The Right to Pay in Cash in Europe

Comparative Study

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Introduction

Cash plays an important role in society for several reasons. It enables the discharge of a payment obligation with immediate and conclusive effect without the involvement of a third party and is therefore a secure and reliable form of payment.[1] It promotes the financial and social inclusion of certain population groups, such as the elderly, minors, or people with disabilities or of low literacy, who, for various reasons, may find it difficult to pay by other means. These population groups may not only encounter physical or legal barriers to cashless means of payment, but also financial ones associated with maintaining payment applications and bank accounts.[2] Furthermore, cash may be helpful for budgeting reasons as certain cashless means of payment may lend themselves to reckless spending.[3] Lastly, cash leaves no digital footprint and therefore fosters the right to privacy and data protection.[4]

However, other means of payments have been growing in importance in increasingly digital societies. Cashless payments have often been given preference for convenience or hygiene reasons, particularly during the pandemic.[5] Cashless payments have also been said to be easier to track, which is useful in combating illicit activities such as money laundering and the financing of terrorism.[6] Finally, the presence of high amounts of cash on some businesses' premises may increase the risk of theft and robbery, and therefore

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[1] Ursula Dalinghaus, *Keeping Cash: Assessing the Arguments about Cash and Crime*, (UC Irvine: Institute for Money, Technology & Financial Inclusion, 2017), https://escholarship.org/uc/item/8tj0678b, 53.; Euro Retail Payments Board (ERPB), *Report of the ERPB Working Group on Access and Acceptance of Cash,* ERPB WG CASH 068-2021, (Euro Retail Payments Board (ERPB), 2021), 6.

[2] Dalinghaus, *Keeping Cash: Assessing the Arguments about Cash and Crime*, 53.; Euro Retail Payments Board (ERPB), *Report of the ERPB Working Group,* 6.

[3] Euro Retail Payments Board (ERPB), *Report of the ERPB Working Group,* 6.

[4] Matthias Schroth, Mara Vyborny, and Lisa Ziskovsky, "Should the use of cash be limited?" *Monetary Policy & the Economy* 22, no Q1-Q2 (2022): 110.

[5] Euro Retail Payments Board (ERPB), *Report of the ERPB Working Group,* 6.

[6] Schroth, Vyborny, and Ziskovsky, "Should the use of cash be limited?" 110.

switching to cashless means of payments contributes to ensuring employees' and customers' safety.[7]

This paper aims to compare various European countries' approaches to the right to pay in cash in light of the above arguments. In order to do so, EU draft and enacted legislation as well as their objectives will be explored before moving on particular countries' regulation of the issue.

Although the United Kingdom, a country that is not an EU Member State, was included in this study, given that the rest of the considered countries are EU Member States, this paper will henceforth broadly refer to the European Union and its Member States.

[7] European Central Bank, "FAQ on cash," European Central Bank, accessed November 12, 2023, https://www.ecb.europa.eu/euro/cash_strategy/html/cash-faq.en.html.

The Right to Pay in Cash on the EU and Domestic Levels

European Union

Several areas of law that touch upon the right to pay in cash can be identified on the EU level. This section will cover them in turn.

First, the euro banknotes and coins were given the status of legal tender by virtue of Article 128 of the Treaty on the Functioning of the European Union (TFEU) and Article 11 of Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro.[8] In 2010, the European Commission adopted a Recommendation on the scope and effects of legal tender of euro banknotes and coins, which aimed to clarify the meaning and implications of such status.[9] The Recommendation suggests that there should be mandatory acceptance of euro banknotes and coins where a payment obligation exists. The creditor of a payment obligation should, however, be entitled to refusing a payment in cash if both parties agree on other means of payment or if such refusal is based on good faith, such as where the retailer has no change available.[10] In its interpretation of the Recommendation, the European Central Bank (ECB) expressed its opinion that the mere display of a notice by a retailer that they do not accept payments in cash is not a sufficient justification for refusing such payments. The retailer must provide a legitimate excuse, such as specific

[8] *Consolidated Version of the Treaty on the Functioning of the European Union,* European Union, OJ C 202, 7.6.2016, p. 103–103, consolidated June 7, 2016, https://eur-lex.europa.eu/resource.html?uri=cellar:9e8d52e1-2c70-11e6-b497-01aa75ed71a1.0006.01/DOC_3&format=PDF, art. 128.; *Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro,* European Union, OJ L 139, 11.5.1998, p. 1–5, adopted May 3, 1998, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31998R0974, art. 11.

[9] European Commission, *Commission Recommendation of 22 March 2010 on the scope and effects of legal tender of euro banknotes and coins*, OJ L 83, 30.3.2010, p. 70–71, adopted March 22, 2010, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32010H0191.

[10] ibid, arts. 1(a) and 2.

physical security risks associated with keeping large amounts of cash on the premises.[11]

In June 2023, the European Commission announced a proposal for a Regulation on the legal tender of euro banknotes and coins, which seeks to further clarify the meaning of legal tender as well as make such provisions binding for all Member States. Whilst the proposed Regulation emphasizes mandatory acceptance of cash, it excludes payments for goods or services purchased at a distance, including online, from its scope. Another notable limitation to the mandatory acceptance of cash is where the payee's refusal is made in good faith and based on legitimate and temporary grounds in line with the principle of proportionality in view of concrete circumstances beyond the control of the payee. An example of refusal on legitimate grounds is where the payee does not have enough change or if the value of the banknote tendered is manifestly disproportionate.

Contrary to the interpretation of the 2010 Recommendation adopted by the ECB, this draft Regulation does not refer to security risks as constituting legitimate grounds for refusal, although it also does not explicitly exclude them. Lastly, a payee does not have to accept a payment in cash where, prior to the payment, the payee agreed with the payer on a different means of payment. The proposal echoes the ECB's opinion that ex ante unilateral exclusions of cash, for example by means of a 'no cash' sign, do not constitute a freely made agreement to a means of payment by the parties.

