For instance, ‘cards preferred’ signs and exceptions foreseen in this Recital, under the principle of good faith, should not be used by payees to, in practice, refuse cash payments, in all circumstances. Member States should ensure that payers have the possibility to complain to the competent authority if they consider that the principle of mandatory acceptance of cash was not respected.</p>	<p>payments, if a payer insists on them. Thus, all payees would have to have a cash handling system, although it might only be used by a tiny minority of customers. Secondly, it lacks reliability, as the solution is only contained in recital 5a and not in one of the provisions of the Regulation. Thirdly, it could give rise to a number of legal disputes concerning the transparency of “electronic payments preferred” signs.</p> <p>In addition, the explicit ban of unilateral exclusions of cash could be in violation of the principle of freedom of contract. This principle enables a free choice of whether somebody wants to enter into a contract with a particular person. If a payer can insist on cash payments according to the compromise proposal, the payee will not have the freedom to choose whether he wants to enter into a contract with that particular person in the first place. Such drastic market intervention must be carefully assessed and is usually only justified in a very limited number of scenarios including services where there is a monopoly of a certain service provider (e.g. electricity, water, etc). If the right to insist on cash payments is disproportionately extensive, this would be in conflict with the exception to the mandatory acceptance obligation based on freedom of contract. This means that there is a substantial risk that the freedom to</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>conduct a business as enshrined in Article 16 of the Charter of Fundamental Rights of the European Union and national constitutional rights is not sufficiently respected. As has been pointed out by some Member States and the Council Legal Service in the Council Working Party, any compromise solution should respect the freedom of contract by not forcing a contract on the payee in a disproportionate manner.</p> <p>BE (Member States Comments):</p> <p>If the ratio legis is to exclude ‘ex ante unilateral exclusions’ only in the retail transaction, it would be clearer if we use the notion of “trader” defined in the right of consumers’ protection (‘trader’ means any natural or legal person who is acting for purposes relating to his trade, business, craft or profession and anyone acting in the name of or on behalf of a trader;). The definition is well known and there is jurisprudence of the CJEU.</p> <p>CZ (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>CZ: In our point of view, this new Recital is redundant.</p> <p>DE (Member States Comments): DEU Proposal:</p> <p>(5a) Mandatory acceptance of euro cash is a key principle of legal tender. Therefore, retailers or service providers should not be able to unilaterally exclude cash as a payment method ex ante, for example by displaying a ‘no cash’ sign. However, retailers or service providers should be able to indicate their preference to receive payments by card or electronic means, for example by clearly displaying a sign ‘electronic means of payment preferred’. Should the payer agree to pay by electronic means, in line with such an expressed preference, it should be considered, in accordance with applicable national law, that an agreement on the use of a different means of payment was validly concluded.</p> <p><u>Irrespective of the means of payment, payer and payee, in accordance with national law, need to mutually agree on concluding a contract. Mandatory acceptance of cash shall not grant the payer a right to unilaterally impose an obligation onto the payee to enter into a contractual relation with the payer. In particular, if for other reasons, in accordance with this Regulation and with</u></p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>national law, a payee may validly refuse concluding a contract with the payer. However, where, in spite of the expressed preference of the retailer or the service provider, the payer prefers to discharge a payment obligation by using euro cash, the retailer or the service provider should respect this choice. Competent authorities should monitor refusals to accept cash as means of payment. For instance, ‘cards preferred’ signs and exceptions foreseen in this Recital, under the principle of good faith, should not be used by payees to, in practice, refuse cash payments, in all circumstances. Member States should ensure that payers have the possibility to complain to the competent authority if they consider that the principle of mandatory acceptance of cash was not respected.</p> <p>(Explanation)</p> <p>In accordance with the explanations given by the Council Legal Service in the 18 November 2024 CWP, we understand that mandatory acceptance of cash does not entail a universal right for the payer to force a payee to enter into a sales/service contract. This understanding is also confirmed by Article 5 (1) b) of the proposal and Recital 13 (<i>‘Thus, the measures in this Regulation only concern the</i></p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>way a payee receives payments’). This should be clarified here.</p> <p>Overall, we are sceptical how this new Recital adds anything in terms of compromising between different positions, but rather causes (legal) uncertainties. If we understand Recital 5a correctly, it essentially says that a payee can communicate their preference for a particular payment method, but cannot refuse the acceptance of cash, if the payer insists on paying in cash. This, actually, does not seem to be a compromise in any way, because even without this Recital, the prohibition of unilateral exclusions as currently contemplated in the text would not hinder payees to communicate payment <i>preferences</i> as long as such communication does not amount to an <i>exclusion</i>, i.e. as long as the payee accepts cash, if the payer insists. We do not expect that the clarification of this self-evidence would be perceived as a compromise by Member States who favour more flexibility in terms of cash acceptance.</p> <p>Recital 5a should be amended in a way that ensures the underlying basic logic of legal tender: You have to accept</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>cash, but you also have the freedom to agree on another means of payment. Recital 5a should not, however, neither directly nor indirectly, impose any legal consequences such as a (forced) obligation for payees to enter into contractual relationships with a payer. Such a forced acceptance of cash would be in conflict with Article 5 (1) (b), according to which payer and payee may agree in accordance with applicable national law on a different means of payment.</p> <p>Finally, we are very reluctant to impose ever more monitoring obligations onto the designated national competent authorities. Such monitoring should be efficient and allow for an adequate monitoring of the situation. With a view to limiting bureaucracy and all too-granular monitoring, monitoring the proliferation of signs in shop windows seems questionable in this respect.</p> <p>EE (Member States Comments): EE: Open to support.</p> <p>EL</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>(Member States Comments):</p> <p>EL: We appreciate the fact that a specific reference to the “no-cash” signs (as an example of ex ante unilateral exclusion) and their treatment under the Regulation is now included in the recitals. We are of the view that this will contribute to legal clarity and to the uniform interpretation and implementation of LTCR, which needs to be preserved. Furthermore, we have no objections to the use of the “electronic means of payment preferred” signs, under the conditions which are laid down in recital 5a.</p> <p>ES (Member States Comments):</p> <p>We would refer to this right after tiking about the exception of mutual consent (dealt with in recital 4b)</p> <p>We support a clear prohibition of no cash signs, making clear that, displaying a sign and then entering a shop with that sign will under no jurisdiction be considered a mutual agreement (regardless of national law). Card preferred signs on the contrary, should be allowed and have effects when a user pays using other means of payment, regardless of national law. All this for the sake of making the legal tender obligation effective and homogeneous in all MSs and to ensure financial inclusion.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>We consider this solution to find an adequate balance between contractual freedom and legal tender.</p> <p>FI (Member States Comments): ok. This compromise proposal is theoretically supportable and would prevent the unilateral exclusion of cash payments. However, we would ask for more elaboration what this would mean in practise (e.g. retailer having intentionally a very low level change money vs. freedom of contract).</p> <p>FR (Member States Comments): FR : The draft regulation aims to ensure that the use of cash remains a fundamental right for consumers. The new recital (5a) of this proposal reinforces this principle by prohibiting retailers from unilaterally refusing to accept cash payments, while allowing them to give preference to other means of payment. However, it is questionable how ‘preferred card’ signs can be limited when this option is available to every retailer.</p> <p>It might be appropriate to ask the Council Legal Service for an opinion on replacing the term ‘euro notes and coins’ used in the TFEU with ‘euro cash’. It might be useful to obtain an</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>opinion on the merits of this semantic change and on the consequences it might have on the application or interpretation of the text.</p> <p>HR (Member States Comments):</p> <p>HR: In B2C relations, retailers and service providers typically hold a position of superior bargaining strength to consumers of goods and services. Furthermore, the average consumer's knowledge and legal expected standard of diligence often do not align with an understanding that they actually expressing agreement or consent to the retailer's payment method proposal (in instances where a retailer/service provider displays a sign stating 'electronic means of payment preferred').</p> <p>Therefore, we suggest that it is necessary to accompany the 'electronic means of payment preferred' sign, with a disclaimer in smaller letters, clarifying that this does not prevent the payer from choosing to pay in cash. However, this addition could potentially undermine the original intent of the sign.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>We propose adding additional examples of unilateral exclusions to this recital to clarify on L1 what retailers and service providers are prohibited from doing in relation to consumers (while maintaining contractual freedom for B2B agreements). The recital should read as follows:</p> <p>Mandatory acceptance of euro cash is a fundamental principle of legal tender. As such, retailers or service providers should not be permitted to unilaterally exclude cash as a payment method ex ante in contractual relationships with consumers. This includes practices such as displaying a ‘no cash’ sign or including stipulations that impose such an exclusion in the pre-prepared terms and conditions by the retailer or service provider, to which the other party can only agree without the ability to negotiate or amend the terms. Member States must ensure that payers have the option to lodge a complaint with the competent authority if they believe the principle of mandatory acceptance of cash has not been upheld."</p> <p>IE (Member States Comments): IE welcomes this proposal</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>IT (Member States Comments):</p> <p>IT. We are open to consider the new recital 5a in the light of compromise, in order to ensure the best protection of end consumers, including vulnerable groups. However, we believe the regulation should make clear that: i) it is limited to retail transaction; ii) it should refer to the cases where the parties have not previously agreed to settle the transaction with payment instruments different from cash (contractual freedom should always be possible).</p> <p>Plus: i) we do not see the added value of the sentence “<i>competent authorities should monitor refusals to accept cash as means of payment</i>” since the monitoring obligations are already declined in recital 6; ii) we suggest dropping it the reference to the right to complain and to further discuss the topic in the context of art. 14 of the Regulation.</p> <p>Please, find below our drafting proposals (in red):</p> <p>“(5a) Mandatory acceptance of euro cash is a key principle of legal tender. Therefore, retailers or service providers should not be able to unilaterally exclude cash as a payment method ex ante in a retail transaction, for example by displaying a ‘no cash’ sign. While However,</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>retailers or service providers should be able to indicate their preference to receive payments by card or electronic means, for example by clearly displaying a sign ‘electronic means of payment preferred’, –Should the payer agree to pay by electronic means, in line with such an expressed preference, it should be considered, in accordance with applicable national law, that an agreement on the use of a different means of payment was validly concluded. However, where, in spite of the expressed preference of the retailer or the service provider, in cases where the payer prefers to discharge a payment obligation by using euro cash, the retailer or the service provider should respect this choice. Competent authorities should monitor refusals to accept cash as means of payment. For instance, ‘cards preferred’ signs and exceptions foreseen in this Recital, under the principle of good faith, should not be used by payees to, in practice, refuse cash payments, in all circumstances. Member States should ensure that payers have the possibility to complain to the competent authority if they consider that the principle of mandatory acceptance of cash was not respected.”</p> <p>LT</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>(Member States Comments):</p> <p>Statement “<i>Should the payer agree to pay by electronic means, in line with such an expressed preference, it <u>should be considered</u>, in accordance with applicable national law, that an agreement on the use of a different means of payment was <u>validly concluded</u>.</i>” may be interpreted as follows: <u>applicable national law should regulate</u>, that the <u>agreement to pay by electronic means, when expressed as described, is <u>validly concluded</u></u>. To minimise possible misinterpretation, the following editorial changes are suggested, together with changes emphasizing that unilateral exclusion of cash is prohibited.</p> <p>Please see below suggested editorial changes:</p> <p>“Mandatory acceptance of euro cash is a key principle of legal tender. Therefore, retailers or service providers cannot should not be able to unilaterally exclude cash as a payment method ex ante, for example by displaying a ‘no cash’ sign. However, retailers or service providers may should be able to indicate their preference to receive payments by card or electronic means, for example by clearly displaying a sign ‘electronic means of payment preferred’. Should the payer agree to pay by electronic means, in line with such an expressed preference, it should be considered, in accordance</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>with applicable national law, that an agreement on the use of a different means of payment was validly concluded.</p> <p>However, where, in spite of the expressed preference of the retailer or the service provider, the payer prefers to discharge a payment obligation by using euro cash, the retailer or the service provider has to should respect this choice. Competent authorities should monitor refusals to accept cash as means of payment. For instance, ‘Cards preferred’ signs and exceptions foreseen in this Recital, under the principle of good faith, cannot should not be used by payees to, in practice, refuse cash payments, in all circumstances. Member States should ensure that payers have the possibility to complain to the competent authority if they consider that the principle of mandatory acceptance of cash was not respected. Competent authorities should monitor refusals to accept cash as means of payment.”</p> <p>MT (Member States Comments): Malta agrees with the addition.</p> <p>NL (Member States Comments): We are still wondering how this regulation would work in practice. In the case there is a reasonable ground for not</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>accepting cash, the question is, how should one communicate about this to customers? Currently ‘no cash’ signs are the way to communicate this. How can a customers know whether the retailer has a valid ground to refuse cash?</p> <p>We would therefore add that, in case there are exceptions on the mandatory acceptance of cash, one should have the possibility to communicate about this for example through no cash signs.</p> <p>PT (Member States Comments):</p> <p>We strongly agree with introducing this new Recital.</p> <p>We have a minor suggestion of replacing “retailers or service providers” with “payees”, which is the term used and properly defined in this Regulation, particularly in Article 3(6). This suggestion would also ensure the use of uniform and consistent terminology throughout the Regulation.</p> <p><u>Drafting suggestion:</u></p> <p>“(5a) Mandatory acceptance of euro cash is a key principle of legal tender. Therefore, retailers or service providers payees should not be able to unilaterally exclude cash as a payment method ex ante, for example by displaying a ‘no cash’ sign. However, retailers or service providers payees,</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p><i>such as retailers and service providers</i>, should be able to indicate their preference to receive payments by card or electronic means, for example by clearly displaying a sign ‘electronic means of payment preferred’. Should the payer agree to pay by electronic means, in line with such an expressed preference, it should be considered, in accordance with applicable national law, that an agreement on the use of a different means of payment was validly concluded. However, where, in spite of the expressed preference of the retailer or the service provider, the payer prefers to discharge a payment obligation by using euro cash, retailers or service providers <i>payees</i> should respect this choice. Competent authorities should monitor refusals to accept cash as means of payment. For instance, ‘cards preferred’ signs and exceptions foreseen in this Recital, under the principle of good faith, should not be used by payees to, in practice, refuse cash payments, in all circumstances. Member States should ensure that payers have the possibility to complain to the competent authority if they consider that the principle of mandatory acceptance of cash was not respected.”</p> <p>SI (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>We agree with adding this Recital 5a. In our view it is of the utmost importance that any ex-ante unilateral exclusions of cash are explicitly prohibited, which in our opinion is a crucial aspect to preserve the effectiveness of the legal tender status of cash in practice. In our opinion it should always be the customer’s choice which payment method he/she wants to use at point of sale in line with general exceptions related to cash as already in use by Commission Recommendation 2010/191/EU of 22 March 2010 on the scope and effects of legal tender of euro banknotes and coins. In this view we do also not oppose to the possibility of businesses (payees) to indicate their preferred means of payment (also subject of this newly proposed Recital 5a), as long as customers (payers) would ultimately have an option to decide on the means of payments (regardless of the expressed preference by the payee).</p> <p>Furthermore and to level off the proposed text of Recital 5a, it is our understanding that retailers or service providers are able to indicate any preferred means of payment, including cash and not just electronic means of payment. In our view it would be beneficial to further elaborate this situation in the text of the Recital 5a.</p> <p>SK</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>(Member States Comments): We could in general agree to this approach.</p>
<p>(6) In order to ensure that the principle of mandatory acceptance of payments in euro banknotes and coins is not effectively undermined by widespread and structural refusals of cash payments, it is necessary for Member States to monitor the level of ex ante unilateral exclusions of payments in cash when transactions are performed in physical premises. Therefore, Member States should regularly monitor the level of unilateral ex ante exclusions of payments in cash when payments are performed in physical premises throughout their territory, in all their different regions, including urban and non-urban areas, on the basis of common indicators which allow for comparisons between the Member States. If in light of their assessment acceptance of payments in cash is ensured on their territory, Member States would not need to adopt specific measures in relation to their respective obligation. However, they would need to continue monitoring the situation. If a Member State concludes that ex ante unilateral exclusions of cash undermine the mandatory</p>	<p>(6) In order to ensure that the principle of mandatory acceptance of payments in euro banknotes and coins is not effectively undermined by widespread and structural refusals of cash payments going beyond or by the abuse of the exceptions to the mandatory acceptance set out in this Regulation, Member States should regularly monitor the acceptance of payments in cash when transactions are performed in physical premises throughout their territory, in all their different regions, including urban and non-urban areas, on the basis of common indicators which allow for comparisons between the Member States and which may be complemented by specific national indicators. The primary responsibility for assessing whether the mandatory acceptance of payments in cash is ensured lies with the Member States. If in light of their assessment acceptance of payments in cash is ensured on their territory, Member States would not need to adopt specific measures in relation to their respective obligation. However, they would need to continue monitoring the</p>	<p>AT (Member States Comments): AT: We agree that there should be national indicators to reflect national specifics. However, it is not clear yet what weight these national indicators carry compared to the common indicators.</p> <p>BE (Member States Comments): Here the term ‘physical premises’ is used which we believe to be an interesting and essential concept that should also be used in the articles of the Regulation. See our comment on Article 2(2)</p> <p>DE (Member States Comments): General comment: In our understanding, discussions in the CWP had lead to the conclusion that there should not be a reference to a ‘principle of mandatory acceptance’ but rather to a ‘mandatory acceptance’.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>acceptance of payments in euro banknotes and coins in all or part of its territory, that Member State should take effective and proportionate measures to remedy the situation, such as a prohibition or restrictions on ex ante unilateral exclusions of cash in all or parts of its territory, for example in rural areas, or in certain sectors which are deemed essential such as post offices, supermarkets, pharmacies or healthcare, or for certain types of payments which are deemed essential.</p>	<p>situation. If a Member State concludes that the principle of mandatory acceptance of payments in euro banknotes and coins is not ensured in all or part of its territory, that Member State should take effective and proportionate measures to remedy the situation.</p>	<p>DEU Proposal:</p> <p>(6) In order to ensure that the mandatory acceptance of payments in euro banknotes and coins is not effectively undermined by widespread and, structural and unjustified refusals of cash payments going beyond or by the abuse of the exceptions to the mandatory acceptance set out in this Regulation, Member States should regularly monitor the acceptance of payments in cash when transactions are performed in physical premises throughout their territory, in all their different regions, including urban and non-urban areas, on the basis of common indicators which allow for comparisons between the Member States and which may be complemented by specific national indicators. The primary responsibility for assessing whether the mandatory acceptance of payments in cash is ensured lies with the Member States. If in light of their assessment acceptance of payments in cash is ensured on their territory, Member States would not need to adopt specific measures in relation to their respective obligation. However, they would need to continue monitoring the situation. If a Member State concludes that the principle of mandatory acceptance of</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>payments in euro banknotes and coins is not ensured in all or part of its territory, that Member State should take effective and proportionate measures to remedy the situation.</p> <p>(Explanation)</p> <p>We are concerned that a reference to an ‘abuse’ of – legally possible – exceptions to the mandatory acceptance, would lead to legal uncertainty. Instead, it should be made clear that unjustified cases of cash refusals should be in the centre of attention.</p> <p>The (sole) responsibility for assessing the results lies with the Member States, see also Recital 7.</p> <p>EE (Member States Comments): EE: Open to support. It is important to share good practices and approaches for monitoring cash acceptance in the future. We strongly support allowing the use of national indicators highlighting national specificities to monitor availability and acceptance of cash.</p> <p>EL</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>(Member States Comments):</p> <p>EL: Drafting amendment: <i>“The primary responsibility for assessing whether the mandatory acceptance of payments in cash is ensured lies with the Member States.”</i></p> <p>Suggested amendment to bring it in line with the wording in recital 7 as regards access to cash.</p> <p>Furthermore, we suggest that examples of effective and proportionate remedial measures be included in recital 6 of the LTCR, as is the case in recital 7 as regards access to cash.</p> <p>ES (Member States Comments):</p> <p>We agree:</p> <ul style="list-style-type: none"> - Since ex ante unilateral exclusions are already prohibited, we understand that they do not need to be monitored but rather prohibited. - It is important to monitor the exceptions to avoid abuses. - We agree with the reference to national indicators.

