

Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (Text with EEA relevance)

TITLE IV

RIGHTS AND OBLIGATIONS IN RELATION TO THE PROVISION AND USE OF PAYMENT SERVICES

CHAPTER 3

Execution of payment transactions

Section 1

Payment orders and amounts transferred

Article 78

Receipt of payment orders

1 Member States shall ensure that the time of receipt is when the payment order is received by the payer's payment service provider.

The payer's account shall not be debited before receipt of the payment order. If the time of receipt is not on a business day for the payer's payment service provider, the payment order shall be deemed to have been received on the following business day. The payment service provider may establish a cut-off time near the end of a business day beyond which any payment order received shall be deemed to have been received on the following business day.

2 If the payment service user initiating a payment order and the payment service provider agree that execution of the payment order shall start on a specific day or at the end of a certain period or on the day on which the payer has put funds at the payment service provider's disposal, the time of receipt for the purposes of Article 83 is deemed to be the agreed day. If the agreed day is not a business day for the payment service provider, the payment order received shall be deemed to have been received on the following business day.

Article 79

Refusal of payment orders

1 Where the payment service provider refuses to execute a payment order or to initiate a payment transaction, the refusal and, if possible, the reasons for it and the procedure for correcting any factual mistakes that led to the refusal shall be notified to the payment service user, unless prohibited by other relevant Union or national law.

The payment service provider shall provide or make available the notification in an agreed manner at the earliest opportunity, and in any case, within the periods specified in Article 83.

The framework contract may include a condition that the payment service provider may charge a reasonable fee for such a refusal if the refusal is objectively justified.

2 Where all of the conditions set out in the payer's framework contract are met, the payer's account servicing payment service provider shall not refuse to execute an authorised payment order irrespective of whether the payment order is initiated by a payer, including through a payment initiation service provider, or by or through a payee, unless prohibited by other relevant Union or national law.

3 For the purposes of Articles 83 and 89 a payment order for which execution has been refused shall be deemed not to have been received.

Article 80

Irrevocability of a payment order

1 Member States shall ensure that the payment service user shall not revoke a payment order once it has been received by the payer's payment service provider, unless otherwise specified in this Article.

2 Where the payment transaction is initiated by a payment initiation service provider or by or through the payee, the payer shall not revoke the payment order after giving consent to the payment initiation service provider to initiate the payment transaction or after giving consent to execute the payment transaction to the payee.

3 However, in the case of a direct debit and without prejudice to refund rights the payer may revoke the payment order at the latest by the end of the business day preceding the day agreed for debiting the funds.

4 In the case referred to in Article 78(2) the payment service user may revoke a payment order at the latest by the end of the business day preceding the agreed day.

5 After the time limits laid down in paragraphs 1 to 4, the payment order may be revoked only if agreed between the payment service user and the relevant payment service providers. In the case referred to in paragraphs 2 and 3, the payee's agreement shall also be required. If agreed in the framework contract, the relevant payment service provider may charge for revocation.

Article 81

Amounts transferred and amounts received

1 Member States shall require the payment service provider(s) of the payer, the payment service provider(s) of the payee and any intermediaries of the payment service providers to transfer the full amount of the payment transaction and refrain from deducting charges from the amount transferred.

2 However, the payee and the payment service provider may agree that the relevant payment service provider deduct its charges from the amount transferred before crediting it to the payee. In such a case, the full amount of the payment transaction and charges shall be separated in the information given to the payee.

3 If any charges other than those referred to in paragraph 2 are deducted from the amount transferred, the payment service provider of the payer shall ensure that the payee receives the full amount of the payment transaction initiated by the payer. Where the payment transaction is initiated by or through the payee, the payment service provider of the payee shall ensure that the full amount of the payment transaction is received by the payee.

Section 2

Execution time and value date

Article 82

Scope

- 1 This Section applies to:
 - a payment transactions in euro;
 - b national payment transactions in the currency of the Member State outside the euro area;
 - c payment transactions involving only one currency conversion between the euro and the currency of a Member State outside the euro area, provided that the required currency conversion is carried out in the Member State outside the euro area concerned and, in the case of cross-border payment transactions, the cross-border transfer takes place in euro.
- 2 This Section applies to payment transactions not referred to in the paragraph 1, unless otherwise agreed between the payment service user and the payment service provider, with the exception of Article 87, which is not at the disposal of the parties. However, if the payment service user and the payment service provider agree on a longer period than that set in Article 83, for intra-Union payment transactions, that longer period shall not exceed 4 business days following the time of receipt as referred to in Article 78.

