

Mr Johan Khouw
Head of Unit, Euro protection and euro cash
ECFIN. Unit.C.5
European Commission
Rue de la Loi, 200
1049 Brussels
Belgium

Brussels, 19 October 2017

Dear Mr. Khouw,

Re: Cash payment limitations (CPLs) workshop of 10 October and Better Regulation Guidelines on stakeholder consultations

We are writing on behalf of ESTA, EURICPA and ICA to express our deep concern following the workshop of 10 October organised by CEPS in relation to the impact assessment for CPLs in the context of the fight against terrorism funding. This workshop appears to our organisations as a fundamentally missed opportunity for consulting stakeholders.

The focus of the workshop was on internal market issues, aiming to assess the impact that CPLs would have on the activities and revenue of a variety of business sectors in member states.

However, in our view and that of a large part of participants in the workshop, there is no point in assessing the proportionality of any measure unless its necessity is ascertained. The initiative is explicitly linked to the funding of terrorism, claiming that "*cash is widely used in the funding of terrorism*". This has to be substantiated before assessing any other (side) impact of the measure. Unfortunately, the inception impact assessment provided no such evidence.

Transactions made in relation to terrorist attacks are mostly small scale and legal in essence, only the *change of purpose* makes them illegal. Sources of funding by now are mostly *not in cash* and are in most cases legal. CPLs will therefore have no impact on the prevention of terrorism.

Naturally, our organisations, just like everyone else, stand fully behind any initiative that will help prevent and curb terrorist activities. However, not only has there been no evidence presented that cash payment restrictions would assist in that objective, but there is also substantial evidence to the contrary. A number of organizations have submitted papers, providing facts and figures, hard data, demonstrating that cash is not widely used for terrorism, thus directly addressing the core issue of the impact assessment and the initiative as a whole.

Looking at the outcome of the public consultation, it can be seen that the very large majority of the EU public amongst the 30,000 respondents, consider CPLs to be ineffective in tackling the issue. Of note is that 73% of the public authorities considered that CPLs would not contribute to combatting terrorism financing and another 14.6% considered that it would do so “*only mildly*”, i.e. close to 90% of public authorities not being convinced of the usefulness of CPLs.

The workshop of 10 October with CEPS did not address any of these issues. When the validity of the CEPS approach (discussing impacts of a measure the necessity of which had not even been determined yet) was questioned by a number of organisations in the workshop, they were ignored. CEPS interrupted speakers when they raised points they were not interested in, and apparently were reluctant to take any notice of what was said. In addition, it became very clear from the outset that all participants would only be able to provide opinions on the agenda points in question, not facts as required.

We would like to recall the Better Regulation guidelines and particularly the section referring to stakeholder consultations which states:

“Stakeholders must be consulted on all IA elements in the IA process. The key issues which must be addressed are therefore:

- *The problem to be tackled;*
- *The issue of subsidiarity and the EU dimension to the problem,*
- *The available policy options; and*
- *The impacts of the policy options”¹*


During the workshop, all attempts to address “*the problem to be tackled*” or “*the impacts of the policy options*” on the primary objectives by stakeholders around the table were ignored. This approach clearly goes against the Better Regulation guidelines.

¹ SWD(2015) 111 final, page 72, (emphasis added)

Since it is rather uncertain if stakeholders will have other formal opportunities to input on all other aspects in which CEPS is not interested, we ask for a meeting with you and your team to have the opportunity to raise a number of critically important issues to be addressed before deciding on a possible legislative proposal on CPLs.

Our organisations are very keen to assist CEPS in its assignment on behalf of the Commission in their fullest capacity and we expect to be able to do that on all relevant aspects of the IA, with facts and figures that we collated in the interest of the fight against terrorism which is a concern to all of us.

Yours sincerely,


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