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>- We like the reference to the fact that the responsibility of the assessment lies on MSs. It was a suggestion of pur PCY.</p> <p>FI (Member States Comments): ok. The role of national indicators is of utmost importance given the different payment habits among the Member States.</p> <p>FR (Member States Comments): Fr : This recital seems to shift the emphasis of the protection of legal tender from its intrinsic reinforcement to a monitoring mechanism. This could give the impression that priority is being given to ex post control rather than to consolidating the normative framework that guarantees legal tender itself. Does this not run the risk of weakening the symbolic and legal significance of legal tender, by reducing its protection to mere monitoring of its application?</p> <p>LT (Member States Comments): Ex ante unilateral exclusions of payments in cash would undermine mandatory acceptance of payments in euro banknotes and coins. Separately, “structural refusals” are</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>mentioned only in the Recitals and are not further elaborated, therefore for consistency purposes might be removed.</p> <p>Please see below suggested editorial changes:</p> <p>“6) In order to ensure that the principle of mandatory acceptance of payments in euro banknotes and coins is not effectively undermined by widespread and structural refusals of cash payments by ex ante unilateral exclusions of payments in cash when transactions are performed in physical premises and/or going beyond or by the abuse of the exceptions to the mandatory acceptance set out in this Regulation<...>”.</p> <p>MT (Member States Comments): Malta agrees with the amendments made.</p> <p>NL (Member States Comments): We can support the proposal.</p> <p>PT (Member States Comments): We agree with the drafting proposals presented by the Hungarian Presidency.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>SI (Member States Comments): We agree with the proposed modifications in this Recital 6.</p>
<p>(7) With a view to an effective implementation of their obligation to ensure sufficient and effective access to cash, Member States should regularly monitor the level of access to cash throughout their territory, in all their different regions, including urban and non-urban areas, on the basis of common indicators which allow for comparisons between the Member States. Common indicators could include factors that affect access to cash, such as density of cash access points in relation to population, withdrawal and deposit conditions, including fees, the existence of different networks with different access modalities for customers, urban-rural and socio-economic variations, and access difficulties for certain population groups. If in the light of their assessment access to cash is deemed sufficient and effective on their territory, Member States would not need to adopt specific measures in relation to their respective obligation. However, they</p>	<p>(7) With a view to an effective implementation of their obligation to ensure sufficient and effective access to cash, Member States should regularly monitor the level of access to cash throughout their territory, in all their different regions, including urban and non-urban areas, on the basis of common indicators which allow for comparisons between the Member States and which may be complemented by specific national indicators. Common indicators could include factors that affect access to cash, such as distance to and density of cash access points in relation to population, withdrawal and deposit conditions, including fees, the existence of different networks with different access modalities for customers, urban-rural and socio-economic variations, and access difficulties for certain population groups. The responsibility for assessing whether sufficient and effective access to cash is ensured lies with the Member States. If in the light of</p>	<p>AT (Member States Comments): AT: We agree that there should be national indicators to reflect national specificities. However, it is not clear yet what weight these national indicators carry compared to the common indicators.</p> <p>From what the Commission said in the Council Working Party on 18 November 2024 we understand that the thresholds for implementing measures to address cash access are primarily determined by the Member States.</p> <p>ES (Member States Comments): Agree</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>would need to continue monitoring the situation. If a Member State concludes that access to cash is not sufficient and effective in all or part of its territory, or is at risk of deteriorating in the absence of action, appropriate remedial measures should be taken to remedy the situation, such as geographic access requirements on payment service providers providing cash withdrawal services to maintain cash services at a sufficient number of their branch offices where they conduct business, or through an appointed agent for online only credit institutions, or maintain a sufficient density of automated teller machines (ATMs) where they conduct business taking into account a good geographic spread in relation to population, also taking into account possible pooling of ATMs. Other remedial measures could include recommendations addressed to non-credit institutions, such as independent ATM operators, retailers or post offices, encouraging to complement the cash services of banks.</p>	<p>their assessment access to cash is deemed sufficient and effective on their territory, Member States would not need to adopt specific measures in relation to their respective obligation. However, they would need to continue monitoring the situation. If a Member State concludes that access to cash is not sufficient and effective in all or part of its territory, or is at risk of deteriorating in the absence of action, appropriate remedial measures should be taken to remedy the situation. Such measures could include soft law measures or policy actions as well as legislative actions and could concern geographic access requirements on the cash industry (such as payment service providers, credit institutions, independent ATM operators, but also retailers offering cash-back, post offices offering also financial services, etc.) providing cash withdrawal services to maintain cash services at a sufficient number of their branch offices where they conduct business, or through an appointed agents, or maintain a sufficient density of automated teller machines (ATMs) where they conduct business taking into account a good geographic spread in relation to population, also taking into account possible pooling of ATMs, or other remedial measures.</p>	<p>We like the reference to the type of measures that can be adopted (soft law measures, policy actions, legislative actions).</p> <p>We support the reference to a wider cash industry rather than just to PSPs providing cash withdrawal services.</p> <p>We agree with the re-configuration of the sentence to make it simpler.</p> <p>FI (Member States Comments): ok. The role of national indicators is important.</p> <p>FR (Member States Comments): FR : Agree</p> <p>LT (Member States Comments): Credit institutions should be held responsible to provide adequate cash services as they are managing the funds entrusted by public. However, cash industry participants should submit information required to monitor access to cash.</p> <p>Please see below suggested editorial changes:</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>“<...>. Such measures could include soft law measures or policy actions as well as legislative actions and could concern geographic access requirements on the cash industry (such as payment service providers, credit institutions, independent ATM operators, but also retailers offering cash-back, post offices offering also financial services, etc.) providing cash withdrawal services to maintain cash services at a sufficient number of their branch offices where they conduct business, or through an appointed agents, or maintain a sufficient density of automated teller machines (ATMs) where they conduct business taking into account a good geographic spread in relation to population, also taking into account possible pooling of ATMs, or other remedial measures.</p> <p>Recommendations encouraging to complement the cash services of credit institutions could be addressed to non-credit institutions, such as other payment service providers, independent ATM operators, retailers offering cash-back, cash-in-shop service providers, post offices offering also financial services, etc.”</p> <p>MT (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>Malta agrees with the changes but notes that the parameters for density and availability of cash distribution points will depend on the geography, population density and the infrastructure of the Member States. These details such as the number of distribution points per surface, population count and the distance and average usage of cash transactions (in %) would need to be established by the European Central Bank (ECB) in separate guidelines.</p> <p>PT (Member States Comments): We support the adjustments introduced by the HU Presidency, particularly the clarification that national indicators are intended to complement common indicators. This clarification is crucial to ensure that national indicators do not compromise the comparability and/or consistent application of the common indicators.</p> <p>SI (Member States Comments): We agree with the proposed additional clarifications.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>(8) The Commission should be empowered to adopt implementing acts on a set of common indicators of general application in the euro area, which would allow the Member States to effectively monitor and assess the acceptance of payments in cash and access to cash throughout their territory, in all their different regions, including urban and non-urban areas. In view of the preparation of such implementing acts, the Commission should consult the European Central Bank.</p>	<p>(8) The Commission should be empowered to adopt implementing acts on a set of common indicators of general application in the euro area, which would allow the Member States to effectively monitor and assess the acceptance of payments in cash and access to cash throughout their territory, in all their different regions, including urban and non-urban areas. The Commission should adopt a broad set of common indicators to ensure both a degree of comparability of data and results in the euro area and take account of the heterogeneity of national situations. In their annual report, the Member States may use more specific indicators at national level with the aim of offering more detailed information allowing for an in-depth view of the specific circumstances of their national territories, regions and urban areas as regards acceptance of cash and access to cash. These national specific indicators should not, under any circumstances, substitute the common indicators. In view of the preparation of such implementing acts, the Commission should consult the European Central Bank and should take account of existing reporting frameworks, surveys and mechanisms for data gathering, in particular with regard to existing survey’s and data collected by the</p>	<p>DE (Member States Comments): Under the BEL PCY, this Recital had been amended quite significantly. In particular, the following sentences were included: <i>‘Recognising the diversity of EU Member States, each will have the possibility to define and adapt the monitoring methodology on the basis of existing data and local specificities. This flexibility is essential to maintain the relevance and applicability of the monitoring framework in different national contexts, in order to support the development of effective policies.’</i></p> <p>We believe that further discussions on the application and design of the common/national indicators is pertinent. Depending on the guidance to be provided by the Commission, this Recital should be revisited.</p> <p>EL (Member States Comments): EL: Drafting amendment: <i>“in particular with regard to existing <u>surveys</u>”</i></p> <p>ES (Member States Comments): We agree:</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
	<p>Eurosystem. Under the broad set of common indicators to be adopted, redundancies and duplications of work should be avoided.</p>	<ul style="list-style-type: none"> - We support the reference to national indicators - We consider that it is useful to take into account existing reporting frameworks, surveys and mechanisms for data gathering. The monitoring should not lead to a duplication of efforts and costs. <p>There is a typo: There should be no apostrophe in surveys</p> <p>FI (Member States Comments):</p> <p>ok</p> <p>FR (Member States Comments):</p> <p>FR : France supports the proposed amendment, in particular the need for the Commission to consult the European Central Bank and to build on existing reporting frameworks, surveys and data collection mechanisms, in particular those of the ECB. However, it would be desirable to go further than relying solely on the work currently being carried out within the Eurosystem, as we emphasised in our working paper.</p> <p>MT (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>Malta agrees with the changes made.</p> <p>PT (Member States Comments): We agree with the principle outlined in the segment introduced by the HU Presidency, which essentially aims to prevent redundancies and duplications.</p> <p>SI (Member States Comments): We agree with the proposed additional clarifications.</p>
<p>(9) The Commission should be empowered to adopt implementing acts addressed to a specific Member State when the measures proposed by that Member State appear insufficient or in cases where, in spite of the findings of the annual report sent by that Member State, ex ante unilateral exclusions of cash are undermining the principle of mandatory acceptance of payments in euro banknotes and coins and/or where access to cash is not sufficient and effective. Such an implementing act could require the Member State concerned to take measures such as those outlined in recitals 7 and 8, or measures that have been considered effective in other Member States in ensuring</p>	<p><i>Deleted</i></p>	<p>AT (Member States Comments): AT: We welcome the deletion.</p> <p>CZ (Member States Comments): CZ: We agree.</p> <p>ES (Member States Comments): Agree. Given the legally binding obligation to comply with the regulation and the principle of sincere cooperation: the primary focus should be on cooperation and dialogue between NCSs and COM. These implementing acts are a</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>that the principles of mandatory acceptance of payments in cash or sufficient and effective access to cash are not undermined.</p>		<p>circumvention of treaty-based enforcement. If there is no compliance, you can always initiate proceedings under 258TFEU.</p> <p>FI (Member States Comments): ok. We support this deletion.</p> <p>FR (Member States Comments): FR : Agree</p> <p>MT (Member States Comments): Malta agrees with the suggested deletion.</p> <p>PT (Member States Comments): We strongly support the deletion of this Recital. Please refer to our comments in Article 9(5).</p>
<p>(10) In accordance with the principle of sincere cooperation, the Commission, the European Central Bank and the designated national competent authorities with the required powers as regards acceptance of payments in cash</p>	<p>(10) In accordance with the principle of sincere cooperation, the Commission, in cooperation with the European Central Bank, and the designated national competent authorities should closely collaborate on issues</p>	<p>ES (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>and access to cash, and over the cash-related market activities of the cash industry should closely collaborate on issues related to acceptance of payments in cash and access to cash. A regular dialogue among these institutions and authorities, based notably on the annual reports of Member States to the Commission and the European Central Bank, should aim at identifying cases of widespread ex ante unilateral exclusions of cash and inadequate access to cash in specific national territories or regions. It would also aim at designing and adopting remedial measures that Member States should adopt as a means to comply with their obligations to ensure acceptance of cash and sufficient and effective access to cash.</p>	<p>related to acceptance of payments in cash and access to cash. A regular dialogue among these institutions and authorities, based notably on the annual reports of Member States to the Commission and the European Central Bank, should aim at identifying cases of widespread and structural refusals of cash payments and inadequate access to cash in specific national territories or regions. It would also seek to assist Members States in designing remedial measures for the purpose of complying with their obligations to ensure acceptance of cash and sufficient and effective access to cash.</p>	<p>Agree. Maintains the wording of the ES PCY. Focus should be placed on sincere cooperation to avoid widespread and structural refusals to cash.</p> <p>FI (Member States Comments): Ok. We support the suggested changes.</p> <p>FR (Member States Comments): FR : neutral</p> <p>IE (Member States Comments): IE welcomes the revised text.</p> <p>LT (Member States Comments): “Structural refusals” are mentioned only in the Recitals and are not further elaborated, therefore for consistency purposes might be removed – please see suggested editorial changes: “<...> should aim at identifying cases of widespread and structural refusals of cash payments <...>”.</p> <p>MT (Member States Comments): Malta agrees with the changes carried out here.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>PT (Member States Comments): The approach proposed by the HU Presidency seems well-balanced and adequate to achieve the intended objectives.</p> <p>SI (Member States Comments): We agree with newly proposed text of Recital 10.</p>
<p>(11) In order to ensure that additional exceptions to the mandatory acceptance of euro cash may be introduced at a later stage if they are required, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement this Regulation by introducing additional exceptions to the principle of mandatory acceptance for the euro area as a whole. The Commission may only adopt such additional exceptions if they are necessary, proportionate to their aim, and preserve the effectiveness of the legal tender status of euro cash. The power of the Commission to adopt delegated acts for the introduction of additional exceptions to the mandatory acceptance of accept euro cash should be without prejudice to the possibility for Member States, pursuant to their own</p>	<p><i>Deleted</i></p>	<p>CZ (Member States Comments): CZ: We agree.</p> <p>ES (Member States Comments): Agree. Due to deletion of Article 6.</p> <p>FI (Member States Comments): ok. We support this deletion.</p> <p>FR (Member States Comments): FR : Agree</p> <p>MT</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>powers in areas of shared competence, to adopt national legislation introducing exceptions to the mandatory acceptance deriving from the legal tender status in accordance with the conditions laid down by the Court of Justice of the European Union in the judgment in Joined Cases C-422/19 and C-423/19. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.</p>		<p>(Member States Comments): Malta agrees with the proposed deletion.</p> <p>PT (Member States Comments): We agree with the deletion of the Recital, as well as of Article 6.</p>
<p>(12) In order to ensure uniform conditions for the provisions on the acceptance of payments in cash and sufficient and effective access to cash, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation</p>	<p>(12) In order to ensure uniform conditions for the monitoring and assesment of the acceptance of payments in cash and sufficient and effective access to cash, implementing powers should be conferred on the Commission. Those powers should be exercised in</p>	<p>CZ (Member States Comments): CZ: In general, we agree with the change from advisory to examination procedure, which is more in line with the regulation.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>(EU) No 182/2011 of the European Parliament and of the Council¹². The advisory procedure should be used for the adoption of the implementing acts on the acceptance of and access to cash as they concern measures with a low impact, namely indicators for monitoring the acceptance of and access to cash, or acts addressed to individual Member States which in certain circumstances may need to adopt appropriate measures which would reflect the specificities of their national territories, regions and urban areas, in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.</p>	<p>accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹³. The examination procedure should be used for the adoption of the implementing acts on a set of common indicators for monitoring the acceptance of and access to cash in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.</p>	<p>DE (Member States Comments): See comment regarding Recital 8.</p> <p>EL (Member States Comments): EL: We support the use of the “Examination procedure” instead of the “Advisory procedure”, as we consider it is more appropriate due to the high impact of the matter.</p> <p>ES (Member States Comments): Agree. Acts of general scope are passed through the examination and not advisory procedure.</p> <p>FI (Member States Comments): ok</p> <p>FR (Member States Comments): Fr : disagree – this recital could be deleted</p> <p>MT</p>

