Cross-border payments in the European Union
Review of Regulation (EC) No 924/2009 of September 2009 on cross-border payments in the Community

This briefing is one in a series of ‘implementation appraisals’, produced by the European Parliamentary Research Service (EPRS), on the operation of existing EU legislation in practice. Each briefing focuses on a specific EU law, which is likely to be amended or reviewed, as envisaged in the European Commission’s annual work programme. ‘Implementation appraisals’ aim to provide a succinct overview of publicly available material on the implementation, application and effectiveness to date of an EU law, drawing on input from EU institutions and bodies, as well as external organisations. ‘Implementation appraisals’ are provided by the EPRS Ex-Post Evaluation Unit, to assist parliamentary committees in their consideration of new European Commission proposals, once tabled.

Summary
The European single market for payments is based on the idea of providing safer and more innovative payment services across the EU. To this end, the European institutions are working on establishing rules and tools to make payment services easier and to foster competition. The aim is to guarantee common standards in all Member States, efficient, faster and diversified types of payment, and consumer protection. The EU has already put several legislative tools in place, has established common criteria and requirements, and provided alternatives (such as e-money) to ‘traditional’ payment channels.

‘Payment services’ mean those defined by the EU legislation in the field, and cover common tools and standards for cross-border payments (SEPA), and also e-money services.

This Implementation Appraisal deals with cross-border payments and, more specifically, with Regulation (EC) No 924/2009 in the context of the planned European Commission review. Eight years after its entry into force, the Commission has announced its intention to extend its scope to non-euro currencies.

1. Background

One of the objectives of the internal market for payment services is to allow for easy, secure and efficient euro payments across Europe, with no distinction between cross-border and national payments within the euro area. To this end, a payment-integration initiative was launched, namely the single euro payments area (SEPA). EU institutions, the European banking and payments industry and other public authorities have been supporting this project. The aim of SEPA is to harmonise the fragmented national markets for euro payments, in order to create an integrated retail payments market, so as to make cross-border electronic payments (in euro) as easy as domestic payments.

The main constituent elements of SEPA are:¹

- a common monetary basis: the euro;

• a set of common payments tools: credit transfers, direct debits and payment cards;

• efficient infrastructures for the processing of euro payments;

• common technical standards and business practices;

• a harmonised legal basis;

• the on-going development of new customer-oriented services, such as electronic payments (e-payments) or mobile payments (m-payments).

All these elements are designed to facilitate implementation of the new vision for cross-border payments and of new instruments in the euro area. Several institutions and bodies are involved in the development and smooth and efficient functioning of payments systems:

• the EU institutions (European Commission, European Parliament and EU Council) and the Eurosystem,\(^2\) have defined the legal ground;

• the European Payments Council has been developing the technical frameworks for payment instruments;

• pan-European banking associations, such as the European Banking Federation (EBF), the European Association of Co-operative Banks (EACB) and the European Savings Banks Group (ESBG), and also the European Automated Clearing House Association (EACHA) are playing an active role in the payment services process.

Simplicity, convenience and cost-effectiveness are the three core benefits of SEPA.

• Consumers can now rely on one payment account and card to make euro payments wherever they are in Europe, which gives them peace of mind when they are travelling in Europe or making online purchases on websites based in other SEPA countries.

• Equally, enterprises see increased business opportunities and can access a broad European market more easily. They save time and money as they do not have to deal with multiple payment card standards for euro payments.

• In addition, SEPA provides a single market for payment services. The increased competition between payment service providers (PSPs) and card service providers benefits consumers and companies alike, as they can enjoy a greater choice of highly competitive services driven by technological innovation.

European Payments Council website.

The European Commission has laid down various rules to overcome barriers between countries and complete the single market for retail payments in euros. The legal framework that SEPA is based on includes Directive 2007/64/EC (on payment services – PSD1), Directive (EU) 2015/2366 (on payment services – PSD2), Regulation (EU) 260/2012 (on credit transfers and direct debits in euro), and Regulation (EU) 924/2009 (on cross-border payments).

These rules enable the following transactions to be made and received under the same basic conditions: credit transfers, direct debit payments and card payments.

