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***I
REPORT

on the proposal for a European Parliament and Council regulation on cross-border payments in euro
(COM(2001) 439 – C5-0379/2001 – 2001/0174(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Karla M.H. Peijs

Symbols for procedures

*	Consultation procedure *majority of the votes cast*
**I	Cooperation procedure (first reading) *majority of the votes cast*
**II	Cooperation procedure (second reading) *majority of the votes cast, to approve the common position* *majority of Parliament's component Members, to reject or amend the common position*
***	Assent procedure *majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty*
***I	Codecision procedure (first reading) *majority of the votes cast*
***II	Codecision procedure (second reading) *majority of the votes cast, to approve the common position* *majority of Parliament's component Members, to reject or amend the common position*
***III	Codecision procedure (third reading) *majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

By letter of 9 August 2001 the Commission submitted to Parliament, pursuant to Article 251(2) and Article 95(1) of the EC Treaty, the proposal for a European Parliament and Council regulation on cross-border payments in euro (COM(2001) 439 – 2001/0174(COD)).

At the sitting of 3 September 2001 the President of Parliament announced that she had referred this proposal to the Committee on Economic and Monetary Affairs as the committee responsible and the Committee on Legal Affairs and the Internal Market and the Committee on Committee on the Environment, Public Health and Consumer Policy for their opinions (C5-0379/2001).

The Committee on Economic and Monetary Affairs appointed Karla M.H. Peijs rapporteur at its meeting of 11 September 2001.

It considered the Commission proposal and draft report at its meetings of 19 September 2001, 9 October 2001 and 16 October 2001.

At the latter meeting it adopted the draft legislative resolution by 31 votes to 0, with 2 abstentions.

The following were present for the vote: Christa Randzio-Plath, chairman; José Manuel García-Margallo y Marfil and Philippe A.R. Herzog, vice-chairmen; Karla M.H. Peijs, rapporteur; Richard A. Balfe, Luis Berenguer Fuster, Hans Udo Bullmann, Benedetto Della Vedova, Harald Ettl (for Pervenche Berès), Jonathan Evans, Carles-Alfred Gasòliba i Böhm, Robert Goebbels, Lisbeth Grönfeldt Bergman, Christopher Huhne, Pierre Jonckheer, Othmar Karas, Giorgos Katiforis, Piia-Noora Kauppi, Werner Langen (for Christoph Werner Konrad), Jules Maaten, Ioannis Marinos, Ioannis Patakis, Fernando Pérez Royo, José Javier Pomés Ruiz, Alexander Radwan, Bernhard Rapkay, Karin Riis-Jørgensen, Peter William Skinner, Helena Torres Marques, Bruno Trentin, Ieke van den Burg (for Simon Francis Murphy), Theresa Villiers and Karl von Wogau.

The opinion of the Committee on Legal Affairs and the Internal Market is attached; the Committee on the Environment, Public Health and Consumer Policy decided on 13 September 2001 not to deliver an opinion.

The report was tabled on 17 October 2001.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

LEGISLATIVE PROPOSAL

Proposal for a European Parliament and Council regulation on cross-border payments in euro (COM(2001) 439 – C5-0379/2001 – 2001/0174(COD))

The proposal is amended as follows:

Text proposed by the Commission [1]	Amendments by Parliament

Amendment 1
Recital 1

Directive 97/5/EC of the European Parliament and the Council of 27 January 1997 on cross-border credit transfers sought to improve cross-border credit transfer services and notably their efficiency. The aim was to enable in particular consumers and small and medium-sized enterprises to make credit transfers rapidly, reliably and cheaply from one part of the Community to another. Such credit transfers and cross-border payments in general are still extremely expensive compared to payments at national level.	Directive 97/5/EC of the European Parliament and the Council of 27 January 1997 on cross-border credit transfers sought to improve cross-border credit transfer services and notably their efficiency. The aim was to enable in particular consumers and small and medium-sized enterprises to make credit transfers rapidly, reliably and cheaply from one part of the Community to another. Such credit transfers and cross-border payments in general are still extremely expensive compared to payments at national level. ***This situation has been compounded by the findings of a study, undertaken for the Commission and released on 20 September 2001, in which it was found that consumers are given insufficient or no prior information on the costs of transfers, and that the average cost of cross-border credit transfers has hardly changed since 1993 when a comparable study was carried out.***