¹² OJ L55, 28.2.2011, p.13.

¹³ OJ L55, 28.2.2011, p.13.

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>(Member States Comments): Malta agrees with the changes made.</p> <p>PT (Member States Comments): We strongly agree with establishing that the examination procedure should be used by the COM for the adoption of the implementing acts on common indicators.</p>
<p>(13) This Regulation ensures full respect for the fundamental right of freedom to conduct a business and the fundamental right of consumer protection enshrined in Article 16 and 38 of the Charter of Fundamental Rights of the European Union respectively. This Regulation concerns the preferred payment method of the currency that has legal tender status, which citizens legitimately may choose to settle their debts. Thus, the measures in this Regulation only concern the way enterprises receive payments. The interference with those fundamental rights is therefore indirect and very limited. It is justified by the general</p>	<p>(13) This Regulation ensures full respect for the fundamental right of freedom to conduct a business and the fundamental right of consumer protection enshrined in Article 16 and 38 of the Charter of Fundamental Rights of the European Union respectively. This Regulation concerns the preferred payment method of the currency that has legal tender status, which citizens legitimately may choose to settle their debts. Thus, the measures in this Regulation only concern the way a payee receives payments. The interference with those fundamental rights is therefore indirect and justified by the general interest objective of</p>	<p>AT (Member States Comments): AT: As outlined in our comment on recital 5a, we doubt whether the HU-proposal’s right to insist on cash payments leading to a contract being forced on the payee is in line with the freedom of contract. This means that the proposal would not sufficiently respect the right of freedom to conduct a business enshrined in Article 16 of the Charter of Fundamental Rights of the European Union and national constitutional rights. In the Council Working Party on 18 November 2024, the Council Legal Service has confirmed that the right to insist on cash payments must not result in</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>interest objective of ensuring the effectiveness of legal tender, and is proportionate to this objective.</p>	<p>ensuring the effectiveness of legal tender, and is proportionate to this objective.</p>	<p>forcing a contract on a payee so that the payee will not be able to choose whether to enter into a contract with a particular person in the first place.</p> <p>DE (Member States Comments): Q: What about potential restrictions of <u>Article 6 (right to liberty and security)</u> and <u>Article 17 (right to property)</u>?</p> <p>With a view to the respect for fundamental rights, <u>the principle of proportionality must be respected</u>. We have difficulties recognising <u>how the prohibition of ex ante unilateral exclusions would be necessary</u>. When assessing whether or not an obligation to accept cash and the proposal is proportionate, it must be considered that the Commission proposal foresees clear obligations vis-à-vis Member States to ensure availability of cash and access to it. Asking Member States to ensure access to cash and its availability – both constituting the corner stones of the Commission proposal – certainly is a means suitable to ensure that euro cash is being safeguarded. However, this must be duly taken into account when assessing (complementing) strict acceptance obligations and the overall proportionality of the</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>Proposal. Thus, we are wondering to what extend a strict mandatory acceptance and, eventually, the possibility for payers to unilaterally impose cash as means of payment on the payee (Recital 5a seems to point in this direction) is truly necessary.</p> <p>Overall, we remain sceptic that prohibitions of certain types of contracts are indeed warranted. <u>The empiric relevance of such prohibitions remains questionable.</u> Several Member States exist where cash prevails as the most used method of payment at the Point of Sale without any obligations on merchants to mandatorily accept cash. Conversely, there appears to be no clear indication that in Member States where the acceptance of cash, in certain instances, is mandatory, the usage of cash is higher.</p> <p>ES (Member States Comments): We prefer this more general reference to payee than the reference to enterprise.</p> <p>FI (Member States Comments): ok</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>FR (Member States Comments): FR : France reiterates its opposition to the mechanism proposed by the Commission as detailed in our non-paper</p> <p>MT (Member States Comments): Malta agrees with the changes made.</p> <p>PT (Member States Comments): Please consider our previous comments emphasizing the need for consistent use of terms such as “<i>payers</i>” and “<i>payees</i>”, rather than alternative expressions like “<i>retailers and service providers</i>”.</p> <p>SI (Member States Comments): We agree with the proposed clarifications.</p>
<p>(14) The share of cash payments compared to electronic payments is higher for certain vulnerable groups</p>	<p>(14) The share of cash payments compared to electronic payments is higher for certain vulnerable groups</p>	<p>FI (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>including older age groups, persons with disabilities, and people with limited digital skills and lower income levels. This proposal is consistent with the European Accessibility Act¹⁴, which covers automated teller machines (ATMs). Furthermore, financially excluded people, such as the unbanked, asylum seekers and migrants, who may not be able or willing to use means of payment supplied by the private sector, rely on cash as their payment method. Cash is considered to provide for a clear overview of expenses, with high degrees of ease of use, speed, safety and privacy. These vulnerable groups are more at risk of losing their access to a method of payment if their access to cash deteriorates. Thus, this Regulation would aim to preserve financial inclusion of vulnerable groups with a dependency on cash payments by ensuring that everyone in the euro area would be free to choose the preferred payment method and has access to basic cash services, while supporting Member States in continuing</p>	<p>including older age groups, persons with disabilities, and people with limited digital skills and lower income levels. This proposal is consistent with the European Accessibility Act¹⁵, which covers automated teller machines (ATMs). Furthermore, financially excluded people, such as the unbanked, asylum seekers and migrants, who may not be able or willing to use means of payment supplied by the private sector, rely on cash as their payment method. Cash is considered to provide for a clear overview of expenses, with high degrees of ease of use, speed, safety and privacy. These vulnerable groups are more at risk of losing their access to a method of payment if their access to cash deteriorates. Thus, this Regulation would aim to preserve financial inclusion of vulnerable groups with a dependency on cash payments by ensuring that everyone in the euro area would be free to choose the preferred payment method and has access to basic cash services, while supporting Member States in continuing</p>	<p>ok IE (Member States Comments): See IE’s comments re recital 4c.</p>

¹⁴ Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (OJ L151, 7.6.2019, p.70).

¹⁵ Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (OJ L151, 7.6.2019, p.70).

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>their policy efforts to promote digital financial inclusion, for example through measures aimed to increase financial and specifically digital finance literacy in education and training systems, as well as to address gaps in digital infrastructure, including in rural areas.</p>	<p>their policy efforts to promote digital financial inclusion, for example through measures aimed to increase financial and specifically digital finance literacy in education and training systems, as well as to address gaps in digital infrastructure, including in rural areas.</p>	
<p>(15) In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objective of ensuring the acceptance of cash and access to cash to lay down the necessary rules. This Regulation does not go beyond what is necessary in order to achieve the objectives pursued, in accordance with Article 5(4) of the Treaty on European Union.</p>	<p>(15) In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objective of ensuring the acceptance of cash and access to cash to lay down the necessary rules. This Regulation does not go beyond what is necessary in order to achieve the objectives pursued, in accordance with Article 5(4) of the Treaty on European Union.</p>	<p>DE (Member States Comments): See comment regarding Recital 13.</p> <p>FI (Member States Comments): ok</p>
<p>HAVE ADOPTED THIS REGULATION:</p>	<p><i>(unchanged)</i></p>	
<p>Article 1 Subject matter</p>	<p>Article 1 Subject matter</p>	<p>EE (Member States Comments): EE: Agree.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>This Regulation lays down detailed rules on the scope and effects of the legal tender of, and access to, euro banknotes and coins, as provided for, respectively, by Article 128(1) TFEU and by Article 11 of Regulation (EC) No 974/98, in order to ensure its effective use as a single currency.</p>	<p>This Regulation lays down rules on the scope and effects of the legal tender of euro banknotes and coins, as provided for, respectively, by Article 128(1) TFEU and by Article 11 of Regulation (EC) No 974/98, in order to ensure its use as a single currency. This Regulation also lays down rules on the access to euro banknotes and coins.</p>	<p>CZ (Member States Comments): CZ: We agree.</p> <p>EL (Member States Comments): EL: The terms “banknotes and coins” and “cash” are both used in this regulation. It would be better to use one term uniformly across the text.</p> <p>ES (Member States Comments): Agree. For clarity we prefer this separation of legal tender and access to cash.</p> <p>FI (Member States Comments): ok</p> <p>LT (Member States Comments): Please see below suggested editorial changes and the rationale:</p> <ul style="list-style-type: none"> • Article 128(1) TFEU and Article 11 of Regulation (EC) No 974/98 are applicable for access to euro

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>banknotes and coins, therefore it would be important mentioning this clearly.</p> <ul style="list-style-type: none"> Effective use of single currency is one of the main objectives (determination of exceptions, etc.), therefore reference to effectiveness should be maintained. <p>“This Regulation lays down rules on the scope and effects of the legal tender of, and access to, euro banknotes and coins, as provided for, respectively, by Article 128(1) TFEU and by Article 11 of Regulation (EC) No 974/98, in order to ensure its effective use as a single currency. This Regulation also lays down rules on the access to euro banknotes and coins.”</p> <p>MT (Member States Comments): Malta agrees with the addition.</p> <p>NL (Member States Comments): General comment: We support the amendments made, but do wonder whether everything is covered at the moment. For example, should vending machines be part of the scope? We don't think so. Currently they are not excluded by scope or</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>by the exemptions listed. There are more similar cases that are included in the scope, but should not be in our opinion. Specific cases that should be excluded because of the specific nature of the work involved. We have to further think this through.</p> <p>SI (Member States Comments): We agree with newly proposed text of Article 1.</p>
<p>Article 2 Scope</p>	<p>Article 2 Scope</p>	<p>EE (Member States Comments): EE: Agree.</p> <p>FR (Member States Comments): Fr : we highlighted the positive progress made on this text. We regret that some of them have not been taken up, such as the wording of article 2, which provided for a broad scope</p>
<p>1. This Regulation applies to the settlement of pecuniary debts in so far as they are to be settled in cash, in whole or in part, where a payment obligation exists in</p>	<p>1. This Regulation applies to the settlement of pecuniary debts in cash, in whole or in part and the access to and</p>	<p>CZ (Member States Comments): CZ: We welcome a simplified wording.</p> <p>DE</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>accordance with the applicable law or established legal practices. To ensure the effectiveness of the legal tender of cash, this Regulation applies also to ex ante unilateral exclusion of payments in cash and to the access to cash.</p>	<p>acceptance of cash, in order to ensure the effectiveness of the legal tender of cash.</p>	<p>(Member States Comments): In our understanding, the Proposal should apply to any pecuniary debt and not only to ‘pecuniary debts in cash’.</p> <p>EL (Member States Comments): EL: We welcome the re-instatement of the term “pecuniary debts in cash”.</p> <p>ES (Member States Comments): We agree with the simplification</p> <p>FI (Member States Comments): ok</p> <p>FR (Member States Comments): FR : France supports this amendment and a broad scope of application.</p> <p>MT (Member States Comments): Malta agrees with the changes made here.</p> <p>NL (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>We don't fully understand why this part of the sentence is removed "in so far as they are to be settled in cash". We would like to keep this phrase, as it clarifies that e.g. taxes are not part of the scope (they do not have to be settled in cash).</p> <p>PL (Member States Comments): We suggest clarifying that the regulation is applicable within the euro area. It should be regulated clearly and undoubtedly that only euro-zone countries are obliged to follow the provisions of this act. It is also compliant with the opinion of the EBC of 13 October 2023 on a proposal for a regulation on the legal tender of euro banknotes and coins (CON/2023/31).</p> <p>Therefore we propose the following wording of Article 2 (1) of the Regulation on the legal tender of euro banknotes and coins (inserting new words "within the euro area"):</p> <p>1. This Regulation applies within the euro area to the settlement of pecuniary debts in cash, in whole or in part and the access to and acceptance of cash, in order to ensure the effectiveness of the legal tender of cash.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>SI (Member States Comments): We agree with newly proposed text of Article 2(1).</p>
<p>2. This Regulation shall not apply to payments for goods or services purchased at a distance, including online.</p>	<p>2. This Regulation shall not apply to payments for goods or services purchased at a distance, including online.</p>	<p>BE (Member States Comments): What about drinks or snacks dispensers? Are they in the scope of the regulation? If not, this should be said. We believe it is necessary to limite the scope of the regulation to situations where the payer and the payee are physically and simultaneously present which seems to be a more realistic approach. Therefore we believe it necessary to give more information about the scope in a recital and in the respective article We propose the following: This Regulation shall not apply to payments for goods or services purchased at a distance, including online, or in situations where the payer and the payee are not physically and simultaneously present. This proposal takes into account how payment habits have changed, while still respecting the role of cash in traditional</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>face-to-face transactions. Today, in most cities, parking meters no longer accept cash, and this change has been widely accepted by both users and operators. Asking these systems to start accepting cash again would be expensive and technically difficult. The same goes for vending machines, unmanned petrol stations, and other automated systems, which have moved to cashless payments because they are simple and efficient. Requiring them to take cash again seems unrealistic given the costs and challenges involved.</p> <p>DE (Member States Comments): We <u>reserve further comments on this issue</u>. Depending on the scope and rules governing the issue of mandatory acceptance, additional amendments might be necessary here.</p> <p>In general, we saw merit in the BEL proposal moving this part and including it in Article 5 - or, alternatively, amend the list of exclusions from scope (B2B, payments to public institutions, recurring payments) here.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>ES (Member States Comments): We agree with keeping online purchases out of the scope rather than as an exception.</p> <p>FR (Member States Comments): FR : Strongly disagree - France shares the idea that it is difficult to establish a principle and exclude entire sectors of the economy from its scope. France is therefore in favour of the Belgian presidency's proposal to deal with this issue at the level of exceptions.</p>
	<p>3. Euro banknotes and coins shall have legal tender status for payments of a monetary debt within the euro area.</p>	<p>CZ (Member States Comments): CZ: We are of the opinion that the reference on the euro area is redundant.</p> <p>DE (Member States Comments): Why should the legal tender status be limited to ‘payments of monetary debts only’?</p> <p>EL (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>EL: We do not object to the content of this paragraph, however we are of the view that the territorial scope would be best placed as paragraph 2 (i.e. right after paragraph 1) of this Article.</p> <p>ES (Member States Comments): We are OK with a clarification of the territorial scope aligned with the digital euro.</p> <p>FI (Member States Comments): ok</p> <p>IT (Member States Comments): IT. We question the added value of this provision. It's already up to the Treaty to establish the euro as legal tendered money. So, we would avoid duplication, or at least we would suggest to cross-referencing to the Treaty if needed.</p> <p>MT (Member States Comments): Malta is suggesting the below amendment:</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>‘Euro banknotes and, coins and its digital format shall have legal tender status for payments of a monetary debt within the euro area.’</p> <p>NL (Member States Comments): A legal technical comment: One could consider to let this sentence out of the regulation, because it is already a fact that cash has a legal tender status (see recital 2).</p> <p>SI (Member States Comments): We agree with newly proposed paragraph 3 of Article 2.</p>
	<p>4. This Regulation is without prejudice to restrictions to the principle of mandatory acceptance of euro banknotes and coins that the Member States may adopt, pursuant to their own competence, for reasons of public interest, provided that these restrictions are justified by the public interest objective pursued and proportionate to it and provided that other means for the payment of monetary debts are available.</p>	<p>AT (Member States Comments): AT: We understand that the intention behind the changes to Art 2 (4) and recitals 4a and 4c is to provide more clarity. We appreciate this intention.</p> <p>EL (Member States Comments): EL: We agree with the placement of the MSs’ possibility to introduce national exceptions to the mandatory acceptance</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>under their own competences in the <u>scope</u> of the Regulation (in paragraph 4) and not as an exception.</p> <p>ES (Member States Comments): We consider this should not be mentioned in the scope for various reasons:</p> <ul style="list-style-type: none"> - First, it is not an empowerment, so there is no need to have it In the text of the regulation. - If included in the text of the regulation, we consider it should be better placed within article 5 (in the exceptions to mandatory acceptance). <p>FI (Member States Comments): ok</p> <p>FR (Member States Comments): Fr : France shares the Belgian Presidency's view that this provision did not really fall within the scope of this regulation. It should be introduced elsewhere.</p> <p>MT (Member States Comments): Malta agrees with this addition.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>NL (Member States Comments): It is important that it is clear in the text that the principle is already an established principle. Therefore we suggest to add a reference to the Hessischer Rundfunk case (such as: available, in line with the judgment of 26 January 2021¹⁶), and add the text regarding the principle, for example to add ‘established’: to the established principle of mandatory acceptance.</p> <p>PT (Member States Comments): We agree with the clarification provided in this (new) paragraph.</p> <p>SI (Member States Comments): We do not see an added value to include this fourth paragraph of Article 2 – in our opinion it is more appropriate to include this content in the recitals (already included) and thus avoid stating in the main text of LTCR possible restrictions to the principle of mandatory acceptance of cash. Possible concrete restrictions to the mandatory acceptance</p>

