



EUROPEAN PARLIAMENT

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Committee on Legal Affairs

2013/0264(COD)

11.11.2013

DRAFT OPINION

of the Committee on Legal Affairs

for the Committee on Economic and Monetary Affairs

on the proposal for a directive of the European Parliament and of the Council
on payment services in the internal market and amending Directives
2002/65/EC, 2013/36/EU and 2009/110/EC and repealing Directive
2007/64/EC
(COM(2013)0547 – C7-0230/2013 – 2013/0264(COD))

Rapporteur: Dimitar Stoyanov

PA_Legam

SHORT JUSTIFICATION

This proposal for a directive aims to assist the development of the European electronic payments market, as the digital economy is replacing traditional commerce and consumers are changing their payment habits. It is based on Article 114 of the Treaty on the Functioning of the European Union.

From the many views and comments on the proposal submitted by interested parties in an information gathering exercise, it is clear that the existing legal framework must be changed, the better to serve the needs of an effective European payments market contributing to a payments environment which nurtures competition, innovation and security.

In the interests of legal certainty and ensuring a level playing field, the current framework for payment services should be updated and supplemented, rules should be introduced to enhance transparency, innovation and security in the field of retail payments, and there should be more consistency among national rules.

The Commission's impact assessment, analysing the potential consequences of not having an integrated European payments market, highlighted problems which had consequences for consumers, merchants, new payment services providers and the payment services market as a whole.

Several ways of improving the situation were identified: establishing a competitive level playing field between incumbents and new providers of card, internet and mobile payments; increasing the efficiency, transparency and choice of payment instruments for payment services users; and ensuring a high level of protection for such users.

The proposed new Directive contains several adaptations to the existing Payment Services Directive and certain new obligations for Member States, allowing them a considerable margin of discretion as to how these obligations are transposed in national law.

The proposed principles, rules, processes and standards must be the subject of a synchronised approach by all the Member States so as to achieve legal certainty and equality of treatment for all participants in the market.

The aims of the proposal are fully in line with EU policies in other areas such as data protection, administrative sanctions and the combating of money laundering and terrorist financing.

AMENDMENTS

The Committee on Legal Affairs calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a directive Article 4 – point 25

Text proposed by the Commission

25. ‘agent’ means a natural or legal person which acts on behalf of a payment institution in providing payment services;

Amendment

25. ‘agent’ means a natural or legal person which acts on behalf of **and at the expense of** a payment institution in providing payment services;

Or. bg

Amendment 2

Proposal for a directive Article 4 – point 28

Text proposed by the Commission

28. ‘durable medium’ means any instrument which enables the payment service user to store information addressed personally to **of** that payment service user in a way accessible for future reference for a period of time adequate to the purposes of the information and which allows the unchanged reproduction of the information stored;

Amendment

28. ‘durable medium’ means any instrument which enables the payment service user to store information addressed personally to that payment service user in a way **easily** accessible **to him/her** for future reference for a period of time adequate to the purposes of the information and which allows the unchanged reproduction of the information stored;

Or. bg

Amendment 3

Proposal for a directive Article 5, first paragraph, point (a)

Text proposed by the Commission

(a) a programme of operations, setting out **in particular the type** of payment services envisaged;

Amendment

(a) a programme of operations, setting out **all the types** of payment services envisaged;

Amendment 4

Proposal for a directive Article 5, first paragraph, point (f)

Text proposed by the Commission

(e) a description of the procedure in place to monitor, handle **and** follow up a security incident and security related customer complaints, including an incidents reporting mechanism which takes account of the notification obligations of the payment institution laid down in Article 86;

Amendment

(e) a description of the procedure in place to monitor, handle, follow up **and resolve** a security incident and security related customer complaints, including an incidents reporting mechanism which takes account of the notification obligations of the payment institution laid down in Article 86;

Or. bg

Amendment 5

Proposal for a directive Article 5, first paragraph, point (i)

Text proposed by the Commission

(i) a description **on** the principles and definitions applied for the collection of the statistical data performance, transactions and fraud;

Amendment

(i) a description **of** the principles and definitions applied for the collection of the statistical data **on** performance, transactions and fraud, **which must be in accordance with the applicable national law and with EU law**;

Or. bg

Amendment 6

Proposal for a directive Article 45 – paragraph 2 – point a

Text proposed by the Commission

(a) a description of the main characteristics of the payment service to be provided;

Amendment

(a) a **clear** description of the main characteristics of the payment service to be provided;

Or. bg

Amendment 7

Proposal for a directive Article 62 – paragraph 1 – point (a)

Text proposed by the Commission

(a) to make sure that the personalised security features of the payment instrument are not accessible to parties other than the payment service user entitled to use the payment instrument, without prejudice to the obligations on the payment service user set out in Article 61;

Amendment

(a) to make sure that the personalised security features of the payment instrument are **indeed secure and are** not accessible to parties other than the payment service user entitled to use the payment instrument, without prejudice to the obligations on the payment service user set out in Article 61;

Or. bg

Amendment 8

Proposal for a directive Article 90 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that payment service providers put in place adequate and effective consumer complaint resolution procedures for the settlement of complaints of payment service users concerning the rights and obligations arising under this Directive.

Amendment

1. Member States shall ensure that payment service providers put in place **and apply** adequate and effective consumer complaint resolution procedures for the settlement of complaints of payment service users concerning the rights and obligations arising under this Directive, **and shall**

monitor their performance in that regard.

Or. bg

Amendment 9

Proposal for a directive Article 91 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that adequate and effective out-of-court complaint and redress procedures for the settlement of disputes between payment service users and payment service providers concerning the rights and obligations arising under this Directive are established according to the relevant national and Union legislation, using existing bodies where appropriate. Member States shall ensure that such procedures are applicable to payment service providers and that they also cover the activities of appointed representatives.

Amendment

1. Member States shall ensure that adequate and effective out-of-court complaint and redress procedures for the settlement of disputes between payment service users and payment service providers concerning the rights and obligations arising under this Directive are established according to the relevant national and Union legislation, using existing **competent** bodies where appropriate. Member States shall ensure that such procedures are applicable to **and accessible by both users of payment services and** payment service providers and that they also cover the activities of appointed representatives.

Or. bg

Amendment 10

Proposal for a directive Article 94 – paragraph 5

Text proposed by the Commission

5. A delegated act adopted pursuant to Article 93 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of **two** months of notification of that act to the European Parliament and the Council or if, before the expiry of that

Amendment

5. A delegated act adopted pursuant to Article 93 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of **three** months of notification of that act to the European Parliament and the Council or if, before the expiry of that

period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Or. bg

Justification

The time limit for making objections needs to be increased, in order to enable Parliament and the Council to examine the delegated act in depth and to assess whether its adoption in that form is fitting and correct.

Amendment 11

Proposal for a directive Article 95 – paragraph 2

Text proposed by the Commission

2. Where a Member State makes use of any of the options referred to in paragraph 1, it shall inform the Commission thereof as well as of any subsequent changes. The Commission shall make the information public on a web-site or other easily accessible means.

Amendment

2. Where a Member State makes use of any of the options referred to in paragraph 1, it shall inform the Commission thereof as well as of any subsequent changes. The Commission shall make the information public on a web-site or other easily accessible means ***and shall advise Parliament of it at the same time.***

Or. bg