If this proposed legislation is approved, Member States will additionally be obliged to monitor the acceptance of cash payments and the widespread availability of cash withdrawal points.[12] However, it should be borne in mind that like the 2010 Recommendation, the proposed Regulation only concerns euro

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[11] European Central Bank, "FAQ on cash."
[12] European Commission, *Proposal for a Regulation of the European Parliament and of the Council on the legal tender of euro banknotes and coins*, COM/2023/364 final, adopted on June 28, 2023, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52023PC0364.

banknotes and coins, not other currencies used by EU Member States. It should also be noted that, as clarified by the ECB, access to cash should be unaffected by the planned introduction of the digital euro.[13] The digital euro will be another form of public money outside of cash and will differ from the current form of digital payments managed by commercial banks, which constitute private money.[14]

Unlike the aforementioned measures which only regulate the use and acceptance of the euro banknotes and coins, a set of 2021 proposals by the European Commission aiming at preventing money laundering and the financing of terrorism would apply to all cash payments in the EU, regardless of currency. One of those proposals, a draft Regulation, would set a limit of €10,000 or equivalent amount in national or foreign currency on payments made in cash. This ceiling would apply to transactions carried out in a single operation or in several operations which appear to be linked. However, it would not apply to payments between natural persons who are not acting in a professional function and to payments or deposits made at the premises of credit institutions. Importantly, Member States would be permitted to adopt lower limits.

The proposed Regulation was voted on in March 2023 by the European Parliament's Committee on Economic and Monetary Affairs and the Committee on Civil Liberties, Justice and Home Affairs. Their report proposed lowering the limit on payments in cash to €7,000 and narrowing the aforementioned exceptions and thus widening the scope of the measure. The draft Regulation now awaits a vote in the plenary of the Parliament.[15]

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[13] European Central Bank, "FAQ on a digital euro," European Central Bank, accessed November 17, 2023, https://www.ecb.europa.eu/paym/digital_euro/faqs/html/ecb.faq_digital_euro.en.html.
[14] European Central Bank, "Why do we need a digital euro?," European Central Bank, accessed November 17, 2023, https://www.ecb.europa.eu/paym/digital_euro/why-we-need-it/html/index.en.html.
[15] European Parliament, "New EU measures against money laundering and terrorist financing," European Parliament press release, March 28, 2023, https://www.europarl.europa.eu/news/en/press-room/20230327IPR78511/new-eu-measures-against-money-laundering-and-terrorist-financing.; European Parliament, "Procedure File: 2021/0239(COD), Prevention of the use of the financial system for the purposes of money laundering or terrorist financing," European Parliament Legislative Observatory, accessed November 17, 2023,

It is important to note that a limit on payments in cash was recently endorsed by the Court of Justice of the EU (CJEU). Hence, it may be assumed that as long as the limit is suitable and necessary for achieving its stated aim, a legal challenge to it before the CJEU would likely be unsuccessful.[16] It has been convincingly argued that the differences in Member States' purchasing power and the varying degrees to which money laundering in cash is present on their territories may pose a challenge to the declared proportionality of a uniform limit.[17] Yet, since it is possible to introduce lower limits on the domestic level, the principle of proportionality only renders it necessary to make the EU-wide limit appropriately high, rather than questioning the appropriateness of a uniform limit as a whole.

With the objective to further combat money laundering and the financing of terrorism, the aforementioned committees also approved the 6th Anti-Money Laundering Directive.[18] This would see the repealing and strengthening of the current Directive, which subjects persons trading in goods that accept cash payments of more than €10,000 to certain rules that increase transparency in these transactions, such as the need to know the identity of the customer.[19]

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https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2021/0239(COD)&l=en.; European Commission, *Proposal for a Regulation of the European Parliament and of the Council on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing*, COM/2021/420 final, adopted July 20, 2021, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021PC0420.; European Parliament, *Draft European Parliament Legislative Resolution on the proposal for a regulation of the European Parliament and of the Council on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing,* COM(2021)0420 – C9-0339/2021 – 2021/0239(COD), (European Parliament, April 14, 2023), https://www.europarl.europa.eu/doceo/document/A-9-2023-0151_EN.html.

[16] Case C-544/19, *'ECOTEX BULGARIA' EOOD v Teritorialna direktsia na Natsionalnata agentsia za prihodite – Sofia,* (2021), ECLI:EU:C:2021:803.; Joined Cases C-422/19 and C-423/19, *Johannes Dietrich, Norbert Häring v Hessischer Rundfunk,* (2021), ECLI:EU:C:2021:63.; Schroth, Vyborny, and Ziskovsky, "Should the use of cash be limited?" 111.

[17] Schroth, Vyborny, and Ziskovsky, "Should the use of cash be limited?" 116.

[18] European Parliament, "Procedure File: 2021/0239(COD)."

[19] Schroth, Vyborny, and Ziskovsky, "Should the use of cash be limited?" 112.; European Union, "Preventing abuse of the financial system for money laundering and terrorism purposes," EUR-Lex, last updated October 27, 2021, accessed November 17, 2023, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:230804_1.

There are some doubts as to whether these restrictions on cash payments will necessarily fulfill the objective of preventing money laundering and the financing of terrorism. Although cash payments leave no trace and are therefore theoretically ideal for money laundering,[20] there is some evidence that in recent years a large extent of these illegal activities have made use of crypto assets and the so-called transaction laundering.[21] These two payment methods may be more attractive for the purpose of illicit activities as they reduce costs and minimize personal contact.[22] Therefore, it is possible that restricting cash payments may have the effect of curtailing the right to data protection and the financial inclusion of vulnerable population groups whilst not effectively combating money laundering and the financing of terrorism.[23]

Outside of the regulation of euro banknotes and coins as legal tender and limiting payments in cash in order to prevent illicit activities, the right to pay in cash is also affected by data protection law, particularly the GDPR. Under the GDPR, a controller needs to be able to rely on one of the six legal bases listed in Article 6 in order to lawfully process personal data. The question of whether a controller may rely on contractual necessity under Article 6(1)(b) GDPR in processing debit or credit card information was addressed by the European Data Protection Board (EDPB) in its Guidelines 2/2019 on the processing of personal data under Article 6(1)(b) GDPR in the context of the provision of online services to data subjects. The EDPB seems to suggest that such processing is truly necessary for the performance of a contract under Article 6(1)(b) GDPR, at least in circumstances where the transaction takes place online and the data subject wants to pay by card.[24]