The European Payments Council, meanwhile, has committed to delivering several pan-European payment instruments:

• SEPA credit transfers: making electronic payments from one SEPA country bank account to another easy and convenient;

• SEPA instant credit transfers: making credit transfers easier and faster, with the funds made available on the account in less than 10 seconds;

\(^2\) The monetary authority of the euro area, composed of the European Central Bank (ECB) and the national central banks of the Member States that have adopted the euro.
SEPA direct debits: offering consumers and businesses a secure means of paying bills and avoiding the risk of missing a payments deadline and of being charged additional fees for late payments, or suffering an interruption of service.

SEPA is being implemented by 34 countries – the 28 EU Member States (including those that do not use the euro) plus Norway, Iceland, Liechtenstein, Switzerland, San Marino and Monaco. Even though migration from the 'old' national systems to the new SEPA instruments ended in August 2014 (in the euro area) and in October 2016 (outside the euro area), new measures have still to be taken before all payments are completely harmonised in SEPA. All the actors involved (authorities, businesses, the banking industry and customers) are supporting common approaches, based on reliable, efficient and modern payment tools and services.

In this context, the European Commission has decided to improve the current legislation on cross-border payments by reducing charges for cross-border transactions in all Member States. This implementation appraisal focuses on the review of Regulation (EC) No 924/2009 announced in the Commission’s 2017 work programme (Annex 2).

2. Regulation (EC) No 924/2009

In 2005, the European Commission started a review process of the cross-border payments approach and legislation, aimed at enhancing the protection of consumer rights and putting in place a modern and efficient payment system within the EU. As a result, the existing legislation Regulation (EC) No 2560/2001 was repealed and new legislation – Regulation (EC) No 924/2009 – entered into force in 2009. With this new regulation, the European Commission wished to achieve an internal market for payment services in euros, as well as to secure significant savings and benefits for the wider European economy.

According to the new regulation, charges for equivalent national and cross-border financial transactions in euros\(^3\) up to €50 000\(^4\) should be the same. This applies to all electronically processed payments, including:

- credit transfers,
- direct debits,
- cash withdrawals at cash dispensers (automatic teller machines or ATMs),
- payments by means of debit and credit cards,
- money remittances.

The regulation does not apply to cheques and it does not apply to currency conversions to and from euros.

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\(^3\) In euros or in the national currency of EU countries wishing to apply the regulation. This is the case for the Swedish krona, following a request by Swedish authorities.

\(^4\) This limit was removed by Regulation (EU) No 260/2012.
In practice, the new rules mean that banks have to provide their clients with an international bank account number (IBAN) to be used when making cross-border electronic payment transactions, as well as with a bank identifier code (BIC).

The regulation also requires Member States to establish effective out-of-court complaint and redress procedures. In case of infringements, penalties can be applied.

The European Commission announced its intention to modify the regulation by the end of 2017 and to cut the retail fees imposed on cross-border payments made inside the EU in currencies other than the euro.

Some provisions of Regulation 924/2009 were already modified in 2012 by means of Regulation (EU) No 260/2012.

3. EU-level reports, evaluations and studies

**European Commission impact assessment (2008)**

An impact assessment accompanied the proposal for Regulation (EC) No 924/2009, explaining the need for the new legislation in the context of a modern and efficient monetary union that needed to be able to rely on an appropriate payments infrastructure for cross-border electronic payments. The impact assessment focused on three main issues:

- direct debits,
- balance of payments reporting, and
- competent authorities and out-of-court redress problems.

Several scenarios were evaluated. The analysis of impacts showed that the best options were to extend the scope of the legislation to direct debits, to eliminate payments-based reporting obligations, and to establish competent authorities and out-of-court redress bodies.

**Study on the impact of Directive 2007/64/EC on payment services in the EU and on the application of Regulation (EC) No 924/2009 on cross-border payments in the Community (2013)**


With regard to the regulation, the study mainly focused on a fee and charges collection exercise. From the available data, it appeared that, in general, payment service providers 'respect the rule of equality of charges', but that 'it cannot be said that this has led to convergence of prices across Member States'.