Article 83

Payment transactions to a payment account

- 1 Member States shall require the payer's payment service provider to ensure that after the time of receipt as referred to in Article 78, the amount of the payment transaction will be credited to the payee's payment service provider's account by the end of the following business day. That time limit may be extended by a further business day for paper-initiated payment transactions.
- 2 Member States shall require the payment service provider of the payee to value date and make available the amount of the payment transaction to the payee's payment account after the payment service provider has received the funds in accordance with Article 87.
- 3 Member States shall require the payee's payment service provider to transmit a payment order initiated by or through the payee to the payer's payment service provider within the time limits agreed between the payee and the payment service provider, enabling settlement, as far as direct debit is concerned, on the agreed due date.

Article 84

Absence of payee's payment account with the payment service provider

Where the payee does not have a payment account with the payment service provider, the funds shall be made available to the payee by the payment service provider who receives the funds for the payee within the time limit laid down in Article 83.

Article 85

Cash placed on a payment account

Where a consumer places cash on a payment account with that payment service provider in the currency of that payment account, the payment service provider shall ensure that the amount is made available and value dated immediately after receipt of the funds. Where the payment service user is not a consumer, the amount shall be made available and value dated at the latest on the following business day after receipt of the funds.

Article 86

National payment transactions

For national payment transactions, Member States may provide for shorter maximum execution times than those provided for in this Section.

Article 87

Value date and availability of funds

1 Member States shall ensure that the credit value date for the payee's payment account is no later than the business day on which the amount of the payment transaction is credited to the payee's payment service provider's account.

2 The payment service provider of the payee shall ensure that the amount of the payment transaction is at the payee's disposal immediately after that amount is credited to the payee's payment service provider's account where, on the part of the payee's payment service provider, there is:

- a no currency conversion; or
- b a currency conversion between the euro and a Member State currency or between two Member State currencies.

The obligation laid down in this paragraph shall also apply to payments within one payment service provider.

3 Member States shall ensure that the debit value date for the payer's payment account is no earlier than the time at which the amount of the payment transaction is debited to that payment account.

Section 3

Liability

Article 88

Incorrect unique identifiers

1 If a payment order is executed in accordance with the unique identifier, the payment order shall be deemed to have been executed correctly with regard to the payee specified by the unique identifier.

2 If the unique identifier provided by the payment service user is incorrect, the payment service provider shall not be liable under Article 89 for non-execution or defective execution of the payment transaction.

3 However, the payer's payment service provider shall make reasonable efforts to recover the funds involved in the payment transaction. The payee's payment service provider shall cooperate in those efforts also by communicating to the payer's payment service provider all relevant information for the collection of funds.

In the event that the collection of funds under the first subparagraph is not possible, the payer's payment service provider shall provide to the payer, upon written request, all information available to the payer's payment service provider and relevant to the payer in order for the payer to file a legal claim to recover the funds.

4 If agreed in the framework contract, the payment service provider may charge the payment service user for recovery.

5 If the payment service user provides information in addition to that specified in point (a) of Article 45(1) or point (2)(b) of Article 52, the payment service provider shall be liable only for the execution of payment transactions in accordance with the unique identifier provided by the payment service user.

Article 89

Payment service providers' liability for non-execution, defective or late execution of payment transactions

1 Where a payment order is initiated directly by the payer, the payer's payment service provider shall, without prejudice to Article 71, Article 88(2) and (3), and Article 93, be liable to the payer for correct execution of the payment transaction, unless it can prove to the payer and, where relevant, to the payee's payment service provider that the payee's payment service provider received the amount of the payment transaction in accordance with Article 83(1). In that case, the payee's payment service provider shall be liable to the payee for the correct execution of the payment transaction.

Where the payer's payment service provider is liable under the first subparagraph, it shall, without undue delay, refund to the payer the amount of the non-executed or defective payment transaction, and, where applicable, restore the debited payment account to the state in which it would have been had the defective payment transaction not taken place.

The credit value date for the payer's payment account shall be no later than the date on which the amount was debited.

Where the payee's payment service provider is liable under the first subparagraph, it shall immediately place the amount of the payment transaction at the payee's disposal and, where applicable, credit the corresponding amount to the payee's payment account.

The credit value date for the payee's payment account shall be no later than the date on which the amount would have been value dated, had the transaction been correctly executed in accordance with Article 87.

Where a payment transaction is executed late, the payee's payment service provider shall ensure, upon the request of the payer's payment service provider acting on behalf of the payer, that the credit value date for the payee's payment account is no later than the date the amount would have been value dated had the transaction been correctly executed.