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[20] Schroth, Vyborny, and Ziskovsky, "Should the use of cash be limited?" 110.
[21] ibid 114.
[22] ibid 115.
[23] ibid 115; Friedrich Schneider, 2017, "Restricting or Abolishing Cash: An Effective Instrument for Fighting the Shadow Economy, Crime and Terrorism?" (paper presentation, International Cash Conference 2017 - War on Cash: Is there a Future for Cash?, Island of Mainau, Germany, April 25-27, 2017, Frankfurt am Main: Deutsche Bundesbank), https://www.econstor.eu/handle/10419/162914.; Dalinghaus, *Keeping Cash: Assessing the Arguments about Cash and Crime*, 39-40.; Nikos Passas, "Report on the debate regarding EU cash payment limitations," *Journal of Financial Crime* 25, no. 1 (2018): 5.
[24] European Data Protection Board (EDPB), *Guidelines 2/2019 on the processing of personal data under Article 6(1)(b) GDPR in the context of the provision of online services to data subjects,*

However, if the data subject's willingness to pay by card truly played any role, the correct legal basis would be consent under Article 6(1)(a) GDPR. Hence, by suggesting that the controller may rely on contractual necessity as a legal basis, the EDPB invariably implies that controllers can require payments by card for online purchases regardless of the data subject's wishes. This would be consistent with the exception to the mandatory acceptance of cash under the draft Regulation on the legal tender of euro banknotes and coins, as the Regulation excludes purchases made at a distance from its scope.

The fact that the EDPB mentions that data subjects must consent to the processing of their debit or credit card information for it to be validly based on Article 6(1)(b) GDPR may be construed as the data subjects agreeing to paying by card as part of their contracts with the controller. As such, their consent to using this payment method does not constitute consent to the processing of personal data for the purposes of Article 6(1)(a) GDPR, but only consent to the terms of the contract for the purposes of contract law. If such a term is deemed to be a part of the contract between the parties, the subsequent processing of personal data would thus indeed be necessary for the performance of that contract.

However, this is a highly unlikely conclusion following the recent CJEU judgment in Case C-252/21. There, the Court held that the inclusion of personalized advertising as a term in the contract between Meta and users of its social networking service does not allow the company to rely on Article 6(1)(b) GDPR.[25] In other words, what was relevant was not what terms were inserted into the contract between the controller and the data subjects, but rather the actual subject-matter of the contract in question. In this case, the Court held that the true subject-matter of the contract at hand was providing access to Meta's social networking service, for which personalized advertising was not, as a

Version 2.0, (European Data Protection Board (EDPB), 2019), https://edpb.europa.eu/sites/default/files/files/file1/edpb_guidelines-art_6-1-b-adopted_after_public_consultation_en.pdf, 10.

[25] Case C-252/21, *Meta Platforms Inc., Meta Platforms Ireland Ltd, and Facebook Deutschland GmbH v Bundeskartellamt,* (2023), ECLI:EU:C:2023:537, paras 98-104.

matter of fact, necessary, even if it formed a financial incentive for Meta to provide that service. By analogy, it is safe to conclude that, since a mode of payment would hardly be deemed the subject-matter of a contract between a controller and a data subject, requiring payments by card would not be necessary for its performance. Contrary to what the EDPB suggests, this may very well also be the case for most online purchases, since Cash on Delivery could arguably still be a realistic, less intrusive alternative for the performance of that contract.

Having explored the various limits imposed by the EU now or in the future on payments in cash, this study will now turn to particular Member States' approach to this issue.

Austria

In Austria, pursuant to Article 61(2) of the Federal Act on the Oesterreichische Nationalbank and Article 8(3) of the Coinage Act 1988, acceptance of cash is mandatory. However, this is subject to the liability being met "by an otherwise specified means of payment." Therefore, parties to a contract can exclude payments in cash.[26] Another limitation to the mandatory acceptance of cash, which stems from an EU Regulation, is that no person is obliged to accept more than 50 coins in one payment.[27] Importantly, however, there have recently been reports of an initiative of the Austrian Chancellor to enshrine the right to cash

[26] Schroth, Vyborny, and Ziskovsky, "Should the use of cash be limited?" 112.; *Nationalbankgesetz 1984 [Federal Act on the Oesterreichische Nationalbank 1984]*, Austria, adopted 1984, https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10004409, art. 61(2).; *Scheidemünzengesetz 1988 [Coinage Act 1988]*, Austria, adopted 1988, https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10004576, art. 8(3).

[27] *Scheidemünzengesetz 1988,* art. 8(3).; *Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro*, European Union, OJ L 139, 11.5.1998, p. 1–5, adopted on May 3, 1998, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31998R0974, art. 11.

payments in the Austrian Constitution, albeit the precise content of that constitutional right is unclear.[28]

There is no ceiling on cash payments in Austria at the moment.[29] However, Austria imposes identification obligations in certain cases. Notably, it imposes an obligation on traders to require the identification of customers in case of occasional transactions in cash over €10,000.[30] Lastly, wages for providing construction services must be paid and received using cashless means of payments.[31]

Czech Republic

In the Czech Republic, pursuant to Act no. 136/2011 Coll., acceptance of cash is mandatory, subject to certain exceptions, although the exhaustiveness of these is contested.[32] A trader is entitled to refusing payments in cash when the payer pays with more than 50 coins in a single payment or when the payer pays with commemorative or invalid coins and banknotes, coins and banknotes that have

[28] Parlament Österreich [Parliament of Austria], "Neu im Verfassungsausschuss [News in the Constitutional Committee]," Austrian Parliament press release, August 31, 2023, https://www.parlament.gv.at/aktuelles/pk/jahr_2023/pk0892#:~:text=Die%20Verwendung%20von%20in%20%C3%96sterreich,%C3%96sterreicher%3Ainnen%20mit%20Bargeld%20vor.; Laura Hülsemann, "Austrian chancellor: Right to use cash should be in constitution," Politico, released August 4, 2023, accessed November 18, 2023, https://www.politico.eu/article/austria-chancellor-karl-nehammer-cash-use-constitution/.

[29] Rat und Hilfe für Verbraucher in Europa [Help and advice for consumers in Europe], "Barzahlung: Bargeld-Obergrenzen in Deutschland und Europa [Cash payment: Cash limits in Germany and Europe]," Rat und Hilfe für Verbraucher in Europa, released October 19, 2023, accessed November 18, 2023, https://www.evz.de/finanzen-versicherungen/bargeld-obergrenze-in-der-eu.html.; Schroth, Vyborny, and Ziskovsky, "Should the use of cash be limited?" 112.

[30] *Gewerbeordnung 1994 – GewO 1994 [Trade Regulations 1994]*, Austria, adopted 1994, https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10007517, arts. 365o-365p.; Schroth, Vyborny, and Ziskovsky, "Should the use of cash be limited?" 112.