¹⁶ See judgment of 26 January 2021 in Joined Cases C-422/19 and C-423/19, *Hessischer Rundfunk*, EU:C:2021:63

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>of cash shall be stated under the exception section (in Article 5). We propose to delete this new paragraph 4 of Article 2.</p>
		<p>DE (Member States Comments): DEU Proposal: <u>5. This Regulation is without prejudice to provisions in other Union acts or in national law addressing how parties conclude contracts or for which reasons a party may validly refuse entering into or concluding a contract.</u> (Explanation) This Regulation should not affect the established legal frameworks, both at EU and national level, governing the entering into contractual relationships. In particular, this Regulation should not prevent a payee from refusing to entering into a contractual relationship if valid legal reasons exist why a payee may refuse to enter into a contract with a payer offering cash as a means of payment. In addition, it should be sufficiently clear that, irrespective of the means of payment, two parties to a contract still need to reach a mutual consent regarding all other elements of a contract, in accordance with national law.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
Article 3 Definitions	Article 3 Definitions	EE (Member States Comments): EE: Agree.
For the purposes of this Regulation, the following definitions apply:	<i>(unchanged)</i>	
1. 'cash' means euro banknotes and coins;	<i>(unchanged)</i>	
2. 'cash industry' means credit institutions offering payment accounts to customers and cash service providers involved in the managing of the distribution and circulation of euro banknotes and coins;	2. 'cash industry' means payment service providers offering payment accounts to customers and cash service providers involved in the managing of the distribution and circulation of euro banknotes and coins;	CZ (Member States Comments): CZ: We agree. EL (Member States Comments): Are the IADs part of the "cash industry"? Recital 7 mentions IADs, so we assume they are intended to be included. However, a confirmation or clarification would be useful. ES (Member States Comments):

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>OK. The definition that the BE PCY had previously proposed was too generic. We want to maintain the scope of the definition within the financial sector.</p> <p>FI (Member States Comments): ok</p> <p>FR (Member States Comments): Fr : Neutral</p> <p>HR (Member States Comments): HR: We suggest adding the definition of payment service for the sake of legal clarity: "payment service" means the payment services as defined in point (3) of Article 4 of Directive (EU) 2015/2366 of the European Parliament and of the Council.</p> <p>IE (Member States Comments): Include definition of payment service provider or reference to definition in Directive (EU) 2015/2366</p> <p>LT (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>Please see below suggestions to align “cash industry” definition with Recital (7):</p> <p>“2. ‘cash industry’ means payment service providers (credit and non-credit institutions) and other cash service providers, such as offering payment accounts to customers and cash service providers involved in the managing of the distribution and circulation of euro banknotes and coins, independent ATM operators, retailers offering cash-back, cash-in-shop service providers, post offices offering also financial services, etc.”.</p> <p>MT (Member States Comments): Malta agrees with this amendment.</p> <p>SI (Member States Comments): We agree with modified text of Article 3(2).</p> <p>SK (Member States Comments): Welcome</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>3. ‘credit institution’ means a credit institution as defined in Article 4 (1) of Regulation (EU) No 575/2013¹⁷ of the European Parliament and of the Council;</p>	<p><i>(unchanged)</i></p>	<p>DE (Member States Comments): Referring to the BEL PCY proposal, we suggest deleting this definition as it is only used in the definition of ‘cash industry’ in Article 3 (2) and in Recital 7. If necessary, the term should be clarified there.</p> <p>ES (Member States Comments): This definition could be eliminated since it is not used in the regulation.</p> <p>FR (Member States Comments): Fr : This notion is not used in this Regulation and not necessary</p> <p>PT (Member States Comments): We wonder whether this definition should be deleted, considering the adjustment introduced in Article 3(2), regarding the definition of “<i>cash industry</i>”.</p>

¹⁷ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, OJ L 176, 27.6.2013, p. 1–337.

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>With the modifications introduced in the previous definition, the term "<i>credit institution</i>" is now only used in Recital 7, where other providers (e.g., "<i>independent ATM operators</i>") are also referenced but not defined in Article 3.</p> <p>Drafting suggestion:</p> <p>3. — ‘credit institution’ means a credit institution as defined in Article 4 (1) of Regulation (EU) No 575/2013¹⁸ of the European Parliament and of the Council; (deleted)</p>
<p>4. ‘ex ante unilateral exclusions of cash’ means a situation when a retailer or service provider unilaterally excludes cash as a payment method for example by introducing a ‘no cash’ sign. In this case, the payer and payee do not freely agree to a means of payment for a purchase;</p>	<p>4. ‘ex ante unilateral exclusions of cash’ means a situation when a retailer or service provider unilaterally, and without the consent of the payer, to be determined in accordance with applicable national law, excludes cash as a payment method in a retail transaction.</p>	<p>AT (Member States Comments): AT: We welcome the restrictions to the scope of ex-ante unilateral exclusions of cash, meaning in particular the explicit reference to retail transactions. In the Council Working Party on 18 November 2024, the Commission has confirmed its understanding that the scope of ex-ante unilateral exclusion of cash payments should be interpreted in a restricted manner. Moreover, the reference to national law as the determining factor for the validity of the consent</p>

¹⁸ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, OJ L 176, 27.6.2013, p. 1–337.

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>of the payer provides more clarity and is thus to be welcomed.</p> <p>Moreover, the proposal seems to indicate in the definition of ex-ante unilateral exclusions of cash that the use of general contractual terms and conditions, in which electronic means of payment can be agreed upon, is not per se regarded as an ex-ante exclusion of cash. If our understanding is correct, we welcome the change.</p> <p>BE (Member States Comments):</p> <ul style="list-style-type: none"> ➔ It is needed to define what a “retail transaction” is or to be more specific about the scope of the ‘ex ante unilateral exclusions of cash’ in the article and not in the definition. (also see remarks on article 5 and recital 5a). ➔ So, in other situations than retail transaction, “ex ante unilateral exclusions of cash” are ok? What about transactions between hospital/patients or public transportation/passengers or doctors/patients (or any liberal profession/intellectual/client)? Are they “retail

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>transaction”. If not, why exclude them? This needs to be clarified</p> <p>CZ (Member States Comments): CZ: We agree.</p> <p>DE (Member States Comments): DEU Proposal</p> <p>4. ‘ex ante unilateral exclusions of cash’ means a situation when a retailer or service provider unilaterally, and without the consent of the payer a consumer, to be determined in accordance with applicable national law, excludes cash as a payment method in a retail transaction.</p> <p>NEW</p> <p>9. ‘retail transaction’ means any sales or service contract concluded between a consumer (acting as payer) and a retailer or service provider (acting as payee) in the physical presence of the payer and the payee at the Point of Sale concerning basic day-to-day goods or services. Recurring payments or advances to be received from payees shall not be deemed retail transactions.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>(Explanation)</p> <p>In general, we continue to believe that leaving sufficient flexibility to Member States at national level would more adequately address the issue of ‘ex ante unilateral exclusions’ (see our general remark above). In this respect, we consider the approach in the initial COM Proposal more adequate.</p> <p>Irrespective of our general position on this issue, further discussions on the issue of ‘ex ante unilateral exclusions’ should be conducted once the necessary definitions would be included in the text. In particular, it seems pertinent to define the terms ‘retail transaction’, ‘retailer’ and ‘service provider’. We submit a proposal for the term ‘retail transaction’ which shall ensure that recurring payments as well as B2B situations or payments to public authorities should not fall under ‘ex ante unilateral exclusions’.</p> <p>Irrespective of the above, further discussions should be held regarding <u>the important definitions of the terms ‘retailer’ and ‘service provider’</u>.</p> <p>In general, a <u>solution must be found that allows merchants, shop-keepers and businesses etc. at the Point of Sale to make</u></p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p><u>use of standards contracts and to agree, with the consent of the payer, on a different means of payment.</u></p> <p>EL (Member States Comments): EL: Although we agree with clear determination of the payer's lack of consent, however, we have concerns about the phrase “to be determined in accordance with applicable national law” in the definition of the ex-ante unilateral exclusions of cash. We believe that leaving this definition (which is a crucial point) to the MS will undermine the uniform interpretation and implementation of LTCR. We therefore propose deleting this phrase.</p> <p>ES (Member States Comments): We have doubts with the reference to national law. We understand that, in as much as mutual agreements are defined according to national law, in reverse, unilateral exclusions are to be defined according to national law. We only agree to this mention to national law, in as much there is a clear prohibition of no cash signs, as the HU PCY has done in recital 5a. No cash signs shall be considered unilateral exclusion and therefore be prohibited in all MS, regardless of national law.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>Regarding the specific mention of retail transaction, we consider that unilateral exclusions should be prohibited for any payee that is not eligible to the exceptions to mandatory acceptance, regardless of the nature of the transaction. However, we do not have a strong opposition if a majority of MSs support this.</p> <p>FI (Member States Comments): ok</p> <p>FR (Member States Comments): FR : France is in favour of the Belgian Presidency's drafting proposal because it raised fewer difficulties for us.</p> <p>The prohibition of no-cash signs in France is not based on the concept of consent (we could indeed consider that there is a tacit consent), but on a reason in the general interest justifying a derogation from the principle of contractual freedom. This derogation from the principle of contractual freedom is justified by :</p> <ul style="list-style-type: none"> - protecting people in vulnerable situations: guaranteeing the acceptance of cash in order to maintain a generally accessible means of payment.