Justification

The findings of the recent study on cross-border transaction costs for the euro clearly reinforce the need for this Regulation.

Or. en

[1] OJ C not yet published.

Amendment 2
Recital 3

The Commission's Communication to the European Parliament, the Council, the Economic and Social Committee, the Committee of the Regions and the European Central Bank of 3 April 2001 on the preparations for the introduction of euro notes and coins[7] ***announces*** that the Commission ***will*** consider using all the instruments at its disposal and ***will*** take all the steps necessary to ensure that the costs of cross-border transactions ***are*** brought more closely into line with the costs of domestic transactions on 1 January 2002.	The Commission's Communication to the European Parliament, the Council, the Economic and Social Committee, the Committee of the Regions and the European Central Bank of 3 April 2001 on the preparations for the introduction of euro notes and coins[7] ***announced*** that the Commission ***would*** consider using all the instruments at its disposal and ***would*** take all the steps necessary to ensure that the costs of cross-border transactions ***were*** brought more closely into line with the costs of domestic transactions on 1 January 2002***, thus making the concept of the Euro zone as a 'domestic payment area' tangible and transparently clear to citizens.***

Justification

Self-explanatory

Amendment 3
Recital 3b (new)

	The credit institutions have not so far made any discernible effort to significantly reduce the level of costs for cross-border payments and credit transfers compared to payments at national level, although since the introduction of the euro on 1 January 1999 at least they have been aware of the Commission's aim of achieving a uniform, or at least similar, cost structure in the Euro zone.

[7] COM(2001) 190 final.
[7] COM(2001) 190 final.

Justification

Self-explanatory.

Amendment 4
Recital 5(a) (new)

It would be extremely unwelcome if charges for internal payments in euros were to increase as a direct result of this Regulation.

Justification

The objective of this Regulation is to ensure that consumers are no longer faced with higher charges for cross-border payments in euros than the level of charges for payments within the Member State. The Regulation should therefore in no way be seen as an opportunity for national charges to be raised.

Or. en

Amendment 5
Recital 8a (new)

This regulation shall not prevent institutions from offering an all-inclusive fee for different payment services, provided that this does not discriminate between cross-border and national payments.

Justification

This amendment aims to clarify that the regulation does not affect the freedom of institutions to offer up-front, package fees for a range of payment services, which could for example cover a limited (or even unlimited) number of payment services, provided that there is no discrimination between cross-border and national payments.

Or. en

Amendment 6
Article 6a (new)
Penalties and monitoring

1.Each Member State shall determine the penalties to be applied in the event of infringement of this Regulation. Such penalties must be effective, proportionate and deterrent.

2.Each Member State must also name the bodies responsible in each case for monitoring compliance with this Regulation.

Justification

The public should be informed as to which bodies they should apply to in cases where the provisions of this Regulation have been infringed.

Amendment 7
Article 6 (a)(new)

Not later than 1 January 2004, the European Commission shall examine and report to the European Parliament and the Council on the functioning of this regulation, accompanied if appropriate by proposals for modifications.

Justification

A review clause should be included in the regulation so that any outstanding issues obstructing the creation of a single payment area can be addressed. The date of 1 January

2004 is proposed because this is the appropriate time to review this regulation and make the necessary modifications, in order to meet the deadline of 31 December 2004 for the creation of the internal market in financial services set out in the Financial Services Action Plan, and the deadline set by the Parliament for the creation of a single payment area in its resolution on retail payments in the internal market (A5-0283/2000).