[31] Schroth, Vyborny, and Ziskovsky, "Should the use of cash be limited?" 112.

[32] *Zákon č. 136/2011 Sb. [Act no. 136/2011 Coll.]*, Czech Republic, adopted May 25, 2011, https://www.zakonyprolidi.cz/cs/2011-136, art. 5; Miroslav Kučerka and Klára Pelclová, "K povinnosti provozovatele přijímat hotovostní platby [On the obligation of a retailer to accept cash payments]," released August 29, 2023, accessed November 18, 2023, https://www.pravniprostor.cz/clanky/financni-pravo/k-povinnosti-provozovatele-prijimat-hotovostni-platby.

been damaged beyond the norm, or where the damage is within the norm but the trader is a natural person. A trader may also refuse payments in cash where the coins and banknotes are not whole or where the coins and banknotes give rise to a reasonable suspicion that they are counterfeit and the trader is a natural person.[33]

The Czech Central Bank considers these exceptions to be exhaustive, as it has expressed in its 2019 statement. Outside of these cases, the Czech Central Bank is of the opinion that a trader would only be entitled to refusing payments in cash in cases of contracts concluded at a distance, such as those concluded online. However, this is the case only if the contract is also performed at a distance or if the payment needs to be done in advance and therefore precludes paying in cash in person.[34] The Czech Central Bank further provided its opinion that whilst there is no specific penalty for refusing payments in cash, such conduct may under certain circumstances constitute the criminal offense of endangering the circulation of domestic currency under Article 239 of the Criminal Code.[35] The sanction for that is imprisonment for up to six months, disqualification, or forfeiture of property.[36]

However, the Czech Ministry of Finance has adopted a different stance on the exceptions to the mandatory acceptance of cash payments. It considers that such mandatory acceptance is subject to the freedom of contract, as provided by the Civil Code, and therefore the parties may agree on a different means of payment. Nevertheless, in line with consumer law currently in effect, the trader

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[33] Česká národní banka [Czech Central Bank], *K povinnosti akceptace hotovosti obchodníky [On the obligation to accept cash by traders],* (Česká národní banka, 2019), https://www.cnb.cz/export/sites/cnb/cs/casto-kladene-dotazy/.galleries/stanoviska_a_odpovedi/pdf/k_povinnosti_akceptace_hotovosti_obchodniky.pdf.; *Zákon č. 136/2011 Sb. (Act no. 136/2011 Coll.)*, Czech Republic, adopted May 25, 2011, https://www.zakonyprolidi.cz/cs/2011-136, art. 5.

[34] Česká národní banka, *K povinnosti akceptace hotovosti obchodníky.*

[35] Česká národní banka, *K povinnosti akceptace hotovosti obchodníky.*

[36] *Zákon č. 40/2009 Sb. [Act no. 40/2009 Coll.],* Czech Republic, adopted on February 2, 2009, https://www.zakonyprolidi.cz/cs/2009-40#cast2, art. 239.

is obliged to provide an advance notice of their refusal to accept payments in cash.[37]

In recent years, there have also been proposals to enshrine the right to pay in cash in the Czech Constitution.[38]

There is currently a ceiling of 270,000 CZK (roughly €11,000) on cash payments in the Czech Republic.[39]

France

In France, the acceptance of payments in cash that has the status of legal tender is mandatory. The refusal thereof is punishable by a fine, as per Article R642-3 of the French Penal Code.[40] As of 2023, the fine is set at €150.[41]

There are some exceptions to this mandatory acceptance of the euro banknotes and coins. A merchant does not have to accept them if they are in poor condition, if he or she suspects the banknote or coin to be counterfeit, if the customer attempts to pay with more than 50 coins in a single payment, or if the

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[37] Miroslav Kučerka and Klára Pelclová, "K povinnosti provozovatele přijímat hotovostní platby."
[38] Government of the Czech Republic, "Seznam Zprávy: Právo na placení hotovostí v Ústavě? Vláda návrh označila za nadbytečný [Seznam News: Right to pay in cash in the Constitution? Government calls the proposal redundant]," Government of the Czech Republic press release, July 26, 2023, https://vlada.gov.cz/cz/clenove-vlady/pri-uradu-vlady/michal_salomoun/z-medii/seznam-zpravy-pravo-na-placeni-hotovosti-v-ustave--vlada-navrh-oznacila-za-nadbytecny-207372/.; Senate of the Czech Republic, *Návrh senátního návrhu ústavního zákona senátorky Jitky Chalánkové a dalších senátorů, kterým se mění Listina základních práv a svobod, ve znění pozdějších ústavních zákonů [Draft Senate Constitutional Bill by Senator Jitka Chalánková and other Senators amending the Charter of Fundamental Rights and Freedoms, as amended by subsequent constitutional Acts],* 277, proposed in 2022, https://www.senat.cz/xqw/webdav/pssenat/original/104739/87825.
[39] *Zákon č. 254/2004 Sb. [Act no. 254/2004 Coll.],* Czech Republic, adopted April 30, 2004, https://www.zakonyprolidi.cz/cs/2004-254, art. 4.; Česká národní banka, *K povinnosti akceptace hotovosti obchodníky.*
[40] *Code pénal [Penal Code],* France, adopted in 1992, https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000022375969, art. R642-3.
[41] Service-public.fr, "Cash payment," Service-public.fr, last updated May 2 2023, accessed November 18, 2023, https://www.service-public.fr/particuliers/vosdroits/F10999?lang=en.

merchant does not have sufficient change. Some establishments may also refuse a payment in cash for technical or safety reasons, such as shops that open late at night and are therefore vulnerable to thefts and robberies. Pay and display machines are also exempted from the requirement to accept cash so as to prevent vandalism.[42]

It is unclear how the Recommendation on the processing of personal data relating to payment cards for the remote sale of goods or provision of services issued by the French Data Protection Authority (CNIL), which was subsequently endorsed by the French Supreme Administrative Court,[43] fits into the legal framework explored above. The Recommendation concludes that a controller may, in one-off payments and as long as those details are not stored, rely on contractual necessity under Article 6(1)(b) GDPR in processing of personal data. It adds that such storage is only covered by Article 6(1)(b) GDPR in subscriptions to a service that involves multiple payments.[44] This interpretation of the GDPR allows controllers to compulsorily require payments by a credit or debit card when a data subject makes a remote purchase of goods or services, regardless of the data subject's preference and regardless of the fact that Cash on Delivery may be a reasonable, less intrusive alternative, in some circumstances.