Based on the Swedish experience, the study also tried to evaluate the suitability of the extension of the provisions of Regulation 924/2009 to non-euro currencies. If such extension can be beneficial to customers from the non-euro area, as well as for the internal market, it might also lead to higher fees for domestic payments: 'The application of the equality of charges rule to domestic payments in national currencies of countries outside the euro area and cross-border payments in euros would most likely benefit payment service users from non-euro area countries. A reduction in the cost of cross-border transactions will undoubtedly stimulate and strengthen the internal market. At issue, however, is whether payment service users who undertake only or mainly domestic payments would face higher fees which would offset the banks' income loss arising from the reduction in cross-border charges'.

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5 p. 70.
Based on this study, the European Commission carried out an evaluation report on Regulation (EC) No 924/2009.


In accordance with the review clause provided for in the regulation (Article 15), the European Commission carried out an evaluation of Regulation 924/2009. Two distinct elements were considered for this assessment, based on the regulation's provisions:

– one evaluation focused on 'the appropriateness of removing settlement-based national reporting obligations for statistical purposes';

– the second evaluation dealt with the general application of the regulation.

The first report underlined that 'the adoption of the SEPA migration regulation was accompanied by a complete revision of the issues indicated in the Article 15 of the cross-border payments regulation', and that there was therefore no need for changes on these points.

As for the second one, the assessment concluded that the results were positive overall, confirming the proper functioning of the regulation. Therefore, no review of the regulations was considered necessary at that time.

**Communication on the consumer financial services action plan (2017)**

In March 2017, the European Commission issued a communication to the other relevant EU institutions and bodies on an action plan aimed at enhancing the European financial services market by making it more transparent and offering easier products and services, in the interests of both consumers and financial services providers.

The consumer financial services action plan has three main objectives:

- to give more choice to consumers and make them more confident;
- to remove cross-border obstacles for businesses; and
- to achieve good control of digital technologies for businesses and consumers.

In this context, the Commission highlighted that the fees for cross-border transactions in non-euro currencies 'typically remain very high and well above the level of fees for purely national transactions in non-euro currencies, with high minimum fees that make small transactions very expensive'. For this reason, 'an extension of the regulation to all currencies in the EU would bring down the costs of cross-border transactions in all Member States'. The communication announced the Commission's intention to 'propose an amendment to the regulation on cross-border payments to reduce charges for cross-border transactions in all Member States'.

**Inception Impact Assessment (2017)**

In July 2017, the European Commission published an inception impact assessment to inform stakeholders on the preparation of a new initiative, and to collect data to underpin it.

To this end, the Commission is considering three main preparatory tools:

- an impact assessment;
- a study by an external contractor to collect data;

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6 The European Parliament, the Council of the European Union, the European Central Bank, the European Economic and Social Committee and the European Committee of the Regions.
• an open public consultation, as well as targeted consultations through online questionnaires and interviews; the Payment Systems Market Expert Group and the Financial Services User Group of the Commission will be consulted too.

4. MEPs’ questions

Written question by Pascal Arimont (EPP, Belgium), 12 May 2017

The Member noted that a number of financial institutions across SEPA make consumers pay more for cross-border SEPA transfers, while giving discounts for domestic payments or making them completely free of charge. In this regard, the European Commission was asked how it guaranteed that the regulation on cross-border payments was fully enforced and whether it followed up on or took measures to enforce the rules when Member States failed to make their financial institutions comply with the regulation.

Answer given by Vice-President Dombrovskis on behalf of the Commission, 16 June 2017

The Commissioner explained that the European Commission was informed about practices that were not compliant with Regulation (EC) No 924/2009. If the appointed competent authorities failed to adequately resolve the issue, the Commission should be made aware, in order to be able to communicate directly with the Member State in question and if necessary launch an infringement procedure.

Written question by Catalin Sorin Ivan (S&D, Romania), 17 February 2017

The Member asked the Commission what sanctions it imposed on banks that charged additional costs for operations that were covered by the provisions of Regulation (EC) No 924/2009 and what were the measures taken by the Commission in order to implement this regulation and to ensure that banks operating in the European Union did not charge additional costs for these operations.

Answer given by Lord Hill on behalf of the Commission, 26 April 2016

The Commissioner pointed out that the European Commission could only attempt to fulfil its role as guardian of the treaties, but that it was the responsibility of Member States to establish penalties applicable to infringements of the cross-border payments regulation.