Or. en

Amendment 8
Article 7

This Regulation shall enter into force on the third day following that of its publication in the Official Journal ***of the European Communities.***	This Regulation shall enter into force on ***1 January 2002 or, if it is not published in the Official Journal until after that date, on*** the third day following that of its publication.

Justification

This amendment draws attention to the particular importance of the date on which euro notes and coins will be introduced, and ensures consistency with Article 3(1) and Article 6. If Parliament and the Council adopt the regulation well before this date (which is unlikely), the legal obligations arising from the regulation will not enter into effect until 1 January 2002 in any event.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the proposal for a European Parliament and Council regulation on cross-border payments in euro (COM(2001) 439 – C5-0379/2001 – 2001/0174(COD))

(Codecision procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to the European Parliament and the Council (COM(2001) 439[1]),

– having regard to Article 251(2) of the EC Treaty and Article 95(1) of the Treaty, pursuant to which the Commission submitted the proposal to Parliament (C5-0379/2001),

– having regard to Rule 67 of its Rules of Procedure,

– having regard to the report of the Committee on Economic and Monetary Affairs and the opinion of the Committee on Legal Affairs and the Internal Market (A5-0357/2001),

1. Approves the Commission proposal as amended;

2. Asks to be consulted again should the Commission intend to amend the proposal substantially or replace it with another text;

3. Instructs its President to forward its position to the Council and Commission.

[1] OJ C not yet published

EXPLANATORY STATEMENT

1. Background

On 1 January 2002, the euro will at last become a reality in the pockets of European citizens in the form of notes and coins. Citizens will be able to cross borders and pay with the cash they have brought with them without incurring any charges at all. They could even make a cross-border transfer for the price of a postage stamp by sending cash by post. Yet if they go to a cash machine and withdraw euro notes in a country which is not their own, they will incur a substantial charge. Even worse, if they try to transfer € 100 to an account in another Member State, they will incur charges which could reach as much as a staggering € 24[1]. Unless immediate action is taken to rectify the situation, Europe will at last have a single currency, but it will still not have a single payment area. It is already clear from the loud and persistent complaints of consumers that they do not understand why this should be the case: they rightly expect that now that we have a single currency, they should not incur charges simply because the money they have transferred has crossed a border. In the electronic age, this is even less understandable.

It is deeply regrettable that with less than 100 days to go before the introduction of the euro in tangible form, this situation persists. The European Commission and the European Parliament have been pressing for over 10 years for the banks to address this problem. The Commission first reported on the problem of the 'border effect' in payment systems in its 1990 communication on payments in the European internal market. In its 1993 resolution on payment systems in the framework of Economic and Monetary Union (A3-0029/93), the European Parliament expressed concern that cross-border payments cost 10-20 times more than domestic transfers, and called for a directive banning 'double charging' and setting a time limit of 4 working days for cross-border transfers. This was followed in 1994 by a proposal for a directive on cross-border credit transfers, which was adopted in 1997 with the strong support of the European Parliament.

Most recently, the Parliament raised the issue again in its reports on retail payments in the internal market (A5-0283/2000) and means to assist economic actors in switching to the euro (A5-0222/2001). In the latter resolution, the Parliament called for small cross-border transfers within the EU internal market involving sums of less than € 50 000 to be made cheaper, quicker and safer and treated in the same way as national transfers, in terms of the level of charges and time taken.