In regard to ceilings to cash payments, no upper limits apply to consumer-to-consumer transactions, although payments over €1,500 may only be proven in writing.[45] In other types of transactions, various limits to payments in cash apply depending on the circumstances. Payments in cash at local government finance offices, which include taxes, fines, fees, hospital bills and rents paid to public

[42] ibid.
[43] Conseil d'État, 10ème - 9ème chambres réunies, 429571, (2020), ECLI:FR:CECHR:2020:429571.20201210.
[44] Commission nationale de l'informatique et des libertés (CNIL), *Délibération n° 2018-303 du 6 septembre 2018 portant adoption d'une recommandation concernant le traitement des données relatives à la carte de paiement en matière de vente de biens ou de fourniture de services à distance et abrogeant la délibération n° 2017-222 du 20 juillet 2017 [Deliberation No. 2018-303 of September 6, 2018 adopting a recommendation concerning the processing of payment card data in the remote sale of goods or provision of services and repealing Deliberation No. 2017-222 of July 20, 2017],* Text No. 155, NOR: CNIL1827236X, 2018, https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000037477764, art 2.
[45] Service-public.fr, “Cash payment.”

institutions, are capped at €300.[46] Payments in business-to-consumer or business-to-business relationships may not exceed €1,000, provided the payments are made by a French resident. If the payer is domiciled abroad for tax purposes, the limit on payments in cash is increased to €10,000 or €15,000, depending on whether the payer acts in the course of his or her professional activity. Neither limit applies if the payer cannot make the purchase through other means or does not have a bank account.[47] Payments of salary can be made in cash only up to €1,500 per month, albeit the employer can also be exempted from this limit if he or she cannot pay by other means or does not have a bank account. Lastly, real estate transactions may be paid in cash only up to €3,000.[48] Exceeding these limits is punishable by a fine.[49]

Germany

In Germany, acceptance of cash payments is mandatory, although a different means of payment may be agreed on in advance by the parties.[50] Furthermore, a payee is not obliged to accept more than 50 coins in a single payment.[51]

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[46] Help and advice for consumers in Europe, "Means of payment in France," Help and advice for consumers in Europe, released August 8, 2023, accessed November 18, 2023, https://www.europe-consommateurs.eu/en/living-in-france/means-of-payment-in-france.html.

[47] Service-public.fr, "Cash payment."; Help and advice for consumers in Europe, "Means of payment in France."; *Code monétaire et financier [Monetary and Financial Code]*, France, adopted 1999, https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000036824549, art. Article D112-3.

[48] Service-public.fr, "Cash payment."; Help and advice for consumers in Europe, "Means of payment in France."

[49] Service-public.fr, "Cash payment."

[50] Bundeskriminalamt [Federal Criminal Police Office], "Darf die Annahme von Bargeld verweigert werden? [Can cash payments be refused?]," Bundeskriminalamt, released April 15, 2013, accessed November 18, 2023, https://www.bka.de/SharedDocs/FAQs/DE/Falschgeld/falschgeldFrage01.html.; Deutsche Bundesbank [German Central Bank], "The Eurosystem cash strategy and the role of cash," Deutsche Bundesbank, accessed November 18, 2023, https://www.bundesbank.de/en/tasks/cash-management/the-eurosystem-cash-strategy/the-eurosystem-cash-strategy-and-the-role-of-cash-859166.

[51] Monika Hillemacher, "„Annahmepflicht, aber" – Dann dürfen Geschäfte Bargeld ablehnen ["Obligation to accept, but" – Then stores may refuse cash]," Welt, released April 6, 2021, accessed November 18, 2023, https://www.welt.de/wirtschaft/webwelt/article229816123/Bargeld-abgelehnt-Duerfen-Geschaefte-die-Cash-Zahlung-verweigern.html.; *Münzgesetz (MünzG) [Coinage Act]*, Germany,

Acceptance of cash is absolutely mandatory for government agencies and public service providers, unless otherwise regulated by law.[52] Notably, there has been a proposal to enshrine the right to pay in cash in the German Constitution.[53]

There is no upper cash limit in Germany.[54] Purchasing or exchanging domestic real estate and acquiring shares in companies which have assets that directly or indirectly include domestic real estate form an exception to this rule as the purchase price must be paid by means other than cash, gold, platinum, precious stones, or cryptocurrency.[55] In general, where payments in cash exceed €10,000, the trader must check the payer's ID card and record their surname, first name, place of birth, date of birth, the home address and the nationality.[56] The threshold for the identification requirement to be triggered is lowered to €2,000 in case of purchase of precious metals, such as gold, silver, or platinum.[57]

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adopted December 16, 1999, https://www.gesetze-im-internet.de/m_nzg_2002/BJNR240230999.html, art. 3(1).

[52] Bundeskriminalamt, "Darf die Annahme von Bargeld verweigert werden?."; Deutsche Bundesbank, "The Eurosystem cash strategy and the role of cash."

[53] Deutscher Bundestag [German Federal Parliament], *Kurzinformation: Bargeldverwendung in Deutschland – Gesetzgebung und Initiativen [Brief information: Cash usage in Germany - legislation and initiatives],* (Deutscher Bundestag, 2020), https://www.bundestag.de/resource/blob/811390/50314e855ea6baba97204e02ad4d4d01/WD-4-117-20-pdf-data.pdf.

[54] Rat und Hilfe für Verbraucher in Europa, "Barzahlung: Bargeld-Obergrenzen in Deutschland und Europa."

[55] *Gesetz über das Aufspüren von Gewinnen aus schweren Straftaten (Geldwäschegesetz - GwG) [Money Laundering Act]*, Germany, adopted June 23, 2017, https://www.gesetze-im-internet.de/gwg_2017/, art. 16a.

[56] Help and advice for consumers in Europe, "Cash payment limitations," released September 29, 2022, accessed November 18, 2023, https://www.europe-consommateurs.eu/en/shopping-internet/cash-payment-limitations.html.

[57] Rat und Hilfe für Verbraucher in Europa, "Barzahlung: Bargeld-Obergrenzen in Deutschland und Europa."

