# CJEU: Cash payments for licence fee not ruled out

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In a judgment (Case nos. C-422/19 and C-423/19) of 26 January 2021, the Court of Justice of the European Union (CJEU) ruled that payment in cash for the German radio and television licence fee could be refused on the grounds that the administrative cost of accepting cash payments was disproportionate.

The case concerned two German citizens from Hessen who had offered to pay Hessischer Rundfunk (HR) for their radio and television licences in cash. HR had refused their offer with reference to a rule that it had adopted preventing cash payments for the licence. The two German citizens had then received payment notices from HR, which they had disputed. The case ended up before the *Bundesverwaltungsgericht* (Federal Administrative Court – BVerwG). The BVerwG noted, firstly, that the rule infringed a higher-ranking provision of the *Gesetz über die Deutsche Bundesbank* (German Central Bank Act) and was therefore invalid under Article 31 of the German *Grundgesetz* (Basic Law). Cash payments could therefore not be prohibited. According to Article 14(1) of the Act, the euro was the only unrestricted legal tender for the settlement of monetary debts. The BVerwG doubted whether this application of the law was compatible with the requirements of the Monetary Union. It also wanted clarity over whether the unrestricted status of the euro as legal tender meant that cash payments could not be prohibited. It referred two related questions to the CJEU in a request for a preliminary ruling under Article 267 of the Treaty on the Functioning of the European Union (TFEU).

In concrete terms, the CJEU ruled that the concept of "monetary policy" entailed a “regulatory dimension”. This was reflected in the fact that the euro served as a standard means of payment and could therefore, in principle, not be refused. With regard to the Union’s exclusive competence to determine the status of euro banknotes, the CJEU noted that, as a rule, payments could be made in cash. There was therefore a basic obligation to accept payments in euros. However, an exception could be made in cases where cash payments could be limited for reasons of public interest, as long as such a restriction was proportionate to the objective. Cash payments were therefore disproportionate if a more appropriate payment method was available. Such an exception was also in the public interest if the possibility of paying in cash were to result in unreasonable costs for the administration on account of the high number of licence fee payers. With this ruling, the CJEU referred the matter back to the BVerwG.

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It is therefore now up to the BVerwG to decide whether or not the licence fee can be paid in cash, that is, whether limiting cash payments is in the public interest and proportionate.

### *Urteil des EuGH*

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*CJEU judgment*

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