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>- preserving the economy and social cohesion: ensuring the smooth functioning of the economy while strengthening social inclusion.</p> <p>We are therefore not opposed in principle to the Hungarian Presidency's proposal. However, we would like to ensure that the reference to the notion of consent and to the applicable national law in the current wording does not call into question the French legal regime, which provides greater protection for the use of cash as covering a public interest.</p> <p>HR (Member States Comments):</p> <p>HR: We do not fully agree with the definition of ‘ex ante unilateral exclusions of cash’. This definition permits exceptions to the mandatory acceptance of cash at the member state level, leading to inconsistent treatment of cash across eurozone member states. We suggest revising the definition as follows to ensure that the concept of unilateral exclusion is encapsulated within the Regulation itself:</p> <p>‘ex ante unilateral exclusions of cash’ refers to a scenario where a retailer or service provider unilaterally decides not to accept cash as a method of payment to discharge from a</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>payment obligation, establishing this as a standard rule for all future retail agreements. This unilateral exclusion implies that the payer and payee did not mutually negotiate and consent to such an exclusion prior to entering into the agreement;</p> <p>IE (Member States Comments): IE: Change to “...excludes cash as a payment in a retail or service transaction...” for consistency.</p> <p>IT (Member States Comments): IT. Please, see comments on recital 5(a). We can support this definition. However, for the sake of legal clarity, we are open to discuss the introduction of a definition of "retail transaction”, in order to clarify the scope of application of this provision while avoiding unintended consequences (e.g. micro-enterprises and natural persons acting in their trade, business or profession should benefit from the protection offered by the mandatory acceptance).</p> <p>LT (Member States Comments): The reference to applicable national laws imposes the risk that status of cash will not be unanimous across Member</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>States, for example, “No cash” signs could be widely used in some Member States. Also, it would be preferable to avoid mentioning consent in this context.</p> <p>Please see below suggested editorial change:</p> <p>“4. ‘ex ante unilateral exclusions of cash’ means a situation when a retailer or service provider unilaterally, and without the consent of the payer, to be determined in accordance with applicable national law, excludes cash as a payment method in a retail transaction.”</p> <p>MT (Member States Comments): Malta agrees with this change.</p> <p>NL (Member States Comments): The addition ‘in retail transactions’ is very much welcome.</p> <p>PT (Member States Comments): The text should clearly state what is an ex ante unilateral exclusion of cash. Only through such an approach can the dissemination of unwarranted refusals of cash payments be effectively prevented. We agree that the reference to the “applicable national law”, as well as to “consent”, may lead</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>to ambiguity in the application of the rules foreseen in this Regulation regarding mandatory acceptance of cash payments.</p> <p>For this reason, we propose a different drafting for this definition.</p> <p>In our opinion, the reference to Article 5(1)(b) would clarify that any agreement to exclude cash payments would need to be made prior to the payment and in accordance with the applicable national law. This drafting suggestion allows us to achieve the same objective while avoiding the expressions previously identified as concerning.</p> <p><u>Drafting suggestion:</u></p> <p>“4. ‘ex ante unilateral exclusions of cash’ means a situation when a payee unilaterally, and without the consent of the payer, to be determined in accordance with applicable national law, excludes cash as a payment method in a retail transaction. <i>In these situations, it is considered that the payer and payee have not agreed to a different means of payment for a purchase, for the purposes of Article 5(1)(b);</i>”</p> <p>SI (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>We raise our concerns that making reference to applicable national law may result in diverging practices across EA countries in terms of when a consent to a different means of payment (other than cash) by a payer is given. We would prefer to delete part of the sentence: “...to be determined in accordance with applicable national law...”</p> <p>SK (Member States Comments):</p> <p>For us the proposed way forward looks promising. Of course we would have preferred to further harmonise the status of the legal tender and its acceptance because the euro cash held by our citizens should have the same or very similar legal tender status accross the eurozone, but being aware of the previous discussions, this could be a good starting point of a compromise.</p>
<p>5. 'payer' means any person who makes a payment in euro cash;</p>	<p>5. 'payer' means any natural or legal person, irrespective of its private or public nature, who makes a payment in euro cash;</p>	<p>CZ (Member States Comments):</p> <p>CZ: We agree.</p> <p>EL (Member States Comments):</p> <p>EL: we agree with the definition of “payer”.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>ES (Member States Comments): Agree</p> <p>FI (Member States Comments): ok</p> <p>FR (Member States Comments): Fr : France supports belgian’s presidency drafting</p> <p>MT (Member States Comments): Malta is suggesting the below amendment: ‘payer’ means any natural or legal person, irrespective of its private or public nature, who makes a payment in euro cash;</p> <p>NL (Member States Comments): Because of existing contract law, we are in favour of the initial proposal. The proposed scope is too broad. In our view cash should be possible at point of sales, so the scope should entail goods and services. However, when the word</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p><i>temporary</i> is left out in the proposed article 5.3, we are open for other options regarding the scope.</p> <p>PT (Member States Comments): The segment “<i>irrespective of its private or public nature</i>” seems unnecessary, but we do not object to its inclusion.</p> <p>SI (Member States Comments): We agree with modified text of Article 3(5).</p>
<p>6. ‘payee’ means any person who is the intended recipient of funds which have been the subject of a payment transaction in euro cash;</p>	<p>6. ‘payee’ means any natural or legal person, irrespective of its private or public nature, who is the intended recipient of funds which have been the subject of a payment transaction in euro cash;</p>	<p>CZ (Member States Comments): CZ: We agree.</p> <p>EL (Member States Comments): EL: we agree with the definition of “payee”.</p> <p>ES (Member States Comments): Agree</p> <p>FI</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>(Member States Comments):</p> <p>ok</p> <p>MT</p> <p>(Member States Comments):</p> <p>Malta is suggesting the below amendment:</p> <p>‘payee’ means any natural or legal person, irrespective of its private or public nature, who is the intended recipient of funds which have been the subject of a payment transaction in euro cash;</p> <p>NL</p> <p>(Member States Comments):</p> <p>Because of existing contract law, we are in favour of the initial proposal. The proposed scope is too broad. In our view cash should be possible at point of sales, so the scope should entail goods and services. However, when the word <i>temporary</i> is left out in the proposed article 5.3, we are open for other options regarding the scope.</p> <p>PT</p> <p>(Member States Comments):</p> <p>Please refer to our previous comment.</p> <p>SI</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>(Member States Comments): We agree with modified text of Article 3(6).</p>
<p>7. ‘face value’ means the denomination in euros of a euro banknote or coin, as printed on that banknote or minted on that coin;</p>	<p><i>(unchanged)</i></p>	
	<p>7a. ‘High denomination banknotes’ means banknotes with face value of 100, 200, and 500 euros.</p>	<p>BE (Member States Comments): The reference to high denomination banknotes is not necessary, we believe the principle of proportionality should prevail. By including a definition of high denomination banknotes it looks like they can be excluded de facto even when used proportionally to the amount of the transaction.</p> <p>CZ (Member States Comments): CZ: In the Regulation, there is only one occurrence of this term. For that reason, we consider the definition redundant.</p> <p>ES (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>Agree. To avoid abuses of the exception of art. 5.2.i. In the end, ATMs usually give you 50€ or lower. You should in general terms be able to pay with those banknotes.</p> <p>FI (Member States Comments): ok</p> <p>FR (Member States Comments): FR: Neutral</p> <p>MT (Member States Comments): Malta agrees with this added definition.</p> <p>NL (Member States Comments): We are not sure whether we should define high denomination banknotes. Whether something is considered to be disproportionate in the context of 5(2)(i) depends on the case. 50 euros can be disproportionate in some cases as well, but should not be defined as a high denomination banknote.</p> <p>PT (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>We agree with introducing this definition, particularly considering its use in Article 5(2)(1).</p> <p>SI (Member States Comments): Should this additional paragraph 7a of Article 3 stay included in the LTCR, we propose to refer only to banknotes €200 and €500 as the high denomination banknotes. With current or recent price inflation (decreased purchasing power with the existing denominational split) and the fact that more and more ATMs in the EA are distributing €100 banknotes, this denomination is more and more often used for transaction purposes and not only as a store of value. And we would prefer to avoid situations where businesses (payees) would be able to undermine the status of legal tender through this provision. In this light we propose to eliminate €100 denomination from the definition of high denomination banknotes. Alternatively (or even preferable), the LTCR could also omit stating the exact denominations being the high one – similar to the text in the Commission Recommendation 2010/191/EU. Thus we would prefer even to delete this additional paragraph 7a of Article 3.</p> <p>SK (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		Welcome the clarity on what should be considered as High denomination banknotes, although the inclusion of 100 euros could be reconsidered as it is quite commonly used.
<p>8. ‘enterprise’ means a person engaged in an economic activity, irrespective of its legal form, including partnerships or associations regularly engaged in an economic activity.</p>	<p>8. ‘enterprise’ means a person engaged in an economic activity, irrespective of its legal form, including partnerships or associations regularly engaged in an economic activity.</p>	<p>BE (Member States Comments): Is this notion already widely used? Wouldn't the notion of "trader" be more relevant?</p> <p>IT (Member States Comments): IT. We suggest to drop the definition of “enterprise” and keep just the definition of “payee”. Indeed, there is no reason to keep different and more restrictive notion as “enterprise”. Therefore, we suggest also to replace “enterprise” with “payee” in art. 5(2). ii), as agreed with ES PCY.</p> <p>NL (Member States Comments): It is not clear to use what the amendment is to this text.</p>
<p>Article 4 Legal tender</p>	<p>Article 4 Legal tender</p>	<p>EE (Member States Comments): EE: Agree.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>EL (Member States Comments): EL: We welcome the fact that the phrase introduced in the previous text proposal “without prejudice to the exceptions” has been deleted and, through this, emphasis is now again placed on the rule of mandatory acceptance.</p>
<p>1. The legal tender status of euro banknotes and coins shall entail their mandatory acceptance, at full face value, with the power to discharge from a payment obligation.</p>	<p><i>(unchanged)</i></p>	<p>DE (Member States Comments): DEU Proposal: 1. The legal tender status of euro banknotes and coins shall entail their mandatory acceptance <u>in principle</u>, at full face value, with the power to discharge from a payment obligation. (Explanation) Since the mandatory acceptance is subject to exceptions in Article 5, the general nature of the mandatory acceptance shall be clarified already in the definition.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>2. In accordance with the mandatory acceptance of cash, the payee shall not refuse euro banknotes and/or coins tendered in payment to comply with that obligation.</p>	<p>2. In accordance with the mandatory acceptance of cash, the payee shall not refuse euro banknotes and/or coins tendered in payment to comply with that obligation. Ex ante unilateral exclusions of cash shall be prohibited.</p>	<p>AT (Member States Comments): AT: While we acknowledge the efforts to enable purchases of goods or services with electronic means of payment, we think that the proposal, particularly as expressed in recital 5a, is not sufficiently flexible, reliable and practical. First and foremost, it lacks flexibility as payees (e.g. businesses) would still have to accept all cash payments, if a payer insists on them. Thus, all payees would have to have a cash handling system, although it might only be used by a tiny minority of customers. Secondly, it lacks reliability, as the solution is only contained in recital 5a and not in one of the provisions of the Regulation. Thirdly, it could give rise to a number of legal disputes concerning the transparency of “electronic payments preferred” signs.</p> <p>In addition, the explicit ban of unilateral exclusions of cash could be in violation of the principle of freedom of contract. This principle enables a free choice of whether somebody wants to enter into a contract with a particular person. If a payer can insist on cash payments according to the compromise proposal, the payee will not have the freedom to choose whether he wants to enter into a contract with that particular person in the first place. Such drastic</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>market intervention must be carefully assessed and is usually only justified in a very limited number of scenarios including services where there is a monopoly of a certain service provider (e.g. electricity, water, etc). Thus, if the right to insist on cash payments is unrestricted, this would be in conflict with the exception to the mandatory acceptance obligation based on freedom of contract. This means that there is a substantial risk that the freedom to conduct a business as enshrined in Article 16 of the Charter of Fundamental Rights of the European Union and national constitutional rights is not sufficiently respected.</p> <p>As has been pointed out by some Member States and the Council Legal Service in the Council Working Party, any compromise solution should respect the freedom of contract by not forcing a contract on the payee in a disproportionate manner.</p> <p>BE (Member States Comments):</p> <ul style="list-style-type: none"> ➔ Taking into account of the definition “ex ante unilateral exclusions of cash”: this prohibition only applies to retail sector.

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>So, a company restaurant provided to the employees by the employer is allowed to refuse cash? It's not a retail transaction but more an advantage given to the employees, so not in the scope of the definition. What about school canteens?</p> <ul style="list-style-type: none"> ➔ We strongly ask to clarify these situations. There is too much uncertainty and insecurity in this disposition. ➔ If it is the scope seeking by the definition, what about saying in an separate disposition that traders are not allowed to refuse cash presented by consumers? + using definition of 'consumer' and 'trader' of 2011/83 directive: <ul style="list-style-type: none"> 'consumer' means any natural person who is acting for purposes which are outside his trade, business, craft or profession; 'trader' means any natural or legal person who is acting for purposes relating to his trade, business, craft or profession and anyone acting in the name of or on behalf of a trader;