Italy

In Italy, acceptance of cash is mandatory, subject to an agreement made by the contractual parties to the contrary. The refusal to accept cash is punishable by a fine of €30, pursuant to Article 693 of the Penal Code.[58] Conversely, Italy has also introduced measures to protect the right to pay by cashless means. Until 2023, traders faced penalties if they refused to accept payments by card. As of 2023, they may only refuse payments by card for amounts lower than €60.[59]

Whilst the ceiling for cash payments was €1,000 in 2022, it has recently been increased to €5,000.[60] Cash payments by tourists remain to be capped at €15,000.[61]

The Netherlands

In the Netherlands, refusing cash payments is not strictly legally prohibited as a matter of domestic law.[62] However, the Netherlands Enterprise Agency, a body

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[58] *Codice Penale [Penal Code]*, Italy, adopted October 19, 1930, https://www.altalex.com/documents/news/2014/08/25/delle-contravvenzioni-di-polizia, art. 693.

[59] Claudia Voltattorni, "Obbligo Pos dai 60 euro: ora i commercianti possono rifiutare pagamenti inferiori. [Pos obligation from 60 euros: merchants can now refuse lower payments]," L'Economia, released November 28, 2022, accessed November 18, 2023, https://www.corriere.it/economia/consumi/22_novembre_28/manovra-salta-obbligo-pos-fino-60-euro-stretta-partite-iva-29a3c51c-6e85-11ed-9a2e-9215bb841eb8.shtml?refresh_ce-cp.; Megan Williams, "In a world of e-payments, Italians defiantly cling to cash," CBC, released December 11, 2022, accessed November 19, 2023, https://www.cbc.ca/news/italy-epayments-cash-1.6679296.

[60] Claudia Voltattorni, "Obbligo Pos dai 60 euro: ora i commercianti possono rifiutare pagamenti inferiori."; Megan Williams, "In a world of e-payments, Italians defiantly cling to cash."; *Decreto Legislativo 21 novembre 2007, n. 231 [Legislative Decree of 21 November 2007, n. 231],* Italy, adopted November 21, 2007, https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2007;231#:~:text=Attuazione%20della%20direttiva%202005%2F60,ne%20reca%20misure%20di%20esecuzione, art. 49.

[61] Schroth, Vyborny, and Ziskovsky, "Should the use of cash be limited?" 119.; *Decreto-Legge 2 marzo 2012, n. 16 [Decree-Law of 2 March 2012, n. 16]*, Italy, adopted March 2, 2012, https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto-legge:2012-03-02;16, art. 3.

[62] Rijksoverheid [Dutch National Government], "Kan ik met een wettig betaalmiddel overal betalen? [Can I pay anywhere with legal tender?]," Rijksoverheid, accessed November 19, 2023,

of the Dutch Ministry of Economic Affairs and Climate Policy, has published guidance on the matter. The website states that a trader cannot refuse payments in cash without a valid reason. Among valid reasons are if the banknote is damaged, if the trader cannot verify if the banknote or coin is counterfeit, if the trader does not have sufficient change, if the value of the banknote tendered is manifestly disproportionate, if keeping cash on the premises gives rise to security concerns, or when they round off the amounts in a manner permitted in the Netherlands.[63] The guidance also specifies that if traders refuse payments in cash, they must make it clear in advance and accept payments through other means.[64]

As for how the right to pay in cash is affected by data protection law, it appears that traders in the Netherlands are entitled to requiring payments by card in circumstances where it fulfills the aim of reducing the risk of theft and robbery. In 2020, the Gelderland Court of First Instance ruled that a public bus operator can require that only debit or credit cards are used to pay on buses,[65] which was subsequently confirmed by the Council of State.[66] In 2022, the Gelderland Court of First Instance held that a cinema was entitled to do the same.[67] In both cases, the court's reasoning was based on increasing the safety of the controller's customers and employees. The choice of contractual necessity under Article 6(1)(b) GDPR as a legal basis for the processing as opposed to legitimate interests under Article 6(1)(f) GDPR can be criticized, especially in light of the recent judgment of the CJEU in Case C-252/21. Since it is highly unlikely that the bus passengers could sue the operator for breach of contract for failing to require payments by card, it follows that such level of safety could not be a part of the subject-matter of the contract, and consequently processing necessary for ensuring that level of safety could not fall within Article 6(1)(b) GDPR.

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https://www.rijksoverheid.nl/onderwerpen/geldzaken/vraag-en-antwoord/kan-ik-met-een-wettig-betaalmiddel-overal-betalen.

[63] Netherlands Enterprise Agency, "Rules for cash payments," Business.gov.nl, accessed November 19, 2023, https://business.gov.nl/regulation/rules-for-cash-payments/.

[64] ibid.

[65] Rechtbank Gelderland, AWB 19_2901, (2020), ECLI:NL:RBGEL:2020:619, para 5.1.

[66] Raad van State, 202001625/1/A3, (2021), ECLI:NL:RVS:2021:2511, para 13.

[67] Rechtbank Gelderland, AWB 20_68, (2022), ECLI:NL:RBGEL:2022:2431, para 3.7.

However, regardless of a possibly successful future challenge to the choice of the legal basis in these decisions, traders who require payments by card in these circumstances are not currently considered in breach of data protection law in the Netherlands.

In regard to ceilings on cash payments, there is currently no upper limit on cash payments between private individuals,[68] albeit traders must conduct customer due diligence in respect of cash payments over €10,000.[69] This extends to depositing cash into a bank account.[70] There is also currently a legislative proposal to ban cash payments over €3,000.[71]

Slovakia

Slovakia has recently enshrined the right to pay in cash in its Constitution.[72] However, this constitutional change specifies that a trader also has the right to refuse payments in cash for legitimate reasons. Among those could be, for instance, security or technical reasons. These legitimate reasons would not apply to payments in a bank, where the payee would always be obliged to accept payments in cash.[73]

[68] Help and advice for consumers in Europe, "Cash payment limitations."
[69] Rijksoverheid [Dutch National Government], "Welk bedrag mag ik maximaal contant betalen? [What is the maximum amount I can pay in cash?]," Rijksoverheid, accessed November 19, 2023, https://www.rijksoverheid.nl/onderwerpen/geldzaken/vraag-en-antwoord/grote-aankopen-met-contant-geld.
[70] Netherlands Enterprise Agency, "Rules for cash payments," Business.gov.nl, accessed November 19, 2023, https://business.gov.nl/regulation/rules-for-cash-payments/.
[71] Tweedekamer [House of the Representatives of the Netherlands], "Wet plan van aanpak witwassen [Money Laundering Action Plan Act]," Tweedekamer, released on October 21, 2022, accessed November 19, 2023, https://www.tweedekamer.nl/kamerstukken/wetsvoorstellen/detail?cfg=wetsvoorsteldetails&qry=wetsvoorstel%3A36228.
[72] Národná rada Slovenskej republiky [Parliament of the Slovak Republic], "NRSR: Poslanci schválili ústavné právo na platbu v hotovosti [NRSR: MPs approve constitutional right to pay in cash]," Parliament of the Slovak Republic press release, June 15, 2023, https://www.nrsr.sk/web/Default.aspx?sid=udalosti/udalost&MasterID=56432.
[73] ibid.

There is a ceiling of €15,000 on payments in cash in Slovakia.[74] This limit applies not only to payments for the sale of goods and services, but also, among others, to the repayment of loans, discharge of liabilities, shareholders' contributions to the share capital, and the payment of profit shares. They apply both to single payments and to multiple payments that are deemed to constitute a single transaction.[75] Exceptions to this ceiling include the depositing or withdrawing cash from a bank account, the provision of currency exchange services, tax administration and many others. The restriction on cash payments also applies to payments made abroad if the performance of that contract is carried out in Slovakia and if the payer or the payee has a permanent residence, temporary residence, tolerated residence, registered office, establishment or place of business in Slovakia. Where this ban is violated, a natural person not acting in the course of their business will face a fine of up to €10,000, whereas a natural person acting in the course of their business, or a legal person will face a fine of up to €150,000.[76]

Spain

In Spain, acceptance of payments in cash is mandatory. The General Law for the Defense of Consumers and Users,[77] as newly amended by the Royal Decree

[74] *Zákon č. 394/2012 Z. z. o obmedzení platieb v hotovosti [Act No 394/2012 Coll. on the restriction of cash payments]*, Slovakia, adopted November 29, 2012, https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2012/394/20130101, art. 4.
[75] Ministerstvo financií Slovenskej republiky [Ministry of Finance of the Slovak Republic], "Obmedzenie platieb v hotovosti [Limitations on cash payments]," Ministerstvo financií Slovenskej republiky, accessed November 19, 2023, https://www.mfsr.sk/sk/financie/financny-trh/obmedzenie-platieb-hotovosti/.; Finančná správa Slovenská republika [Financial Administration of the Slovak Republic], "Platby v hotovosti pre podnikateľov [Cash payments for businesses]," Finančná správa Slovenská republika, last updated August 2, 2023, accessed November 19, 2023, https://www.financnasprava.sk/sk/podnikatelia/dane/platby-v-hotovosti#:~:text=Novela%20z%C3%A1kona%20%C3%BA%C4%8Dinn%C3%A1%20od%2001.07,v%C3%BDnimiek%20presne%20definovan%C3%BDch%20v%20z%C3%A1kone.
[76] Finančná správa Slovenská republika, "Platby v hotovosti pre podnikateľov."; *Zákon č. 394/2012 Z. z. o obmedzení platieb v hotovosti*, arts. 7-10.
[77] *Real Decreto Legislativo 1/2007, de 16 de noviembre, por el que se aprueba el texto refundido de la Ley General para la Defensa de los Consumidores y Usuarios y otras leyes complementarias [Royal Legislative Decree 1/2007, of November 16, 2007, approving the revised text of the General Law for the Defense of Consumers and Users and other complementary*

24/2021,[78] provides in its Article 47(1)(ñ) that the refusal to accept a payment in cash is a violation in the area of consumer and user protection within the limits established by tax and tax fraud prevention and control regulations. The refusal constitutes merely a minor offense with fines between €150 and €10,000. However, the offense and the corresponding fine may become more serious, if, for example, a trader commits it repeatedly.[79] Conversely, Spain also imposes an obligation on traders to accept payments by card if the amount is higher than €30.[80]

The ceiling on payments in cash is set at €1,000 if at least one of the parties is acting in the course of their business.[81] The ECB has criticized this low ceiling on payments in cash in its Opinion, where it expressed that this excessive limitation

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laws], Spain, adopted November 16, 2007, https://www.boe.es/buscar/act.php?id=BOE-A-2007-20555.

[78] *Real Decreto-ley 24/2021, de 2 de noviembre, de transposición de directivas de la Unión Europea en las materias de bonos garantizados, distribución transfronteriza de organismos de inversión colectiva, datos abiertos y reutilización de la información del sector público, ejercicio de derechos de autor y derechos afines aplicables a determinadas transmisiones en línea y a las retransmisiones de programas de radio y televisión, exenciones temporales a determinadas importaciones y suministros, de personas consumidoras y para la promoción de vehículos de transporte por carretera limpios y energéticamente eficientes [Royal Decree-Law 24/2021, of November 2, on the transposition of European Union directives in the areas of covered bonds, cross-border distribution of collective investment undertakings, open data and reuse of public sector information, exercise of copyright and related rights applicable to certain online transmissions and retransmissions of radio and television programs, temporary exemptions for certain imports and supplies, for consumers and for the promotion of clean and energy efficient road transport vehicles],* Spain, adopted November 2, 2021, https://www.boe.es/diario_boe/txt.php?id=BOE-A-2021-17910, art. 82.4.

[79] Guillaume Lepecq,"Spain: New Law Requires Retailers to Accept Cash," CashEssentials, released June 3, 2022, accessed November 19, 2023, https://cashessentials.org/spain-new-law-requires-retailers-to-accept-cash/#:~:text=The%20newly%20adopted%20Consumer%20Protection,for%20refusing%20payments%20in%20cash.&text=The%20Royal%20Decree%2024%2F2021,for%20retailers%20to%20accept%20cash.; Funcas, "EL DERECHO A PAGAR EN EFECTIVO [THE RIGHT TO PAY IN CASH]," Funcas, released June 7, 2022, accessed November 19, 2023, https://www.funcas.es/odf/el-derecho-a-pagar-en-efectivo/.

[80] *Real Decreto-ley 19/2018, de 23 de noviembre, de servicios de pago y otras medidas urgentes en materia financiera [Royal Decree-Law 19/2018, of 23 November, on payment services and other urgent measures in financial matters]*, Spain, adopted November 23, 2018, https://www.boe.es/buscar/doc.php?id=BOE-A-2018-16036.; ThinkSpain, "Cash and the law in Spain: A guide to payment methods, limits and what's legal," ThinkSpain, released November 11, 2021, accessed November 19, 2023, https://www.thinkspain.com/news-spain/33130/cash-and-the-law-in-spain-a-guide-to-payment-methods-limits-and-what-s-legal.