2. The Commission's proposal for a regulation

Given Parliament's long-standing commitment to a single payment area, it cannot but warmly welcome the Commission's proposal for a regulation on cross-border payments in euro as a long-overdue measure to make the single currency a reality for consumers and SMEs. The approach of the regulation, which is to establish the principle that the cost of a cross-border payment must be equal to that of a domestic payment, is fully in line with the demands of the European Parliament. It is a simple and coherent expression of fundamental internal market

[1] Study on the Verification of a Common and Coherent Application of Directive 97/5/EC on Cross-Border Credit Transfers in the 15 Member States - Transfer Exercise, Report for the Commission of the European Communities (DG MARKT), Retail Banking Research, London, England, 17th September 2001

principles. Accusations that the proposal represents price regulation are entirely misplaced: banks will remain entirely free in setting their prices for small-value payments and transfers, provided that they do not discriminate between cross-border and domestic payments.

The systematic and comprehensive approach of the proposal is also to be welcomed: it tackles all the regulatory obstacles that are frequently cited by the banking sector to the achievement of a single payment area, as well as the concerns of consumers. Firstly, the requirement for banks, businesses and consumers to communicate, publicise and use the electronic standards known as the international bank account number (IBAN) and the bank identifier code (BIC) will enable banks to make the transition to straight-through processing. This eliminates the cost of manual intervention to input or correct customer bank details.

Secondly, the proposal requires Member States to lift the balance of payment reporting requirements in two stages: from 1 January 2001, these will be lifted for cross-border payments up to € 12,500, and from 1 January 2004 the amount will be increased to € 50,000. These reporting requirements are regularly cited by the banking sector as one of the major cost factors in cross-border payments, and their removal therefore represents a major cost saving for the banks which should naturally be reflected in reduced costs to consumers.

Thirdly, the proposal fully protects consumers by requiring banks to be fully transparent about the charges which they impose on cross-border and domestic payments. Consumers will be able to see for themselves, either in writing or by other electronic means, that the banks are respecting the principle of equality set out in the regulation. Banks will also have to inform consumers in advance of any changes in these charges, allowing consumer pressure to prevent banks from imposing excessive increases. Consumers in countries outside the euro zone are also protected, as they will be able to check the exchange rate charges imposed and ensure that banks are not breaching the principle that the transfer itself is not charged at a different level to that of a domestic payment.

3. The approach of the rapporteur

Your rapporteur strongly supports the proposed regulation. While it would have been preferable to leave this matter to the market to resolve, the free market and competition has manifestly failed to achieve results in the past ten years, and so it is right that the Commission has intervened. The proposal addresses all the regulatory barriers to a single payment area, and all that remains is for the banks to rapidly make the necessary investments to create an infrastructure for cheap, fast and safe cross-border payments. Even this already exists, in the form of the Euro Banking Association's STEP1 system, so there is no justification for further delay.

However, it is clear that there are many criticisms which could be made of the regulation, which is why your rapporteur proposes a review clause. This would enable the Commission to make an assessment of the success or otherwise of the regulation in achieving its aims, and to propose any modifications which it deems necessary.

With the exception of this review clause, your rapporteur strongly urges the European Parliament to quickly approve the regulation in its current form. Minimising the number of amendments in this way will greatly facilitate the task of approving this regulation in one reading with the Council, which is essential if it is to enter into force on 1 January 2002.

While the regulation may not be perfect, it is an essential instrument to achieve our long-cherished goal of a single payment area, and we must support it.

11 October 2001

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS AND THE INTERNAL MARKET

for the Committee on Economic and Monetary Affairs

on the proposal for a regulation of the European Parliament and of the Council on cross-border payments in euro
(COM(2001) 439 – C5-0379/2001 – 2001/0174(COD))

Draftsman: Rainer Wieland

PROCEDURE

The Committee on Legal Affairs and the Internal Market appointed Rainer Wieland draftsman at its meeting of 11 September 2001.

It considered the draft opinion at its meetings of 18 September and 11 October 2001.

At the latter meeting it adopted the following amendments unanimously.