In the case of a non-executed or defectively executed payment transaction where the payment order is initiated by the payer, the payer's payment service provider shall, regardless of liability under this paragraph, on request, make immediate efforts to trace the payment transaction and notify the payer of the outcome. This shall be free of charge for the payer.

2 Where a payment order is initiated by or through the payee, the payee's payment service provider shall, without prejudice to Article 71, Article 88(2) and (3), and Article 93, be liable to the payee for correct transmission of the payment order to the payment service provider of the payer in accordance with Article 83(3). Where the payee's payment service provider is liable under this subparagraph, it shall immediately re-transmit the payment order in question to the payment service provider of the payer.

In the case of a late transmission of the payment order, the amount shall be value dated on the payee's payment account no later than the date the amount would have been value dated had the transaction been correctly executed.

In addition, the payment service provider of the payee shall, without prejudice to Article 71, Article 88(2) and (3), and Article 93, be liable to the payee for handling the payment transaction in accordance with its obligations under Article 87. Where the payee's payment service provider is liable under this subparagraph, it shall ensure that the amount of the payment transaction is at the payee's disposal immediately after that amount is credited to the payee's payment service provider's account. The amount shall be value dated on the payee's payment account no later than the date the amount would have been value dated had the transaction been correctly executed.

In the case of a non-executed or defectively executed payment transaction for which the payee's payment service provider is not liable under the first and second subparagraphs, the payer's payment service provider shall be liable to the payer. Where the payer's payment service provider is so liable he shall, as appropriate and without undue delay, refund to the payer the amount of the non-executed or defective payment transaction and restore the debited payment account to the state in which it would have been had the defective payment transaction not taken place. The credit value date for the payer's payment account shall be no later than the date the amount was debited.

The obligation under the fourth subparagraph shall not apply to the payer's payment service provider where the payer's payment service provider proves that the payee's payment service provider has received the amount of the payment transaction, even if execution of payment transaction is merely delayed. If so, the payee's payment service

provider shall value date the amount on the payee's payment account no later than the date the amount would have been value dated had it been executed correctly.

In the case of a non-executed or defectively executed payment transaction where the payment order is initiated by or through the payee, the payee's payment service provider shall, regardless of liability under this paragraph, on request, make immediate efforts to trace the payment transaction and notify the payee of the outcome. This shall be free of charge for the payee.

3 In addition, payment service providers shall be liable to their respective payment service users for any charges for which they are responsible, and for any interest to which the payment service user is subject as a consequence of non-execution or defective, including late, execution of the payment transaction.

Article 90

Liability in the case of payment initiation services for non-execution, defective or late execution of payment transactions

1 Where a payment order is initiated by the payer through a payment initiation service provider, the account servicing payment service provider shall, without prejudice to Article 71 and Article 88(2) and (3), refund to the payer the amount of the non-executed or defective payment transaction and, where applicable, restore the debited payment account to the state in which it would have been had the defective payment transaction not taken place.

The burden shall be on the payment initiation service provider to prove that the payment order was received by the payer's account servicing payment service provider in accordance with Article 78 and that within its sphere of competence the payment transaction was authenticated, accurately recorded and not affected by a technical breakdown or other deficiency linked to the non-execution, defective or late execution of the transaction.

2 If the payment initiation service provider is liable for the non-execution, defective or late execution of the payment transaction, it shall immediately compensate the account servicing payment service provider at its request for the losses incurred or sums paid as a result of the refund to the payer.

Article 91

Additional financial compensation

Any financial compensation additional to that provided for under this Section may be determined in accordance with the law applicable to the contract concluded between the payment service user and the payment service provider.

Article 92

Right of recourse

1 Where the liability of a payment service provider under Articles 73 and 89 is attributable to another payment service provider or to an intermediary, that payment service provider or intermediary shall compensate the first payment service provider for any losses

incurred or sums paid under Articles 73 and 89. That shall include compensation where any of the payment service providers fail to use strong customer authentication.

2 Further financial compensation may be determined in accordance with agreements between payment service providers and/or intermediaries and the law applicable to the agreement concluded between them.

Article 93

Abnormal and unforeseeable circumstances

No liability shall arise under Chapter 2 or 3 in cases of abnormal and unforeseeable circumstances beyond the control of the party pleading for the application of those circumstances, the consequences of which would have been unavoidable despite all efforts to the contrary, or where a payment service provider is bound by other legal obligations covered by Union or national law.