



EUROPEAN CENTRAL BANK  
EUROSYSTEM

ECB-PUBLIC

Christine LAGARDE  
President

Mr Chris MacManus  
Member of the European Parliament  
European Parliament  
60, rue Wiertz  
B-1047 Brussels

Frankfurt am Main, 23 June 2023

L/CL/23/130

**Re: Your letter (QZ-006)**

Honourable Member of the European Parliament, dear Mr MacManus,

Thank you for your letter, which was passed on to me by Ms Irene Tinagli, Chair of the Committee on Economic and Monetary Affairs, accompanied by a cover letter dated 17 March 2023.

In your letter you refer to the legality of merchants' unilateral refusal to accept cash payments in a business-to-customer context.

In 2020, the ECB's Governing Council adopted the Eurosystem cash strategy<sup>1</sup> with the objective of ensuring widespread availability of, access to and acceptance of cash. This commitment aligns not only with the euro's status of legal tender as assigned by the Treaty,<sup>2</sup> but also with the crucial role that cash plays in our society.<sup>3</sup> Moreover, in 2010 the European Commission issued a Recommendation<sup>4</sup> *on the scope and effects of legal*

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<sup>1</sup> See "The Eurosystem cash strategy", available at: [https://www.ecb.europa.eu/euro/cash\\_strategy/html/index.en.html](https://www.ecb.europa.eu/euro/cash_strategy/html/index.en.html).

<sup>2</sup> The legal tender status of euro banknotes is laid down in Article 128(1) of the Treaty on the Functioning of the European Union. Article 11 of Council Regulation (EC) No 974/98 of 3 May 1998 sets out the legal tender status of euro coins.

<sup>3</sup> Cash is the most frequently used payment method at the point of sale in the euro area. See "Study on the payment attitudes of consumers in the euro area (SPACE) – 2022", ECB, December 2022, available at: [https://www.ecb.europa.eu/stats/ecb\\_surveys/space/html/ecb.spacereport202212~783ffdf46e.en.html](https://www.ecb.europa.eu/stats/ecb_surveys/space/html/ecb.spacereport202212~783ffdf46e.en.html). Moreover, cash, among other things, facilitates the financial inclusion of socially vulnerable citizens, such as the elderly and low-income groups.

<sup>4</sup> Commission Recommendation of 22 March 2010 on the scope and effects of legal tender of euro banknotes and coins (2010/191/EU), OJ L 83, 30.3.2010, p. 70.

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*tender of euro banknotes and coins* based on input from the Euro Legal Tender Expert Group (ELTEG)<sup>5</sup>. According to the Recommendation, a creditor cannot refuse euro banknotes and coins in settlement of a debt denominated in the same currency unit at its full face value with the effect of discharging the debt unless the parties have agreed on other means of payment<sup>6</sup>. Moreover, the Recommendation provides that refusals to accept payment in cash must be grounded on reasons related to the “good faith principle”. This could, for example, apply when the retailer has no change available.

Against this background, the question of whether merchants can categorically and unilaterally rule out any payments in cash in person-to-person transactions by placing a sign stating “cash not accepted” is not straightforward. It may also be argued that, despite such a sign being present, the two parties have not agreed freely on another means of payment. It also needs to be considered that, should they become widespread, such “no cash policies” of merchants could undermine the legal tender status of euro cash, which is protected by EU law, and hence undermine trust in euro banknotes and coins as a means of payment.

With a view to, inter alia, assisting the European Commission with the assessment of a possible EU legislative or policy initiative on the legal tender status of euro cash, ELTEG further considered issues related to cash acceptance and cash availability in its report of July 2022.<sup>7</sup> According to the report, the Commission could also consider the need to prohibit, in a possible legislative proposal to regulate in more detail the legal tender status of cash, the practice of retailers of imposing, ex ante and unilaterally, the exclusion of cash payments in physical transactions. The prohibition of such a practice would be considered insofar as it is necessary to ensure the use of the euro as a single currency and constitutes a proportionate restriction of the freedom to conduct business.

Looking ahead, the European Commission has indicated in its work programme for 2023 an initiative on the scope and effects of the legal tender status of euro banknotes and coins.<sup>8</sup> The ECB looks forward to this proposal, which has the potential to strengthen the legal tender status of euro cash, as protected by EU law, and hence address any legal uncertainty at the euro area level with regard to a common interpretation and

<sup>5</sup> ELTEG was established in 2009 to advise the European Commission on a common approach to the scope and effects of euro cash as legal tender. It is composed of representatives of Member States’ authorities and the ECB and is chaired by the European Commission. More information on the composition and activities of ELTEG is available at: <https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?lang=en&groupId=3754&fromMembers=true&memberType=4&memberId=93719>.

<sup>6</sup> This interpretation of the ordinary meaning of legal tender was upheld in the recent judgment of the Court of Justice of the European Union of 26 January 2021, *Hessischer Rundfunk*, C-422/19 and C-423/19, ECLI:EU:C:2021:63, paragraphs 46 to 49.

<sup>7</sup> See “Report of the Euro Legal Tender Expert Group (ELTEG) on the definition, scope and effects of legal tender of euro banknotes and coins”, pp. 10-11, available at: [https://ec.europa.eu/economy\\_finance/articles/euro/documents/elteg\\_en.pdf](https://ec.europa.eu/economy_finance/articles/euro/documents/elteg_en.pdf).

<sup>8</sup> See “Annexes to the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Commission work programme 2023 – A Union standing firm and united”, page 3, initiative 25(b), available at: [https://commission.europa.eu/system/files/2022-10/com\\_2022\\_548\\_1\\_annexe\\_en.pdf](https://commission.europa.eu/system/files/2022-10/com_2022_548_1_annexe_en.pdf).

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definition of legal tender, including in terms of “no cash policies” applied by merchants, and reinforce trust in euro banknotes and coins as a means of payment.

Yours sincerely,

[signed]

Christine Lagarde

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