The following were present for the vote: Ana Palacio Vallelersundi, chairman; Ward Beysen, vice-chairman; Paolo Bartolozzi, Luis Berenguer Fuster, Maria Berger, Willy De Clercq, Bert Doorn, Francesco Fiori (for Hans-Peter Mayer, pursuant to Rule 153(2) of the Rules of Procedure), Evelyne Gebhardt, Françoise Grossetête, Gerhard Hager, Heidi Anneli Hautala, The Lord Inglewood, Kurt Lechner, Klaus-Heiner Lehne, Neil MacCormick, Luís Marinho, Manuel Medina Ortega, Ria G.H.C. Oomen-Ruijten, Fernando Pérez Royo (for Enrico Boselli, pursuant to Rule 153(2) of the Rules of Procedure), Joachim Wuermeling and Stefano Zappalà.

SHORT JUSTIFICATION

1. The Commission proposal is greatly to be welcomed. From 1 January 2002, citizens in the Euro zone will be using euro notes and coins as their single currency. The euro has existed as a means of payment since 1 January 1999, with a fixed rate of exchange between the various participating currencies. Some considerable time has elapsed since then, yet European credit institutions have still not set up a single European payment area, as charges for 'cross-border' payments in euro are, on average, 22 times higher than in the case of domestic transfers. After 1 January 2002, however, consumers will fail to see why they should be obliged to suffer the inconveniences of this greatest currency changeover in history (which include getting used to the new currency and the conversion rate, possible price rises and queuing at cash-dispensing machines and bank counters during the first few days on which the new currency is issued) without directly enjoying the advantages, if it turns out that they still have to pay additional charges when using their credit cards or automated teller machines abroad or if, for example, when paying for foreign-language books ordered on line that cost € 60, they have to pay an additional transfer charge of € 11.

2. Article 95(1) of the EC Treaty is the appropriate legal basis for this regulation, as the purpose of the proposal is to achieve the approximation of legal provisions designed to facilitate the functioning of the internal market. Past experience has shown that, faced with the present situation, consumers and bank customers try to avoid cross-border transfers and the associated high charges either by physically transporting the necessary cash or by selecting businesses with banking connections in the same country as the paying customer. This generally comes down to multinational companies, in other words big businesses. This gives such firms a clear competitive advantage over small and medium-sized undertakings, which cannot maintain banking connections in all the countries in which their products are marketed. Yet the internal market is intended to provide advantages for <u>all</u> economic operators.

3. The decision to opt for a regulation, a legal instrument which is directly applicable in all Member States, is also appropriate, as Article 95(1) of the EC Treaty refers to 'measures'. This measure also has the 'aim of (…) establishing the internal market', in accordance with Article 14(1) of the EC Treaty. Admittedly, the declaration on the Single European Act adopted at the Intergovernmental conference in 1986, which incorporated the then Article 100a (now Article 95 of the EC Treaty), stipulated that it would be preferable for any proposals drawn up by the Commission pursuant to paragraph 1 to take the form of directives. In this instance, however, nothing could be achieved by merely bringing national measures into line with a European framework. Common standards for greater automation and interoperability in relation to cross-border payments of small sums have existed for many years already (the International Bank Account Number (IBAN), the International Payment Instruction (IPI) and the SWIFT system). But commercial banks are still reluctant to invest in the introduction of such standards. Since the European Council in Brussels in early May 1998 (when the countries taking part in the Euro zone were selected), if not earlier, the financial institutions of the Euro zone have had ample time to make the necessary technical preparations for the introduction of the euro. There has been very little progress to report since then.

4. The decision to opt for a regulation is also appropriate in terms of timing, as from 1 January 2002 citizens inside the Euro zone will be able to use euro notes and coins as a single currency, and will fail to see why transferring money from Aachen to Liege should cost many times more than transferring money from Las Palmas to San Sebastian or from Palermo to Milan. Only by introducing a regulation will it be possible to ensure that the intended purpose is achieved on, or as soon as possible after, 1 January 2002 (the day when euro notes and coins are introduced), as regulations require no further processing by national bodies. The other legal instrument available, the directive, is inappropriate, as it would take several months, if not years, to implement the intended measures.

