Cross-border payments in the Community

2008/0194(COD) - 16/09/2009 - Final act

PURPOSE: to ensure the proper functioning of the internal market for payments in euros, with no distinction between cross-border and national payments.

LEGISLATIVE ACT: Regulation (EC) No 924/2009 of the European Parliament and of the Council on cross-border payments in the Community and repealing Regulation (EC) No 2560/2001.

CONTENT: the Council adopted this Regulation having reached agreement with the European Parliament at first reading. The Regulation updates and replaces Regulation (EC) No 2560/2001 on cross-border payments, which applies to credit transfers, cash withdrawals and electronic payments, including card payments, made in euros up to a maximum value of EUR 50 000. Regulation (EC) No 2560/2001 has succeeded in bringing down the charges for cross-border payments to the level of national charges, and has encouraged the payments industry to build an EU-wide payments infrastructure for the "single euro payments area" (SEPA) (see COM (2009)0471). The new Regulation extends the principle of the equality of charges to direct debits and addresses a number of enforcement problems that were identified in a report from the Commission on the application of Regulation 2560/2001/EC. It also aligns the definitions and wording of the text with those of Directive 2007/64/EC on payment services.

Its main provisions are as follows:

Subject matter and scope: the Regulation lays down rules on cross-border payments within the Community, ensuring that charges for cross-border payments within the Community are the same as those for payments in the same currency within a Member State. It applies to cross-border payments, in accordance with the provisions of Directive 2007/64/EC, which are denominated in euro or in the national currencies of the Member States which have notified their decision to extend the application of this Regulation to their national currency. It does not apply to payments made by payment service providers for their own account or on behalf of other payment service providers. It does not apply to currency conversion charges.

Charges for cross-border payments and corresponding national payments:charges levied by a payment service provider on a payment service user in respect of cross-border payments of up to EUR 50 000 shall be the same as the charges levied by that payment service provider on payment service users for corresponding national payments of the same value and in the same currency.

Measures for facilitating the automation of payments:a payment service provider shall, where applicable, communicate to the payment service user the payment service user's international bank account number (IBAN) and the payment service provider's bank identifier code (BIC). In addition, where applicable, a payment service provider shall indicate the payment service user's IBAN and the payment service provider's BIC on statements of account, or in an annex thereto. A payment service provider shall provide the information to the payment service user free of charge.

Interchange fee for cross-border direct debit transactions: in the absence of any bilateral agreement between the payment service providers of the payee and of the payer, a multilateral interchange fee of EUR 0,088, payable by the payment service provider of the payee to the payment service provider of the payer, shall apply for each cross-border direct debit transaction executed before 1 November 2012, unless a lower multilateral interchange fee has been agreed upon between the payment service providers concerned.

Interchange fee for national direct debit transactions: where a multilateral interchange fee or other agreed remuneration for a national direct debit transaction executed before 1 November 2009 applies between the payment service providers of the payee and of the payer, such a multilateral interchange fee or other agreed remuneration shall apply for any national direct debit transaction executed before 1 November 2012. Where such a multilateral interchange fee or other agreed remuneration is reduced or abolished before 1 November 2012, such reduction or abolition shall apply to any national direct debit transactions executed before that date.

Reachability for direct debit transactions: a payment service provider of a payer reachable for a national direct debit transaction denominated in euro on the payment account of that payer shall be reachable, in accordance with the direct debit scheme, for direct debit transactions denominated in euro initiated by a payee through a payment service provider located in any Member State. This provision shall apply only to direct debit transactions which are available to consumers under the direct debit scheme. Payment service providers shall comply with these requirements by 1 November 2010.

Payment service providers located in a Member State which does not have the euro as its currency shall comply with the above-mentioned requirements for direct debit transactions denominated in euro by 1 November 2014. If, however, the euro is introduced as the currency of any such Member State before 1 November 2013, the payment service provider located in that Member State shall comply with the requirements within 1 year of the date on which the Member State concerned joined the euro area.

Complaint and out-of-court redress procedures: Member States shall establish adequate and effective claims and out-of-court redress procedures which allow payment service users and other interested parties to submit complaints with regard to alleged infringements by payment service providers. For those purposes, Member States shall designate existing bodies, where appropriate, or establish new bodies. Member States may provide that these provisions apply only to payment service users which are consumers or micro-enterprises. In this event, Member States shall inform the Commission accordingly.

Application to currencies other than the euro: a notification procedure is foreseen in the event that a Member State that does not have the euro as its currency decides to extend the application of this Regulation to its national currency.

Penalties: Member States shall, by 1 June 2010, lay down rules on the penalties applicable to infringements to this Regulation and shall take all measures necessary to ensure that they are implemented. Such penalties shall be effective, proportionate and dissuasive.

Review: the Commission must present by 31 October 2011, a report on the appropriateness of removing settlement-based national reporting obligations. If appropriate, this report will be accompanied by a proposal.

By 31 October 2012 at the latest, the Commission shall present a report on the application of the Regulation which must cover, in particular a) the use of the IBAN and the BIC in relation to the automation of payments; b) the appropriateness of the EUR 50 000 ceiling; and c) market developments in relation to the application of certain provisions on direct debit transactions.

It should be noted that the Council also adopted:

- a Regulation establishing a legal framework for credit rating agencies and a directive updating banks' capital requirements which constitute an important part of the work programme which it undertook last autumn to deal with the financial crisis;

- a Directive on electronic money, on the basis of evaluations of the application of existing rules, as well as a decision to establish a Community programme to support specific activities in the field of financial services, financial reporting and auditing.

ENTRY INTO FORCE: 29/10/2009.

APPLICATION: from 01/11/2009.