[81] Manuel A. Bautista-González, "Spanish Congress Imposes Lower Limit on Cash Payments," CashEssentials, released July 19, 2021, accessed November 19, 2023, https://cashessentials.org/spanish-congress-imposes-lower-limit-on-cash-payments/.; Help and advice for consumers in Europe,"Cash payment limitations."

on the use of cash is liable to impact the legal tender status of the euro.[82] The ceiling is raised to €10,000 for consumers who do not have their tax residence in Spain.[83]

Sweden

In Sweden, acceptance of cash is mandatory, although a different form of payment may be agreed on. Advance notice of a refusal to accept payments in cash by traders is described as merely "helpful" by the Swedish Central Bank.[84] However, hospitals are not permitted to refuse payments in cash according to a 2015 judgment by the Swedish Supreme Administrative Court.[85] A legislative amendment aimed at ensuring proper access to cash by citizens has also been adopted.[86]

There is no ceiling for payments in cash in Sweden.[87]

United Kingdom

In the UK, acceptance of cash is not mandatory. Both the 2022 and 2023 petitions for introducing mandatory acceptance of cash by law were met with

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[82] Guillaume Lepecq, "Spain: New Law Requires Retailers to Accept Cash."; European Central Bank, *Opinion of the European Central Bank,* CON/2022/9, adopted on March 15, 2022, https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022AB0009&qid=1654002074421&from=EN.
[83] Help and advice for consumers in Europe,"Cash payment limitations."; ThinkSpain, "Cash and the law in Spain: A guide to payment methods, limits and what's legal."
[84] Sveriges Riksbank [Swedish Central Bank], "Cash use in constant decline," Swedish Central Bank, released November 7, 2019, accessed November 19, 2023, https://www.riksbank.se/en-gb/payments--cash/payments-in-sweden/payments-in-sweden-2019/the-payment-market-is-being-digitalised/cash-use-in-constant-decline/do-we-have-the-right-to-pay-in-cash/.
[85] ibid.
[86] ibid.; Library of Congress, "Sweden: Amendment Requiring Banks to Provide Access to Cash Services Enters into Force," Library of Congress, released February 5, 2021, accessed November 19, 2023, https://www.loc.gov/item/global-legal-monitor/2021-02-05/sweden-amendment-requiring-banks-to-provide-access-to-cash-services-enters-into-force/.
[87] Help and advice for consumers in Europe, "Cash payment limitations."

the same response by the UK government, in that there are currently no plans to impose such an obligation on businesses.[88] The government believes that the right to pay in cash is sufficiently supported by recent measures aimed at increasing access to cash, such as maintaining facilities that enable the deposit and withdrawal of cash in local communities free of charge.[89]

Whilst there is no ceiling on payments in cash, traders and businesses are required to register with HM Revenue and Customs as 'High Value Dealers' if they receive or make payments over €10,000 or equivalent (roughly £8,700) in exchange for goods. The meaning of cash extends to traveler's cheques and the qualifying payments include depositing cash directly into the payee's bank account or making a payment via a third party. The measure applies to single as well as to multiple payments that comprise one transaction or appear to have been broken down to evade the requirement to register.[90]

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[88] UK Government and Parliament, "Closed Petition: Require all businesses and public services to accept cash payments," UK Government and Parliament, accessed November 19, 2023, https://petition.parliament.uk/petitions/622284.

[89] HM Treasury, "Free access to cash protected," HM Treasury news story, August 18, 2023, accessed November 19, 2023, https://www.gov.uk/government/news/free-access-to-cash-protected.; HM Treasury, "New powers to protect access to cash," HM Treasury news story, May 19, 2022, accessed November 19, 2023, https://www.gov.uk/government/news/new-powers-to-protect-access-to-cash.; UK Government and Parliament, "Closed Petition: Require all businesses and public services to accept cash payments," UK Government and Parliament, accessed November 19, 2023, https://petition.parliament.uk/petitions/622284; UK Government and Parliament, "Closed Petition: Make a UK law requiring all establishments to accept cash," UK Government and Parliament, accessed November 19, 2023, https://petition.parliament.uk/petitions/636557.

[90] Help and advice for consumers in Europe,"Cash payment limitations."; HM Revenue and Customs, "Guidance: Money laundering supervision for high value dealers," HM Revenue and Customs, last updated August 10, 2022, accessed November 19, 2023, https://www.gov.uk/guidance/money-laundering-regulations-high-value-dealer-registration.

Conclusion

The obligation to accept payments in cash was found to exist in most countries included in this paper. However, there is a wide variety in what this obligation is taken to mean and in the number and width of exemptions from that obligation. For instance, whilst the proposed EU Regulation on the legal tender of euro banknotes and coins excludes online payments from the obligation to accept cash, most of the examined countries do not do so explicitly. Similarly, although a prior agreement on a different mode of paying is provided as an exemption to mandatory acceptance of cash by most countries, the precise content of that exemption has been approached differently across different jurisdictions. The proposed EU Regulation envisages that ex ante unilateral exclusions of cash, for example by means of a 'no cash' sign, would not constitute a freely made agreement to a means of payment by the parties. Yet, the examined countries generally only require that advance notice of not accepting payments in cash is given and do not explicitly lay down further conditions for a qualifying mutual agreement. Lastly, whilst some of the examined countries consider security concerns to constitute a legitimate reason for not accepting payments in cash, some others, as well as the EU proposed Regulation, do not expressly provide for this exemption. It can therefore be concluded that a high number of widely defined exemptions from the obligation to accept payments in cash may significantly weaken this obligation and render it similar to a situation where no such obligation exists.

There is a similar diversity among the countries when it comes to the existence and the height of ceilings on payments in cash. This variability also exists when it comes to whether the countries apply such a ceiling universally or whether they apply different ceilings to different contexts. From this, a similar conclusion can be drawn as above: ceilings on payments in cash that are too low, especially in combination with high prices in the country, may significantly curtail individuals’ right to pay in cash.

Whilst the objective of this comparative study was not to substantively evaluate the merits of the right to pay in cash, it is hoped that the results and comparisons of this paper may provide an introduction and a factual background for any such debate.

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