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>Principle is mandatory acceptance between payee and payer. Prohibition of ex ante unilateral exclusion limited to transactions between traders and consumers.</p> <p>→ If it is not the scope seeking by the definition, it should be clearer.</p> <p>EL (Member States Comments): EL: We agree with the placement of the explicit prohibition of the ex-ante unilateral exclusions of cash in Article 4(2).</p> <p>ES (Member States Comments): Agree with explicit prohibition</p> <p>FI (Member States Comments): ok</p> <p>FR (Member States Comments): FR : France supports this amendment and the idea that legal tender of cash will only really be protected if unilateral ex ante excisions are prohibited.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>IE (Member States Comments): While IE prefers the Cion proposal, it supports the new text</p> <p>MT (Member States Comments): Malta agrees with this addition.</p> <p>NL (Member States Comments): To clarify the text, we would like to add that ex ante unilateral exclusions are only prohibited when no exemption applies. Without prejudice to the exceptions in Article 5, ex ante unilateral exclusions of cash shall be prohibited.</p> <p>PT (Member States Comments): We strongly agree with the approach proposed by the HU Presidency regarding <i>ex ante</i> unilateral exclusions of cash.</p> <p>SI (Member States Comments): We fully support explicitly prohibiting any ex-ante unilateral exclusions of cash payments.</p> <p>SK (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		We welcome this explicit prohibition of ex ante unilateral exclusions, which we consider as essential for the definition of the legal tender status of the euro cash.
<p>3. In accordance with the acceptance at full face value of cash, the monetary value of euro banknotes and/or coins tendered in settlement of a debt shall be equal to the amount in euro indicated on the banknotes and/or coins. Surcharges on the settlement of debt with euro banknotes and coins shall be prohibited.</p>	<i>(unchanged)</i>	
<p>4. In accordance with the power to discharge from a payment obligation, a payer shall be able to discharge from a payment obligation by tendering euro banknotes and coins to the payee.</p>	<i>(unchanged)</i>	<p>DE (Member States Comments): DEU Proposal: 4. In accordance with the power to discharge from a payment obligation, a payer shall be able to discharge from a payment obligation by tendering in euro banknotes and coins to the payee.</p> <p>(Explanation) We refer to the proposal from the BEL PCY which we deem more adequate.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>Whether or not the mere ‘tendering’ of cash would legally discharge a payer from its payment obligation might differ amongst the legal systems in the Member States and relates to questions of private law. The mere tender (offer of performance, e.g. simply offering to the payee that the cash may be picked up at the residence of the payer instead of handing over to the payee the cash) is – under German law – not sufficient for discharging the debtor. In addition, it is mandatory that the performance is also rendered, see sec. 362 (1) German Civil Code. Therefore, <u>the formulation in the text should be of a more general nature allowing all Member States to accommodate such rules in their respective legal systems.</u></p>
<p>Article 5 Exceptions to the principle of mandatory acceptance of euro banknotes and coins</p>	<p>Article 5 Exceptions to the principle of mandatory acceptance of euro banknotes and coins</p>	<p>CZ (Member States Comments): CZ: We are of the opinion that there should be another exception for purchases made without the presence of a natural person representing the payee. (eg. unmanned petrol station, vending machines, car parks,...)</p> <p>DE (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>DEU Proposal</p> <p>Article 5 Exceptions to the principle of mandatory acceptance of euro banknotes and coins</p> <p>(Explanation)</p> <p>In our understanding, discussions in the CWP had lead to the conclusion that there should not be a reference to a ‘principle of mandatory acceptance’ bur rather to a ‘mandatory acceptance’.</p> <p>EE (Member States Comments): EE: Agree.</p> <p>EL (Member States Comments): EL: We welcome the fact that the numerous exceptions (introduced in the previous text proposal, e.g. regarding unfit banknotes, vending machines, security risks) have been dropped, since they created risks to the uniform interpretation of legal tender of cash across EU.</p> <p>FR (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>FR: France supports the approach put forward by the Belgian presidency in trying to refine this article 5 with an exhaustive list of exceptions (payment in foreign currencies, or with more than 50 coins for a single transaction, payment with coins or bills in poor condition can be refused, if the recipient realizes that a banknote or coin is fake, they can refuse the payment, cash payment can be refused for technical or security reasons. For instance, nighttime businesses may refuse cash for security purposes, and parking meters may refuse cash to prevent vandalism).</p> <p>LT (Member States Comments): We would suggest keeping BE proposal: “Exceptions to the principle of mandatory acceptance of euro banknotes and coins”.</p>
<p>1. By way of derogation from Article 4(2), a payee shall be entitled to refuse euro banknotes and coins in any of the following cases:</p>	<p><i>(unchanged)</i></p>	
<p>(a) where a refusal is made in good faith and where such refusal is based on legitimate and temporary grounds</p>	<p><i>(unchanged)</i></p>	<p>DE (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>in line with the principle of proportionality in view of concrete circumstances beyond the control of the payee;</p>		<p>In our understanding, under the ESP and BEL PCY, <u>Member States had voiced their preference to delete the reference to ‘temporary grounds’.</u></p> <p>In addition, several Member States had repeatedly emphasised the <u>relevance of security reasons</u> which no longer can be found here (see also BEL PCY proposal to this effect).</p> <p>FR (Member States Comments): FR : Disagree</p> <p>Some payment refusals could be made in good faith, without being based on temporary grounds. For instance, certain economic players may ask to be topped up, for reasons of cash handling practicality, organization and security. Similarly, under specific justifications and exceptional parking payment machines are allowed not to accept cash to avoid vandalism. These cases of refusal based on legitimate but temporary reasons are part of the normal economic life of retailers and economic players. A change in the legal framework could have far-reaching consequences. For example, many cash dispensers would</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>have to be modified to accept all types of cash and not just certain denominations or the top-up requirement. As such cases would not be catered for under the current regulation, article 5 should be more flexible to allow for those specific situations.</p> <p>NL (Member States Comments): We believe there should be room for non-temporary exceptions. A non-temporary exception could consist of real and pressing safety risks. We would like to remove ‘temporary’ from this provision. See also article 3.5 and art 3.6.</p> <p>See also the Spanish and the Belgium proposal on this.</p>
<p>(b) where, prior to the payment, the payee has agreed with the payer on a different means of payment.</p>	<p>(b) where, prior to the payment, the payer and payee have agreed in accordance with applicable national law on a different means of payment.</p>	<p>AT (Member States Comments): AT: The explicit reference to national law as the determining factor for the validity of the agreement of the payer provides more clarity and is thus to be welcomed.</p> <p>As the Council Legal Service has pointed out in the Council Working Party on 18 November 2024, the agreement on a</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>different means of payment is not harmonised and is therefore based on national law.</p> <p>EL (Member States Comments): EL: We agree with the placement of the agreement between the payer and the payee on a different means of payment as an exception to the mandatory acceptance, in line with the original Commission proposal.</p> <p>ES (Member States Comments): Agree. It provides clarity. The agreement will always be in accordance to national law.</p> <p>FR (Member States Comments): Fr : We are cautious about this wording and refer to our previous comments on the recitals.</p> <p>IE (Member States Comments): IE supports this proposal.</p> <p>LT (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>As indicated in Recital (4): “the Court of Justice of the European Union clarified that the concept of ‘legal tender’ mentioned in Article 128(1) TFEU is a concept of Union law that must be given an autonomous and uniform interpretation throughout the EU. <...> the concept of ‘legal tender’ of a means of payment denominated in a currency unit signifies that “that means of payment cannot generally be refused <...>”.</p> <p>Reference to applicable national laws imposes the risk that status of cash will not be unanimous across Member States, for example, “No cash” signs could be widely used in some Member States, therefore we suggest keeping the original wording proposed by the Commission.</p> <p>MT (Member States Comments): Malta agrees with this addition.</p> <p>PT (Member States Comments): We strongly agree with the clarification provided by the HU Presidency, in this Recital.</p> <p>Please see our comments in Article 3(4) – i.e., the definition of <i>ex ante</i> unilateral exclusions.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>SI (Member States Comments): We raise our concerns that making reference to applicable national law may result in diverging practices across EA countries in terms of when a consent to a different means of payment (other than cash) by a payer is given. We would prefer to keep the initial Commission proposal for this paragraph 1b of Article 5.</p> <p>SK (Member States Comments): Could agree in the spirit of compromise.</p>
<p>For the purposes of point (a), the burden of proof to establish that such legitimate and temporary grounds existed in a particular case and that the refusal was proportionate shall be on the payee.</p>	<p><i>[Moved below to Article 5 (3)]</i></p>	<p>ES (Member States Comments): OK. Gives more clarity.</p> <p>NL (Member States Comments): We believe there should be room for non-temporary exceptions. A non-temporary exception could consist of real and pressing safety risks. We would like to remove ‘temporary’ from this provision. See also article 3.5 and art 3.6.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		See also the Spanish and the Belgium proposal on this.
	(c) where the payee is a natural person acting in the course of a purely personal or household activity;	<p>AT (Member States Comments): AT: We agree with the inclusion of this exemption.</p> <p>CZ (Member States Comments): CZ: We have no strong opinion.</p> <p>DE (Member States Comments): We continue to question the practical relevance of this provision. For situations where private persons settle pecuniary debts, cash seems to be a very relevant, if not the most relevant, means of payment. It would seem odd to exclude this scenario from the scope, given that electronic payments P2P, today, are still less prevalent.</p> <p>However, here again, it shows the importance of clarifying the legal consequences of mandatory acceptance. Because natural persons should not be forced by a payer to enter into a contractual relationship only because the payer insists on paying cash.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>EL (Member States Comments): EL: We do <u>not</u> support the exclusion of mandatory acceptance of cash between natural persons engaged in purely personal or household activities. We are of the view that reintroducing such an exception will undermine the principle of mandatory cash acceptance and will have a high impact especially for certain vulnerable groups of people with a dependency on cash payments. Furthermore, this exception will lead to the payer being deprived of the possibility to pay with central bank money (assuming that a corresponding exception will be introduced also in DER, as foreseen).</p> <p>ES (Member States Comments): We would eliminate this exception. There should be at least one means of payment that allows you to settle your debts.</p> <p>FI (Member States Comments): ok</p> <p>FR (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>Fr : neutral</p> <p>IT</p> <p>(Member States Comments):</p> <p>IT. We cannot support this exception since: i) it’s not in line with the ability of cash in settling pecuniary obligation, as a general principle also recognized in Hessischer Rundfunk judgement and could significantly hamper the legal tender status of cash. Indeed point. 46 of the judgement states that the concept of ‘legal tender’ means that a payment in that currency cannot generally be refused in settlement of a debt denominated in the same currency unit, with the effect of discharging the debt; ii) it would have a direct impact to our national civil law. Indeed, our civil code ensures the mandatory acceptance of legal tender money, where a payment obligation exists. This is a general provision that includes all kind of pecuniary obligations, including the ones that involve natural persons (as payee) acting for personal activities.</p> <p>Considering the previous discussion, we understand that this exception was inserted only to lighten the monitoring activities. If this interpretation is confirmed, then we believe that it would be sufficient to work on the wording of the</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>recital 6, for instance the monitoring activities, without introducing a new exception.</p> <p>Therefore, we would ask for the deletion of this exception and suggest, as a compromise solution, to further clarify the perimeter of the monitoring obligations.</p> <p>LT (Member States Comments): We suggest removing this exception based on rationale provided by BE Presidency: “As every exception to the mandatory acceptance of cash should be subject of the proportionality check, there are no good reason and also no need why natural persons in the course of a purely personal activity should have the possibility to refuse cash for a pecuniary debt.”</p> <p>MT (Member States Comments): Malta agrees with this addition.</p> <p>SI (Member States Comments): We do not oppose to adding this paragraph 1c to Article 5.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>2. For the purposes of the application of paragraph 1, such legitimate grounds may include:</p>	<p>2. For the purposes of the application of paragraph 1(a), such legitimate grounds may include:</p>	<p>ES (Member States Comments): Yes.</p> <p>FI (Member States Comments): ok</p> <p>MT (Member States Comments): Malta agrees with this amendment.</p>
<p>i. Regarding high denomination banknotes, if the value of the banknote tendered is manifestly disproportionate compared to the value of the amount to be settled.</p>	<p><i>(unchanged)</i></p>	<p>BE (Member States Comments): Proposition: “if the value of the banknote tendered is manifestly disproportionate compared to the value of the amount to be settled.”</p> <p>→ Is it really needed to precise “Regarding high denomination banknotes”? To pay 1 euro with a 50’s banknote seems also disproportionate.</p>
<p>ii. In exceptional cases, if the enterprise has no change available at the moment where the cash is tendered</p>	<p><i>(unchanged)</i></p>	<p>BE (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>in payment, or if there would be not enough change available as a result of that payment for an enterprise to carry out its normal daily business transactions.</p>		<p>This provision runs the risk that a lack of change may go deliberately unaddressed by some enterprises, and will instead be used to effectively accept only electronic means of payment.</p> <p>It is necessary to guarantee the exceptional nature of this limitation, for example by sufficiently monitoring the frequency with which enterprises make use of this exception.</p> <p>This provision also directly addresses the issue of coin availability, as part of the broader issue of access to cash, thus emphasising that access to coins and banknotes cannot be separated from their acceptance.</p> <p>DE (Member States Comments):</p> <p>Drafting Proposal:</p> <p>ii. In exceptional cases, if the enterprise payee has no change available at the moment where the cash is tendered in payment, or if, there would be not enough change available as a result of that payment for an enterprise to carry out its normal daily business transactions.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
	<p>3. For the purposes of the application of paragraph 1(a), the burden of proof to establish that such legitimate grounds existed in a particular case and that the refusal was proportionate, shall be on the payee.</p>	<p>CZ (Member States Comments): CZ: We agree.</p> <p>ES (Member States Comments): Refer also to temporary, since it has been maintained in art.5.1.a) (for coherence). We would add a paragraph 4 to refer to the possibility of MS to adopt exceptions in areas of their own competences when there is public interest, instead of mentioning this in art. 2 (scope)</p> <p>FI (Member States Comments): ok</p> <p>LT (Member States Comments): For consistency and alignment with Art. 5.1.a), reference to “temporary grounds” should be maintained – please see below suggested editorial changes:</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>“3. For the purposes of the application of paragraph 1(a), the burden of proof to establish that such legitimate and temporary grounds existed in a particular case and that the refusal was proportionate, shall be on the payee.”</p> <p>MT (Member States Comments): Malta agrees with this addition.</p> <p>SI (Member States Comments): We agree with moving the text to paragraph 3 of Article 5.</p>
<p>Article 6 Additional exceptions to the principle of mandatory acceptance of euro banknotes and coins of a monetary law nature</p>	<p><i>Deleted</i></p>	<p>EE (Member States Comments): EE: Agree.</p> <p>ES (Member States Comments): OK</p> <p>FI (Member States Comments): ok</p> <p>FR (Member States Comments): Fr : France supports the deletion of this article</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		PT (Member States Comments): We agree with the deletion of this Article.
The Commission is empowered to adopt delegated acts in accordance with Article 10 to supplement this Regulation by identifying additional exceptions of a monetary law nature to the principle of mandatory acceptance. Those exceptions shall be justified by an objective of public interest and proportionate to that aim, shall not undermine the effectiveness of the legal tender status of euro cash, and shall only be permitted provided that other means for the payment of monetary debts are available. When preparing those delegated acts, the Commission shall consult the European Central Bank.	<i>Deleted</i>	FI (Member States Comments): ok MT (Member States Comments): Malta agrees with the suggested deletion.
Article 7 Acceptance of payments in cash	Article 7 Acceptance of payments in cash	EE (Member States Comments): EE: Agree. FR (Member States Comments):