AMENDMENTS

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

Text proposed by the Commission[1]	Amendments by Parliament

Amendment 1
Recital 1a (new)

	Cross-border payments and credit transfers are also extremely expensive compared to payments at national level because, due to the existing high level of costs, there has been little or no demand for them to date.

Justification

This amendment shows that the argument that transfers are so expensive because they are used so little can also be turned on its head. It is possible that it is because they are so expensive that they are so little used.

Amendment 2
Recital 3

The Commission's Communication to the European Parliament, the Council,	The Commission's Communication to the European Parliament, the Council,

[1] Not yet published

the Economic and Social Committee, the Committee of the Regions and the European Central Bank of 3 April 2001 on the preparations for the introduction of euro notes and coins[7] ***announces*** that the Commission ***will*** consider using all the instruments at its disposal and ***will*** take all the steps necessary to ensure that the costs of cross-border transactions ***are*** brought more closely into line with the costs of domestic transactions on 1 January 2002.	the Economic and Social Committee, the Committee of the Regions and the European Central Bank of 3 April 2001 on the preparations for the introduction of euro notes and coins[7] ***announced*** that the Commission ***would*** consider using all the instruments at its disposal and ***would*** take all the steps necessary to ensure that the costs of cross-border transactions ***were*** brought more closely into line with the costs of domestic transactions on 1 January 2002***, thus making the concept of the Euro zone as a 'domestic payment area' tangible and transparently clear to citizens.***

Justification

Self-explanatory.

Amendment 3
Recital 3a (new)

	The cartel proceedings brought by the Commission against several credit institutions in various countries inside the Euro zone on the grounds of anti-competitive agreements in connection with the imposition of charges for the exchange of banknotes in the Euro zone have already been extremely successful, as many banks have reduced or completely abolished their charges on foreign exchange transactions.

Justification

This text would strengthen the Commission's hand as regards any actions it may need to bring on the grounds of failure to comply with the regulation.

[7] COM(2001) 190 final.
[7] COM(2001) 190 final.

Amendment 4
Recital 3a (new)

	The credit institutions have not so far made any discernible effort to significantly reduce the level of costs for cross-border payments and credit transfers compared to payments at national level, although since the introduction of the euro on 1 January 1999 at least they have been aware of the Commission's aim of achieving a uniform, or at least similar, cost structure in the Euro zone.

Justification

Self-explanatory.

Amendment 5
Article 3, paragraph 1

With effect from 1 January 2002, charges levied by an institution in respect of cross-border electronic payment transactions in euro up to EUR 50 000 shall be the same as the charges levied by the same institution in respect of corresponding payments transacted within the Member State in which the establishment of that institution executing the cross-border electronic payment transaction is located.	With effect from 1 January 2002, ***the total*** charges***, however denominated,*** levied by an institution in respect of cross-border electronic payment transactions in euro up to EUR 50 000 shall be the same as the charges levied by the same institution in respect of corresponding payments transacted within the Member State in which the establishment of that institution executing the cross-border electronic payment transaction is located

Justification

The aim is to preclude the possibility of financial bodies, while applying the same commission charges to cross-border transactions as to national transactions, levying additional charges under different names (such as miscellaneous costs, fees, etc.), thus increasing the total cost to the user of cross-border transactions.

Or. it

Amendment 6
Recital 7

This Regulation shall enter into force on the third day following that of its publication in the Official Journal ***of the European Communities.***	This Regulation shall enter into force on ***1 January 2002 or, if it is not published in the Official Journal until after that date, on*** the third day following that of its publication.

Justification

This amendment draws attention to the particular importance of the date on which euro notes and coins will be introduced, and ensures consistency with Article 3(1) and Article 6. If Parliament and the Council adopt the regulation well before this date (which is unlikely), the legal obligations arising from the regulation will not enter into effect until 1 January 2002 in any event.