Juridical framework for a unified area of payment

2003/2101(INI) - 21/04/2004 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution based on the own-initiative report drafted by Alexander RADWAN (EPP-ED, D) welcoming the Commission's initiative to establish the legal prerequisites for the creation of a single retail payments area in the EU. It pointed out, however, that Community rules should be formulated in such a way that the efficiency of national systems and procedures is not impaired. Customers must be provided with a set of convenient, cheap, reliable and predictable instruments of payment. Parliament called on the Commission, when implementing the individual components of the legal framework, to choose in each case the legal instrument which involves the least regulatory intervention in order to realise the objective. Wherever it appears practical and feasible, there should be self-regulation by market participants. If self-regulation fails or proves inefficient, priority for the regulation of the operation of the European payment area must be given to directives and then to regulations, to ensure that legal measures will take effect at the same time and in the same way throughout the European Union. Regulation of cross-border euro payments must conform to the principles that consumers must invariably incur the same costs as at national level and that the proper national authorities must be the first to be called upon to ascertain that the measures laid down are being effectively implemented in each country. Furthermore, prudential rules to which payment service providers are subject should be made more uniform throughout Europe in order to ensure a level playing field. Further fragmenting of prudential supervision provisions or a lowering of prudential supervision standards must be prevented. In the interests of all parties concerned (consumers, traders and banks), the creation of a new role, that of payment service provider, must not lead to any diminution, in physical, prudential, financial and economic terms, of the security of the means of payment issued in the market. Parliament went on to state that the legal rules governing money transfers in the euro zone need to be strengthened, especially as regards the amounts transferred, which must be credited in full to the payee's account, and that the time taken to execute such transfers should not exceed six working days, to be reduced to three working days as from 2008. Parliament welcomed the objective of promoting distance selling and Internet selling throughout the EU. It rejected the notion of making payment service providers accountable in the event of disputes between traders and customers, whether by means of rules on liability or extended cancellation rights for customers. There must be clear demarcation between the basic transaction and the payment. Parliament took the view that payment service providers should be responsible for the accurate execution of instructions from customers, in accordance with the national laws of the Member States. They should bear the burden of proof once the instruction enters their domain; Parliament rejected any extension of strict liability. Finally, Parliament stated that when a payment card has been fraudulently used by a third party, the liability of the cardholder - limited to a given amount - should apply, dependingon the seriousness of the case and the degree to which the cardholder is at fault, only if specifically defined obligations have been infringed. A cardholder should not be held liable once he has informed the payment service company that his card has been wrongfully used, and that the payment service provider must furnish evidence of such notifications, especially those made by telephone.