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>FR:</p> <p>this reasoning highlights the fact that the ECB's current framework effectively aligns with the objectives of the proposed regulation, minimising the need for further additions thanks to its well-established procedure.</p> <p>The following position could therefore be adopted:</p> <ul style="list-style-type: none"> - The informal data collection framework should be defined jointly by the ECB and the Commission. - The framework of indicators should be non-binding, allowing for collective collaboration and flexibility to adapt to needs on the ground. - The draft regulation should require Member States to participate in an information report every two years to ensure a unified European approach. <p>This approach strikes a balance between EU supervision and Member State autonomy, encouraging cooperation and shared responsibility for maintaining access to and acceptance of cash. Let's move forward collaboratively, recognising the strengths of existing processes while improving them for the benefit of all stakeholders.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>1. In order to ensure the acceptance of cash in accordance with Article 4(2), Member States shall monitor the acceptance of payments in cash and the level of ex ante unilateral exclusions of payments in cash throughout their territory, in all their different regions, including urban and non-urban areas, on the basis of the common indicators adopted by the Commission and shall assess the situation.</p>	<p>1. In order to ensure the acceptance of cash in accordance with Article 4(2), Member States shall monitor the acceptance of payments in cash and the appropriate use of the exceptions to the principle of mandatory acceptance of cash throughout their territory, in all their different regions, including urban and non-urban areas, on the basis of the common indicators adopted by the Commission and, if applicable, on the basis of specific national indicators and shall assess the situation.</p>	<p>AT (Member States Comments): AT: The possibility to rely on freedom of contract (as an exception to the mandatory acceptance) is a fundamental right and should not be granted only if it does not lead to “unjustified or disproportionate restrictions” on the mandatory acceptance of cash as expressed in recital 4b. We agree that there should be national indicators to reflect national specificities. However, it is not clear yet what weight these national indicators carry compared to the common indicators. Hence, we ask for more clarity on the significance of the national indicators.</p> <p>CZ (Member States Comments): CZ: We agree.</p> <p>DE (Member States Comments): DEU Proposal: 1. In order to ensure the acceptance of cash in accordance with Article 4(2), Member States shall monitor the acceptance of payments in cash and the appropriate use of</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>the proliferation of exceptions to the principle of mandatory acceptance of cash throughout their territory, in all their different regions, including urban and non-urban areas, on the basis of the common indicators adopted by the Commission and, if applicable, on the basis of specific national indicators and shall assess the situation.</p> <p>(Explanation)</p> <p>As said before, we are very reluctant to qualify exceptions to mandatory acceptance as ‘appropriate’. In our understanding, it would be legally possible to refuse cash in cases where exceptions are validly claimed. If such behaviour is legally possible, however, we fail to understand how it could be considered inappropriate. Instead, and more neutral in its wording, Member States might monitor the proliferation of exceptions.</p> <p>EL (Member States Comments): EL: This Article should be renumbered as Article 6, after the deletion of Article 6 of the Commission proposal. Subsequent Articles should be renumbered accordingly, and</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>also cross – references (see, for example, Article 7(2) referring to Article 9(3)).</p> <p>ES (Member States Comments): OK</p> <p>FI (Member States Comments): ok</p> <p>FR (Member States Comments): FR : The addition of checks on the appropriate use of exceptions to the principle of compulsory acceptance of cash and the possibility of referring to a database of specific national indicators is a step in the right direction, but we maintain our reservations about the monitoring arrangements proposed by the Commission.</p> <p>HR (Member States Comments): HR: We suggest referring to this Regulation instead of Article 4(2). Member states require a basis for monitoring the implementation of the entire regulation, not just a single article.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>LT (Member States Comments): For consistency and alignment with Recital (6), ex ante unilateral exclusions of payments in cash should be included, as these situation might affect mandatory acceptance of cash even more than the inappropriate use of exceptions.</p> <p>Please see below suggested editorial changes:</p> <p>“1. In order to ensure the acceptance of cash in accordance with Article 4(2), Member States shall monitor the acceptance of payments in cash, the level of ex ante unilateral exclusions of payments in cash and the appropriate use of the exceptions to the principle of mandatory acceptance of cash <...>”.</p> <p>MT (Member States Comments): Malta agrees with these amendments.</p> <p>NL (Member States Comments): We are still scrutinizing whether the NCA could monitor the exceptions. In general we support the initial commission proposal for article 7(1).</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>PT (Member States Comments): We agree with the approach proposed by the HU Presidency.</p> <p>SI (Member States Comments): We agree with proposed modifications to paragraph 1 of Article 7.</p>
<p>2. Member States shall notify the results of their monitoring and assessment of the situation as regards the level of acceptance of payments in cash in accordance with Article 9(3).</p>	<p>2. Member States shall notify the results of their monitoring and assessment of the situation as regards the level of acceptance of payments in cash in accordance with Article 9(3).</p>	
<p>3. If a Member State considers that the level of acceptance of payments in cash in their territory or parts thereof undermines mandatory acceptance of euro banknotes and coins, it shall set out the remedial measures it commits to take in accordance with Article 9(4).</p>	<p>3. If a Member State considers, on the basis of their monitoring and assessment, that the acceptance of payments in cash is undermined by widespread refusals of cash payments, it shall set out the remedial measures it commits to take in accordance with Article 9(4).</p>	<p>CZ (Member States Comments): CZ: We agree.</p> <p>DE (Member States Comments): DEU Proposal: 3. If a Member State considers, on the basis of their monitoring and assessment, that the acceptance of payments</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>in cash is effectively undermined by widespread refusals of cash payments, it shall set out the remedial measures it commits to take in accordance with Article 9(4).</p> <p>(Explanation)</p> <p>Overall, it seems important to have a more detailed description of the crucial threshold, i.e. ‘effectively undermined’ in order not to require Member States to adopt remedial measure in individual instances of non-compliance.</p> <p>ES (Member States Comments): We would say “set out in the annual report the remedial measures...” to clarify where they should be set out.</p> <p>FI (Member States Comments): ok</p> <p>FR (Member States Comments): FR : The new drafting narrows the scope of application by specifying that corrective measures are only justified in the event of widespread refusal to pay in cash.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>Drafting suggestion :</p> <p><i>3.If a Member State considers on the basis of their monitoring and assessment, that the level of acceptance of payments in cash in their territory or parts thereof undermines mandatory acceptance of euro banknotes and coins is not ensured in all or part of its territory, it shall set out the remedial measures it intends commits to take. in accordance with Article 9(4).</i></p> <p>IE (Member States Comments): IE welcomes the inclusion of the phrase “...the acceptance of cash is undermined by widespread refusals of cash payments...”. It allows for monitoring and review but is not overly burdensome on the competent authority.</p> <p>LT (Member States Comments): Considering the importance of territorial aspect, the corresponding reference might be maintained: “<...> that the acceptance of payments in cash in their territory or parts thereof is undermined <...>.”</p> <p>MT (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>Malta agrees with this amendment.</p> <p>PT (Member States Comments): We agree with the approach proposed by the HU Presidency.</p> <p>SI (Member States Comments): We agree with proposed modifications to paragraph 3 of Article 7.</p>
<p>Article 8 Access to cash</p>	<p>Article 8 Access to cash</p>	<p>EE (Member States Comments): EE: Agree.</p>
<p>1. Member States shall ensure sufficient and effective access to cash throughout their territory, in all their different regions, including urban and non-urban areas. In order to ensure sufficient and effective access to cash, Member States shall monitor access to cash throughout their territory, in all their different regions, including urban and non-urban areas, on the basis of the</p>	<p>1. Member States shall ensure sufficient and effective access to cash throughout their territory, in all their different regions, including urban and non-urban areas. In order to ensure sufficient and effective access to cash, Member States shall monitor access to cash throughout their territory, in all their different regions, including urban and non-urban areas, on the basis of the common indicators adopted by the Commission and, if</p>	<p>AT (Member States Comments): AT: We agree that there should be national indicators to reflect national specificities. However, it is not clear yet what weight these national indicators carry compared to the common indicators. Hence, we ask for more clarity on the significance of the national indicators.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>common indicators adopted by the Commission and shall assess the situation.</p>	<p>applicable, on the basis of specific national indicators and shall assess the situation.</p>	<p>CZ (Member States Comments): CZ: We agree.</p> <p>ES (Member States Comments): OK</p> <p>FI (Member States Comments): ok</p> <p>FR (Member States Comments): Fr : France opposes the power thus conferred on the Commission and proposes the following wording :</p> <p><i>1.Member States shall ensure sufficient and effective access to cash throughout their territory, in all their different regions, including urban and non-urban areas. In order to ensure sufficient and effective access to cash, Member States shall monitor access to cash throughout their territory, in all their different regions, including urban and non-urban areas, on the basis of the common indicators drafted in accordance with article 9(2) adopted by the Commission and shall assess the situation.</i></p> <p>IE</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>(Member States Comments):</p> <p>IE supports the text but does suggest a slight redraft to clarify that MS are free to take pro-active measures to ensure sufficient and effective access to cash. The current text could be interpreted as only permitting actions (remedial measures) after monitoring shows insufficient and ineffective access to cash. Suggested new text is below:</p> <p>‘Member States shall ensure sufficient and effective access to cash throughout their territory, in all their different regions, including urban and non-urban areas and may take measures through national legislation to achieve this objective. In order to ensure demonstrate continued sufficient and effective access to cash, Member States shall monitor and assess access to cash throughout their territory, in all their different regions, including urban and non-urban areas, on the basis of the common indicators adopted by the Commission and, if applicable, on the basis of specific national indicators and shall assess the situation.</p> <p>LT</p> <p>(Member States Comments):</p> <p>Cash deposit services are important for sufficient and effective access to cash – please see below editorial suggestions: “1. Member States shall ensure sufficient and</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>effective access to cash, including access to cash deposit services, <...>.”</p> <p>MT (Member States Comments): Malta agrees with this amendment.</p> <p>PT (Member States Comments): We agree with the approach proposed by the HU Presidency.</p> <p>SI (Member States Comments): We agree with proposed modifications to paragraph 1 of Article 8.</p>
<p>2. Member States shall notify the results of their monitoring and assessment of the situation as regards access to cash in accordance with Article 9(3).</p>	<p>2. Member States shall notify the results of their monitoring and assessment of the situation as regards access to cash in accordance with Article 9(4).</p>	<p>FI (Member States Comments): ok</p> <p>FR (Member States Comments): Fr : France reiterates its request for a biannual report with this new redaction : <i>2.Member States shall notify the results of their monitoring and assessment of the situation as regards access to cash in</i></p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p><i>the biennial report submitted in accordance with Article 9(3).</i></p> <p>LT (Member States Comments): The reference to Article 9 (4) should probably be replaced with reference to Article 9 (3a).</p> <p>MT (Member States Comments): Malta agrees with this amendment.</p>
<p>3. If a Member State considers that sufficient and effective access to cash is not ensured, it shall set out the remedial measures it commits to take in accordance with Article 9(4).</p>	<p>3. If a Member State considers that sufficient and effective access to cash is not ensured, it shall set out the remedial measures it commits to take in accordance with Article 9(5).</p>	<p>FI (Member States Comments): ok</p> <p>FR (Member States Comments): Fr : in accordance with the two previous comments, France proposes the following wording</p> <p><i>3.If a Member State considers, on the basis of their monitoring and assessment, that sufficient and effective access to cash is not ensured, it shall, in the biennial report, set out the remedial measures it intends commits to take. in accordance with Article 9(4).</i></p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>LT (Member States Comments): The reference to Article 9 (5) should probably be replaced with reference to Article 9 (4).</p> <p>MT (Member States Comments): Malta agrees with this amendment.</p>
<p>Article 9 Procedural aspects</p>	<p>Article 9 Procedural aspects</p>	<p>EE (Member States Comments): EE: Agree. In addition, please see the comments below.</p>
<p>1. With a view to implementing the obligations set out in Articles 7 and 8, Member States shall designate one or more national competent authorities with the required powers as regards acceptance of payments in cash and access to cash, and over the cash-related market activities of the cash industry.</p>	<p><i>unchanged</i></p>	
<p>2. For the purposes of Articles 7 and 8, the Commission shall adopt implementing acts of general</p>	<p><i>unchanged</i></p>	<p>DE (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>application on a set of common indicators Member States shall use to monitor and assess the acceptance of payments in cash and access to cash throughout their territory, in all their different regions, including urban and non-urban areas. Those implementing acts shall be adopted [within X months after the entry into force of this Regulation] in accordance with the advisory procedure referred to in Article 11. When preparing those implementing acts, the Commission shall consult the European Central Bank.</p>		<p>Remark: A more thorough discussion regarding the scope and content of such common indicators is needed. Potentially, it could be necessary to set this out more clearly in this paragraph and adopt amendments at a later stage.</p> <p>EL (Member States Comments): EL: Drafting amendment: <i>“in accordance with the advisory examination procedure referred to in Article 11”.</i></p> <p>Suggested amendment to align it with the agreements reached in previous discussions, and is also reflected in recital 12 of the present draft.</p> <p>ES (Member States Comments): It should refer to the examination and not the advisory procedure. A reference to art. 11 (like in the ES PCY suggestions) would be sufficient.</p> <p>We appreciate the mention in recital 8 that in the setting of the indicators, the COM will take into account the existing framework and consider it is, in principle, enough.</p> <p>FR (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>Fr : Drafting suggestion</p> <p><i>2. For the purposes of Articles 7 and 8, the Commission shall adopt implementing acts of general application on a set of common indicators the ECB and the Commission shall jointly adopt guidelines to define a set of common indicators to be used by Member States to monitor and assess the acceptance of cash payments and access to cash throughout their territory, including all regions, both urban and rural. Those implementing acts shall be adopted Those guidelines shall be published [within X months of the entry into force of this Regulation] in accordance with the advisory procedure referred to in Article 11. When preparing those implementing acts, the Commission shall enter into consultation with the European Central Bank.</i></p>
<p>3. The designated national competent authorities shall notify the results of their monitoring and assessment of the situation as regards the levels of acceptance of payments in cash and access to cash, giving grounds and data for their assessment, in an annual report to be addressed to the Commission and the European Central Bank as referred to in Article 13.</p>	<p>3. For the purposes of Articles 7 and 8, a Member State may use in its annual report specific national indicators, in addition to common indicators, to provide more detailed information on the specificities of its territory, regions, and urban areas. These specific national indicators shall complement the common indicators allowing for a common approach to the assessment and comparability of data. Under no</p>	<p>AT (Member States Comments): AT: We agree that there should be national indicators to reflect national specificities. However, it is not clear yet what weight these national indicators carry compared to the common indicators. Hence, we ask for more clarity on the significance of the national indicators.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
	<p>circumstances shall the specific national indicators substitute or undermine the common indicators.</p>	<p>CZ (Member States Comments): CZ: We are not against.</p> <p>DE (Member States Comments): Regarding the annual reporting (or whether it should be bi-annual reporting), see our comments on Article 13.</p> <p>EE (Member States Comments): EE: We strongly support allowing the use of specific national indicators highlighting national specificities to monitor availability and acceptance of cash.</p> <p>ES (Member States Comments): OK</p> <p>FI (Member States Comments): ok</p> <p>FR (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>FR : France supports this amendment with one comment on the frequency of the report, which it would like to see every two years.</p> <p>IT (Member States Comments): IT. Regarding the reference to the Member State’s annual report, please see our comments on art. 13.</p> <p>Also, for the sake of clarity, we would delete the references to “undermine”, which could be useless and misleading.</p> <p>Therefore, we suggest the following amendments (in red):</p> <p>“3. For the purposes of Articles 7 and 8, a Member State may use in its <i>[annual]</i> report specific national indicators, in addition to common indicators, to provide more detailed information on the specificities of its territory, regions, and urban areas. These specific national indicators shall complement the common indicators allowing for a common approach to the assessment and comparability of data. Under no circumstances shall the specific national indicators substitute or undermine the common indicators”.</p> <p>MT (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>Malta agrees with the change in this provision.</p> <p>PT (Member States Comments): We agree with the explanations provided in this paragraph. Nevertheless, for reasons of clarity, we present a minor drafting suggestion.</p> <p><u>Drafting suggestion:</u> “3. For the purposes of Articles 7 and 8, a Member State may use in its annual report specific national indicators, in addition to common indicators, to provide more detailed information on the specificities of its territory, regions, and urban areas. These specific national indicators shall complement the common indicators. allowing for a common approach to the assessment and comparability of data. Under no circumstances shall the specific national indicators substitute or undermine the common indicators, <i>jeopardizing a common approach to the assessment and comparability of data.</i>”</p> <p>SI (Member States Comments): We agree with the newly proposed text of paragraph 3 of Article 9.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

Deadline: 29 November 2024

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>SK (Member States Comments): We would also welcome to reduce the burden on MS. The report could be prepared every 2 years.</p>
	<p>3a. The designated national competent authorities shall notify the results of their monitoring and assessment of the situation as regards the acceptance of payments in cash and access to cash, giving grounds and data for their assessment, in an annual report as referred to in Article 13.</p>	<p>ES (Member States Comments): OK FI (Member States Comments): ok FR (Member States Comments): FR : France supports this amendment with one comment on the frequency of the report, which it would like to see every two years. MT (Member States Comments): Malta agrees with this text. NL (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>We see no necessity of this addition. How MS are reporting and by whom is on the MS.</p> <p>PT (Member States Comments): Please see our comments in Article 13, regarding the periodicity of the reports.</p> <p>SI (Member States Comments): We agree with moving this text to new paragraph 3a of Article 9</p>
<p>4. If a Member State considers that the level of acceptance of payments in cash undermines mandatory acceptance of euro banknotes and coins or that sufficient and effective access to cash is not ensured, it shall indicate in its annual report the remedial measures it commits to take in order to comply with the obligations set out in Articles 7 and 8. The remedial measures shall enter into force without undue delay.</p>	<p>4. If a Member State considers that the acceptance of payments in cash is undermined by widespread refusals of cash payments, or that there is no sufficient and effective access to cash, in all or part of its territory, it shall in the annual report, set out the remedial measures that the Member State commits to take in order to comply with the obligations set out in Articles 7 and 8. The remedial measures shall enter into force without undue delay.</p>	<p>CZ (Member States Comments): CZ: We agree.</p> <p>DE (Member States Comments): DEU Proposal</p> <p>4. If a Member State considers that the acceptance of payments in cash is effectively undermined by widespread refusals of cash payments, or that there is no sufficient and effective access to cash, in all or part of its territory, it shall in the annual report, set out the remedial measures that the</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>Member State commits to take in order to comply with the obligations set out in Articles 7 and 8. The remedial measures shall enter into force without undue delay.</p> <p>(Explanation)</p> <p>A quantitate threshold is required in order to ensure that in order not to require Member States to adopt remedial measure in individual instances of non-compliance.</p> <p>FI (Member States Comments): ok</p> <p>FR (Member States Comments): FR : France supports the amendments made to the first part but would like to see the 2nd part amended as presented in the non-paper : <i>“it shall indicate in its biennial report the remedial measures it intends commits to take in order in accordance with to comply with the obligations set out in Articles 7 and 8. The remedial measures shall enter into force without undue delay.”</i></p> <p>MT (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>Malta agrees to the changes made in this regard.</p> <p>NL (Member States Comments): We want to add the word ‘intends’, “It shall in the annual report, set out the remedial measures that the Member State <i>intends</i> to take”. We are dependent on our Parliament as well for implementing measures, so we can only indicate which measures we intend to take. The same goes for the phrasing “shall enter into force without undue delay”. We can’t say anything about timelimes as the Parliament decides on its own agenda.</p> <p>PT (Member States Comments): Please see our comments in Article 13, regarding the periodicity of the reports.</p> <p>SI (Member States Comments): We agree with the newly proposed text of paragraph 4 of Article 9.</p>
<p>5. The Commission shall examine the annual reports in close consultation with the European Central Bank. If</p>	<p>5. If, after examining the annual report, the Commission, in consultation with the European Central</p>	<p>AT (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>the remedial measures proposed by a Member State pursuant to paragraph 4 appear insufficient, or if the Commission considers that the acceptance of cash payments or sufficient and effective access to cash in a Member State is not in line with the obligations set out in Articles 7 and 8 despite the findings of the annual report, the Commission shall adopt implementing acts providing for adequate and proportionate measures that shall be adopted by the Member State concerned within the deadline laid down in the respective implementing act. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 11.</p>	<p>Bank, concludes that the remedial measures set out by the Member State concerned are insufficient, the Commission may open a dialogue with the Member State concerned for the purpose of reaching a common view and assist the Member State in designing remedial measures to ensure acceptance of cash and sufficient and effective access to cash.</p>	<p>AT: We support the change to a dialogue with the Commission.</p> <p>CZ (Member States Comments): CZ: We very much welcome the proposed change according to which Commission has only mentoring role.</p> <p>DE (Member States Comments): DEU Proposal:</p> <p>5. If, after examining the bi-annual report, the Commission, in consultation with the European Central Bank, concludes has valid reasons to believe that the remedial measures set out by the Member State concerned are could be insufficient, the Commission may open a dialogue with the Member State concerned for the purpose of reaching a common view and assist the Member State in designing remedial measures to ensure acceptance of cash and sufficient and effective access to cash.</p> <p>(Explanation)</p> <p>We refer to the Proposal by the BEL PCY. It would be <u>preempting the dialouge between COM, ECB and a Member State if COM would conclude that the remedial measures set</u></p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>out by the Member State ‘are’ insufficient <i>before</i> the dialouge was even opened. Instead, any such finding should only be reached on the basis of the dialouge with the Member State.</p> <p>EE (Member States Comments): EE: Above all, we support the right of the Member State to choose appropriate measures to ensure the availability and acceptance of cash. However, we are open to involving the European Commission and/or the European Central Bank, primarily in an advisory role.</p> <p>FI (Member States Comments): ok</p> <p>FR (Member States Comments): FR : The belgium presidency’s drafting was a good basis for discussion. Drafting suggestions from our non paper : <i>“The Commission may publish an opinion on the level of acceptance of payments in cash, on the effective access to</i></p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p><i>cash, on the assessment by Member States and on remedial measures Member States intends to take.”</i></p> <p>MT (Member States Comments): Malta agrees with the Presidency’s amendments.</p> <p>PT (Member States Comments): We agree with the approach foreseen in this paragraph, which aligns with (i) the principle of sincere cooperation, referred to in Recital 10 and (ii) the circumstance, outlined in Recital 6, which states that the primary responsibility for assessing whether the mandatory acceptance of payments in cash is ensured, should lie with the Member States.</p> <p>SI (Member States Comments): We agree with the newly proposed text of paragraph 5 of Article 9.</p>
Article 10 Exercise of the delegation	<i>Deleted</i>	<p>EE (Member States Comments): EE: Agree.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		FI (Member States Comments): ok FR (Member States Comments): FR : fully support the deletion MT (Member States Comments): Malta agrees with the deletion of this Article.
1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.	<i>Deleted</i>	FI (Member States Comments): ok
2. The power to adopt delegated acts referred to in Article 6 shall be conferred on the Commission for an indeterminate period of time from <i>[date of entry into force of this Regulation]</i> .	<i>Deleted</i>	FI (Member States Comments): ok

