



22.1.2010

NOTICE TO MEMBERS

Subject: Petition 0999/2009 by Sieglinde Müller (German), on the refusal by banks to accept cash payments from persons who are not their customers

1. Summary of petition

Based on the EU Regulation to combat money laundering - which concerns amounts in excess of 10,000€ - German financial institutions have made it impossible for persons who are not their customers to pay small amounts of cash into customer accounts. People of small means often do not have bank accounts; this new arrangement means that they encounter problems paying rent, electricity bills, child support, etc. The petitioner asks a) whether average citizens with standard payment obligations are subject to the EU legislation on money laundering and b) which part of the legislation legitimises the banks' behaviour.

2. Admissibility

Declared admissible on 3 November 2009. Information requested from Commission under Rule 202(6).

3. Commission reply, received on 22 January 2010.

The petition

The petitioner complains that the German financial institutions have made it impossible for persons who are not their customers, and who do not have a bank account at all, to pay small amounts of cash into customer accounts. According to the petitioner, the obstructionism by the banks has been grounded on the EU Regulation to combat money laundering.

The Commission's comments on the petition

In general, it is not illegitimate for financial institutions to verify the identity of a person wishing to have recourse to their financial services. In fact, the anti-money laundering Directive¹ requires financial institutions and notably banks to perform customer due diligence when a person intends to enter into a business relationship with a bank: e.g. to open a bank account.

The situation as explained by the petitioner is however somewhat different, as it relates to cases where individuals who do not have a bank account, would like to carry out certain occasional financial transactions, like the payment in cash of utility bills, through a bank. It would seem that in some Member States, it is possible for individuals to pay e.g. their electricity bill in cash at the counter of a bank that will then credit the account of the electricity company concerned. In this respect, there may be contractual procedures to respect, that may be defined between the bank and the bank account holder, i.e. in this example the electricity company that will want to know which of its clients has paid which invoice. Such procedures might encompass the need for the bank to ascertain the identity of the individual at stake, if only for the electricity company to track him or her back in case of excess or insufficient payment.

However, such a requirement would not stem from the European anti-money laundering legislation. In fact, these particular types of transactions can be considered as "occasional transactions" under article 7(b) of the anti-money laundering Directive. This means that, to the extent that these transactions do not exceed an amount of 15 000 EUR and do not present a money laundering or terrorist financing risk, the Directive does not impose on banks to conduct any customer due diligence.

Conclusion

Since the type of transactions described can be considered as "occasional transactions", there is no specific obligation for financial institutions to refuse such transactions on the basis of requirements stemming from obligations under the EU Anti-money laundering directive. The Commission would dispute the allegation made by the petitioner.

¹ Directive 2005/60/EC of the EP and the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing