



Cross- border movement of cash and negotiable instruments

Regulation and Control

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Legal framework



- External EU borders:
Direct application of Regulation (EC) 1889/2005 of the European Parliament and of the Council dd. 26/10/2005 on controls of cash entering or leaving the Community
- Internal EU borders:
Royal Decree dd. 26/1/2014 on measures to control the cross-border traffic of liquid assets
(replacing RD dd. 5/10/2006)

Rules



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- General
 - Cash: currency and bearer negotiable instruments (cheques, money orders, promissory notes ...)
 - Threshold 10.000 €
 - Entering or leaving jurisdiction
 - Competent authority: Customs (with airport police)
 - Specific
 - EU external: mandatory declaration
 - EU internal : on request

Declarations



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- Oral or (confirmed) in writing
 - Identity
 - declarant
 - owner
 - recipient
 - Amount & nature of cash
 - Provenance & intended use
 - Transport route & means

Control & Powers



- Customs empowered to check persons (including frisking and body search), baggage and means of transport
- Non-compliance:
 - failure to declare
 - false declaration
 - incomplete declaration
- + Suspicion of illegal origin or intended use
→ report & power to detain cash (max. 14 days)
- Sanctions : administrative + criminal (if ML/TF)

Interaction with other authorities

- FIU: receives and analyses
 - list of all declarations
 - reports of non-compliance
 - ML/TF suspicions
 - reports to PP (if ML/TF indications)
- Judiciary (PP):
 - reports on ML/TF suspicions
 - reports of cash detained →
commuted in seizure by PP if criminal
offence related

FIU Processing



Full analysis on selective basis

(above 100.000 EUR, multiple declarations, no declaration, suspicions of ML or TF, criminal records)

- Data mining (own & other d-bases)
- Information exchange with counterpart FIUs
- Additional financial information from “obliged” entities (financial institutions, DNFBPs ...)
- Law enforcement and administrative (tax authorities, customs, intelligence services...) information



Statistics

Cash controls

Declarations 2007 - 2015

▪ Outside EU (spontaneous)	7.850	379,10 million €
▪ Intra EU (on demand)	652	43,30 million €
▪ No declaration	352	11,30 million €
▪ False or incomplete	29	66,00 million €
▪ Suspicions of ML or TF	<u>10</u>	<u>1,46 million €</u>
→ Total	8.893	<u>501,16 million €</u>

Declarations & Amounts detained 2012-2015

	2012		2013		2014		2015 (six months)	
	Number	Amount	Number	Amount	Number	Amount	Number	Amount
Declaration (extra EU)	1.219	70,0	1.291	61,87	1.307	58,22	520	25,04
Declaration on demand (intra EU)	72	2,8	89	6,54	75	2,61	20	0,48
Suspicion ML/TF	1	0,02	1	3,68	-	-	-	-
No declaration	11	0,42	28	2,08	84	1,99	150	4,05
Incomplete declaration	4	0,02	2	0,03	8	0,30	5	0,27
	1.307	73,26	1.411	73,67	1.478	63,12	695	29,84

Amounts in million EUR

Amounts in RED = amounts detained by customs

FIU disclosures to PP Suspected predicate criminality

	2012		2013		2014	
	Number	Amount	Number	Amount	Number	Amount
Cash declaration disclosed to the public prosecutor	20	1,82	26	3,78	27	1,67
<u>ML Predicate offences</u>						
Terrorist financing	8	0,40	4	0,19	2	0,04
Organized crime	2	1,02	2	2,54	2	0,05
Tax crimes	1	0,03	2	0,15	5	0,93
Corruption	1	0,10	-	-	-	-
Unlicensed financial services	2	0,06	1	0,02	6	0,11
Illegal trafficking in goods	4	0,19	6	0,42	1	0,02
Traffic in human beings	1	0,01	3	0,04	-	-
Drug trafficking	-	-	2	0,03	3	0,35
Misappropriation of corporate assets	1	0,01	3	0,24	6	0,10
Others	-	-	3	0,09	2	0,02

Judicial follow up



	2012	EUR	2013	EUR
Judgment	3	563.100	9	1.604.780
Enquiry	1	60.000	-	-
Judicial Enquiry	7	3.444.640	1	46.540
Dismissed	2	874.900	-	-
Fine	-	-	2	91.810
Total	13	5.575.471	12	1.743.130

Source : Statistics PP Brussels

Challenges



- Predominance of national focus may lead to loss of pertinent information
→ importance of international cooperation at Customs and FIU level
- Enhancing pro-active searches by customs → also capacity issue
- Globally: divergent FIU involvement (active/passive) and access (automatic/at request) impacts on cross-border cooperation results
- EU: operational issues
 - free movement of cash between the EU member states → no common approach intra EU controls
 - no EU central database for all cash declarations in EU member states → FIDE (EU d-base on violations) grossly underexploited
- Effectiveness national coordination/cooperation between Customs and Police
- Reliable feedback and statistics