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>3. The power to adopt delegated acts referred to in Article 6 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.</p>	<p><i>Deleted</i></p>	<p>FI (Member States Comments): ok</p>
<p>4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.</p>	<p><i>Deleted</i></p>	<p>FI (Member States Comments): ok</p>
<p>5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.</p>	<p><i>Deleted</i></p>	<p>FI (Member States Comments): ok</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>6. A delegated act adopted pursuant to Article 6 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of one month of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by one month at the initiative of the European Parliament or of the Council.</p>	<p><i>Deleted</i></p>	<p>FI (Member States Comments): ok</p>
<p>Article 11 Committee procedure</p>	<p>Article 11 Committee procedure</p>	<p>EE (Member States Comments): EE: Agree.</p> <p>FR (Member States Comments): FR : this article should be deleted in line with our previous comments</p>
<p>1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.</p>	<p><i>unchanged</i></p>	

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.</p>	<p>2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.</p>	<p>FI (Member States Comments): ok</p> <p>MT (Member States Comments): Malta agrees with this change.</p> <p>PT (Member States Comments): We strongly agree with the reference to Article 5 of Regulation (EU) No 182/2011, instead of Article 4.</p>
	<p>3. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act.</p>	<p>CZ (Member States Comments): CZ: We agree.</p> <p>FI (Member States Comments): ok. Exactly accordin to our earleir comments.</p> <p>MT (Member States Comments): Malta agrees with this addition.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>PT (Member States Comments): We have some doubts regarding this (new) paragraph 3. We wonder whether a reference to point (a) of the second paragraph of Article 5(4) of Regulation (EU) No 182/2011 is necessary, for reasons of clarification.</p>
<p>Article 12 Penalties</p>	<p>Article 12 Penalties</p>	<p>EE (Member States Comments): EE: Agree.</p>
		<p>AT (Member States Comments): AT: We support the changes.</p>
<p>Member States shall lay down the rules on penalties <i>[including financial penalties and non-criminal fines]</i> applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall, within one year after the entry into force of this Regulation, notify the Commission of those rules and of those measures and</p>	<p>Member States may lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. If penalties are laid down, Member States shall, within two years after the entry into force of this Regulation, notify the Commission of those</p>	<p>CZ (Member States Comments): CZ: We welcome extension of the notification period to two years. EE (Member States Comments): EE: Strong support. EL</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>shall notify it, without delay, of any subsequent amendment affecting them.</p>	<p>rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.</p>	<p>(Member States Comments):</p> <p>EL: While we have no strong views, penalties are important enforcement tools. Allowing Member States discretion in setting penalty rules risks fragmentation. We also welcome the deletion of the reference to “financial penalties and non-criminal fines”, as it could lead to confusion and uncertainty. We suggest, for reasons of consistency, that this reference also be deleted in Article 13 (1) (c).</p> <p>ES (Member States Comments):</p> <p>We agree with using may instead of shall. However, it could be positive to clarify what the CLS explained in the CWP, namely that, even if penalties are not compulsory, if based in the monitoring effective access and acceptance is not complied with and the only way to enforce them is imposing penalties, then they should be imposed.</p> <p>FI (Member States Comments):</p> <p>ok</p> <p>HR (Member States Comments):</p> <p>HR: We advocate for the establishment of penalty regulations as they serve as an additional mechanism to</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>guarantee consistent handling of cash across member states of the euro area.</p> <p>MT (Member States Comments): Malta agrees with the amendments made regarding penalties.</p> <p>NL (Member States Comments): We support the Presidency’s proposal regarding the two years term. As a payment transaction is first and foremost a civil law obligation, we believe that MS should have the opportunity to keep enforcement in the civil law domain. Also in Member States where there are already penalties, the acceptance of cash is not significantly higher, so the efficiency and effectiveness of this instrument is questionable.</p> <p>PT (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>We prefer to maintain the approach foreseen in the COM’s proposal, which we believe is more aligned with the objectives pursued by this Regulation.</p> <p>We also have doubts regarding the argument that, under the principle of sincere cooperation, Member States may be required to establish sanctions as a remedial measure to ensure acceptance of cash payments and access to cash.</p> <p>While we may agree with this conclusion from a strictly legal perspective, we have some concerns that, in practice, its implementation could prove challenging.</p> <p>SI (Member States Comments):</p> <p>We are convinced that penalties for infringements of this LTCR should be put in place by all EA member states – to have as much harmonisation as possible. Nevertheless, even this new proposed text of Article 12 is deemed sufficient.</p>
<p>Article 13 Annual reports</p>	<p>Article 13 Annual reports</p>	<p>DE (Member States Comments):</p> <p>We reserve further comments on the question of whether reports should be submitted annually or bi-annually. Discussions held in the CWP indicated that <u>Member States</u></p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>were in favour of bi-annual reporting in order to reduce the administrative burden and bureaucratic efforts.</p> <p>We invite the POL PCY to develop this issue further under their Presidency.</p> <p>EE (Member States Comments): EE: Agree. Please also see the comment below.</p> <p>PT (Member States Comments): To avoid undue burdens, we propose that the frequency of reports submitted by Member States be adjusted from annually to every two years.</p> <p><u>Drafting suggestion:</u> Article 13 Annual rReports</p>
<p>1. Member States shall submit on an annual basis a report to the Commission and the European Central Bank including information on the following aspects:</p>	<p><i>(unchanged)</i></p>	<p>DE (Member States Comments): DEU Proposal</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>1. Member States shall submit on an bi-annual basis a report to the Commission and the European Central Bank including information on the following aspects:</p> <p>ES (Member States Comments): We could be open to submitting the report every two years, instead of every year.</p> <p>FR (Member States Comments): FR : this report must be a biannual report</p> <p>IT (Member States Comments): IT. Having annual report would be extremely burdensome for NCAs, without any clear benefit. We suggest asking MSs to submit monitoring report every other year. Any reference to “annual report” in this regulation should be adjust accordingly.</p> <p>PT (Member States Comments): Please see our drafting suggestion in line with our previous comment.</p> <p><u>Drafting suggestion:</u></p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		Member States shall submit on an annual basis every two years a report to the Commission and the European Central Bank including information on the following aspects:
(a) the established exceptions to the principle of mandatory acceptance and their application;	<i>(unchanged)</i>	FR (Member States Comments): FR : this report must be a biannual report
(b) detailed data and assessment of the situation in the Member State as regards acceptance of payments in cash and access to cash, and the remedial measures to be taken pursuant to Articles 7 and 8;	<i>(unchanged)</i>	
(c) the implemented penalties including financial penalties and non-criminal fines.	<i>(unchanged)</i>	EL (Member States Comments): EL: The phrase “including financial penalties and non-criminal fines” has been (correctly) deleted in Article 12 of this draft. The suggested amendment intends to bring Article 13(1)(c) in line with the new (correct) wording of Article 12.

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>2. The first annual report shall be submitted one year after the entry into force of this Regulation. Subsequent annual reports shall be submitted yearly after the date of the entry into force of this Regulation.</p>	<p>2. The first annual report shall be submitted two years after the entry into force of the implementing act adopted pursuant to Article 8(2). Subsequent annual reports shall be submitted yearly.</p>	<p>CZ (Member States Comments): CZ: We agree.</p> <p>DE (Member States Comments): 2. The first annual report shall be submitted two years after the entry into force of the implementing act adopted pursuant to Article 8(2). Subsequent annual reports shall be submitted bi-annually yearly.</p> <p>FI (Member States Comments): ok</p> <p>MT (Member States Comments): Malta agrees with this amendment.</p> <p>PT (Member States Comments): Please see our drafting suggestion in line with our previous comments.</p> <p><u>Drafting suggestion:</u></p> <p>2. The first annual report shall be submitted two years after the entry into force of the implementing act</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		adopted pursuant to Article 8(2). Subsequent annual reports shall be submitted yearly every two years . SI (Member States Comments): We agree with the extended period (two years) for submission of the first annual report.
3. The Commission shall examine the annual reports in close consultation with the European Central Bank.	<i>(unchanged)</i>	
	<p>4. For the purpose of carrying out their respective obligations and duties pursuant to this Regulation, Member States and their national competent authorities</p> <p>(a) may, where appropriate, require the cash industry and payees to provide relevant data on their operations related to the acceptance of cash and access to cash;</p> <p>(b) shall be entitled to collect and process necessary and relevant data, including personal data, subject to compliance with applicable data protection rules.</p>	AT (Member States Comments): AT: If there is no sufficient legal basis for the supervisory authority to collect data according to currently existing EU-law, we would support the data collection possibility based on the new Art 13 (4). CZ (Member States Comments): CZ: We agree. DE (Member States Comments):

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>DEU Proposal:</p> <p>4. For the purpose of carrying out the monitoring under Articles 7 (1) and 8 (1), the notification under Articles 7 (2) and 8(2) and the reporting under Article 13 (1), Member States and their national competent authorities</p> <p>(a) may, where appropriate, require the cash industry and payees to provide relevant data on their operations related to the acceptance of cash and access to cash;</p> <p>(b) shall be entitled to collect and process necessary and relevant data, including <u>necessary personal data</u>, subject to <u>compliance with applicable rules on the protection of personal data, in particular to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.</u></p> <p>(Explanation)</p> <p>This regulation shall directly empower national competent authorities in the Member States to collect relevant data, therefore ‘shall’ should be replaced with ‘are’.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>For reasons of legal clarity, correct reference to the GDPR seems adequate.</p> <p>In the interest of legal clarity, the legal basis for processing data might be relocated in a separate provision, e.g. <u>a new Article 14.</u></p> <p><u>5. NEW</u></p> <p><u>Member States, their national competent authorities and other competent authorities performing cash-related tasks may - with the prior explicit consent of the authority which provided the data - grant scientific research bodies access to non-personal data.</u></p> <p>(Explanation)</p> <p>Data on acceptance of cash and access to cash is valuable for cash-related research projects, for example, on the effect of the cash infrastructure on private cash use, which could generate useful insights on payment behaviour and its future development. Further research benefiting from data on cash access may include competition analyses in the banking sector focusing on ATM and branch network effects.</p> <p>EE (Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>EE: Strong support.</p> <p>EL (Member States Comments): EL: We welcome that the inclusion in paragraph 4 of a legal basis for collecting and processing the necessary data has been retained.</p> <p>ES (Member States Comments): Agree. It can help collecting the data.</p> <p>FI (Member States Comments): ok</p> <p>FR (Member States Comments): Fr : agree</p> <p>MT (Member States Comments): Malta agrees with this addition.</p> <p>NL (Member States Comments): We see no necessity of this addition. How MS are reporting and by whom is on the MS.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: 29 November 2024

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>PT (Member States Comments): We believe Article 13(4) should be deleted, as it seems to be unnecessary to introduce this new provision.</p> <p>National Competent Authorities are already entitled to collect this information, under EU law, namely under: (i) the Council Regulation (EC) No 1338/2001 of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting; and (ii) the ECB Decision of 16 September 2010 on the authenticity and fitness checking and recirculation of euro banknotes (ECB/2010/14).</p> <p>SI (Member States Comments): We fully support adding this new paragraph 4 to Article 13, which would give ground to the relevant national institutions to collect the necessary data from the cash industry and payees in view of preparation of annual reports.</p>
<p>Article 14 Duty of Member States to inform about remedies</p>	<p>Article 14 Duty of Member States to inform about remedies</p>	<p>EE (Member States Comments): EE: Agree.</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>Member States shall provide natural persons and enterprises with clear information on the channels and effective remedies they have at their disposal to lodge complaints with competent national authorities about cases of unlawful refusal to accept cash and insufficient and ineffective access to cash.</p>	<p>Member States shall provide natural persons and enterprises with clear information on the channels and effective remedies to lodge complaints with national competent authorities about cases of unlawful refusal to accept cash and insufficient and ineffective access to cash.</p>	<p>FI (Member States Comments): ok</p> <p>MT (Member States Comments): Malta agrees with the amendment.</p>
<p>Article 15 Interaction between euro banknotes and coins and the digital euro</p>	<p>Article 15 Interaction between euro banknotes and coins and the digital euro</p>	<p>EE (Member States Comments): EE: Agree.</p> <p>IT (Member States Comments): IT. As discussed under the BE PCY and considering the current state of paly of the Digital Euro regulation (for which a longer discussion would be needed), we would not oppose dropping this provision from the LTC regulation and discussing it in the context of the Digital Euro Regulation.</p>
<p>1. Euro banknotes and coins and the digital euro shall be convertible into each other at par.</p>	<p><i>(unchanged)</i></p>	

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
<p>2. Payees of a monetary debt denominated in euro shall accept payments in euro banknotes and coins according to the provisions of this Regulation, irrespective of whether they accept payments in digital euro in accordance with Regulation [XXX on the establishment of the digital euro]. Where the acceptance of euro banknotes and coins and the digital euro is mandatory in accordance with the provisions of this Regulation and Regulation (XXX on the establishment on the Digital Euro), the payer is entitled to choose the means of payment</p>	<p><i>(unchanged)</i></p>	
<p>Article 16 Review</p>	<p>Article 16 Review</p>	<p>EE (Member States Comments): EE: Agree.</p>
<p>By <i>[date-five years after the entry into force]</i>, the Commission shall carry out a review on the operation and effects of this Regulation and submit a report to the European Parliament and to the Council. Member States shall provide the Commission with necessary information for the preparation of that report.</p>	<p><i>(unchanged)</i></p>	

Legal tender of cash Regulation – HU PRES 3CT

Digital euro — MS replies to PCY drafting suggestions (WK 14180/24)

Deadline: *29 November 2024*

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
Article 17 Entry into force	Article 17 Entry into force	EE (Member States Comments): EE: Agree.
This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.	<i>(unchanged)</i>	
This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.	<i>(unchanged)</i>	
Done at Brussels,	<i>(unchanged)</i>	
For the European Parliament For the Council	<i>(unchanged)</i>	
The President The President	<i>(unchanged)</i>	
	end	PCY

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p>(Member States Comments):</p> <p style="text-align: center;">end</p> <p>AT</p> <p>(Member States Comments):</p> <p style="text-align: center;">end</p> <p>BE</p> <p>(Member States Comments):</p> <p style="text-align: center;">end</p> <p>CZ</p> <p>(Member States Comments):</p> <p style="text-align: center;">end</p> <p>DE</p> <p>(Member States Comments):</p> <p style="text-align: center;">end</p> <p>EE</p> <p>(Member States Comments):</p> <p style="text-align: center;">end</p> <p>EL</p> <p>(Member States Comments):</p> <p style="text-align: center;">end</p> <p>ES</p> <p>(Member States Comments):</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		<p style="text-align: right;">end</p> <p>FI (Member States Comments):</p> <p style="text-align: right;">end</p> <p>FR (Member States Comments):</p> <p style="text-align: right;">end</p> <p>HR (Member States Comments):</p> <p style="text-align: right;">end</p> <p>IE (Member States Comments):</p> <p style="text-align: right;">end</p> <p>IT (Member States Comments):</p> <p style="text-align: right;">end</p> <p>LT (Member States Comments):</p> <p style="text-align: right;">end</p> <p>MT (Member States Comments):</p> <p style="text-align: right;">end</p>

Legal tender of cash Regulation – HU PRES 3CT

Digital euro – MS replies to PCY drafting suggestions (WK 14180/24)

From: AT, BE, CZ, DE, EE, EL, ES, FI, FR, HR, IE, IT, LT, MT, NL, PL, PT, SI, SK

Deadline: *29 November 2024*

Updated: 15/01/2025 19:22

COM Proposal	HU Presidency drafting suggestions	Member States Comments
		NL (Member States Comments): end PL (Member States Comments): end PT (Member States Comments): end SI (Member States Comments): end SK (Member States Comments): end