Written question by Anders Primdahl Vistisen (ECR, Denmark), 3 March 2015

The Member questioned the European Commission in relation to consumer protection when making cross-border payments. The Commission was asked whether it was considering reviewing consumer protection rules in order to allow customers to know the precise total cost of their transactions. The Member also asked the Commission whether it was considering making the debiting of an amount subject to prior express consent by the consumer, and, in cases of doubt, requiring the business to prove that consent had been given.

Answer given Vera Jourová on behalf of the Commission, 6 May 2015

The Commissioner pointed out that consumers were already protected by European legislation against unwanted payments, by both Directive 2011/83/EU on consumer rights and Directive 2005/29/EC on unfair commercial practices.
5. Consultations, petitions

5.1. Consultations
As envisaged in the inception impact assessment, the European Commission is planning a broad consultation to include citizens, stakeholders, and also advisers in the financial sector working with the Commission (the Payment Systems Market Expert Group and the Financial Services User Group).

5.2. Petitions
Since 2009, the European Parliament has received several petitions in connection with cross-border payments, the single euro payments area and bank transactions with IBAN and BIC. The European Parliament answered and closed a certain number of them, while others were answered by the European Commission. In 2016, for instance, one of the petitioners complained that traders using a mobile credit card terminal could only accept payments that originated in their home state. For the petitioner, this was a limitation for traders who travelled and for their foreign clients. The European Commission explained that this limitation arose only as a result of the device being used to make the payment only allowing access to certain schemes. Indeed, ‘when opting for a terminal that can process payments from both national and international card schemes, a merchant is able to process both national and cross-border payments’.

6. European Central Bank
In its opinion of January 2009, the European Central Bank expressed its support for the legislative proposal. For the ECB, the fact that the scope of the proposed regulation covered not only cross-border electronic payment transactions and credit transfers but also cross-border direct debits was ‘in line with efforts to achieve the internal market for payment services and with the launch of the single euro payment area (SEPA) in particular, and is highly welcomed by the ECB’. The Bank also provided specific observations on some potentially problematic issues, such as balance of payments reporting, the use of the Bank Identifier Code (BIC) and charges for cross-border payments and corresponding national payments.

7. European Economic and Social Committee
In March 2009, the EESC presented its opinion on the legislative proposal on cross-border payments. The Committee welcomed the proposal but, at the same time, expressed some concerns regarding:
– general principles and issues, such as the compliance with the general principles of the single market or the capacity to achieve reasonable convergence of prices within the EU;
– specific issues such as the services provided for other payment service providers, clarification of the concept of 'electronic payment', the suitability of including direct debits in the regulation, the 'discriminatory' approach between the euro and other currencies, the (possible) overlapping of structures dealing with complaints.

Based on all these remarks, the EESC formulated some recommendations and asked the European Commission to provide information on the details, methodology and sources of the studies it had referred to in order to reach its various conclusions.

8. Other sources of reference
Euractiv, Euro payment transactions: EU regulation on charges threatens to distort competition, 2010.
Euractiv, EU to remove cost disparities in cross-border payments, 2008.
European Central Bank webpages on Migrating to the single euro payments area: key facts.
European Commission webpages on the Single euro payments area (SEPA).

7 Petition No 1093/2016 by M. M. (German) on cross-border payments by card using a mobile terminal.
**EP committee responsible at time of adoption of the EU legislation:** Economic and Monetary Affairs (ECON)

**Date of adoption of original legislation in plenary:** 24 April 2009

**Entry into force of original legislation:** the 20th day following its publication in the Official Journal of the European Union. To apply from 1 November 2009 (Article 17)

**Date of transposition:** Not applicable

**Planned date for review of legislation:** by 31 October 2011, the Commission was to present to the European Parliament, the Council, the European Economic and Social Committee and the European Central Bank a report on the appropriateness of removing settlement-based national reporting obligations. That report was to be accompanied, where appropriate, by a proposal (Article 15 (1)).

By 31 October 2012, the Commission was to present to the European Parliament, the Council, the European Economic and Social Committee and the European Central Bank a report on the application of the regulation accompanied, if appropriate, by a proposal (Article 15(2)).

**Timeline for new amending legislation:** Annex II of the 2017 Commission work programme (CWP) mentions a REFIT revision of Regulation (EC) No 924/2009 on cross-border payments in order to extend its scope to all non-euro currencies.