

Council Directive (EU) 2017/1852 of 10 October 2017 on
tax dispute resolution mechanisms in the European Union

Article 5

Competent authority decision concerning the complaint

1 The competent authority of a Member State concerned may decide to reject a complaint within the period provided for in Article 3(5) if:

- a the complaint lacks information required under Article 3(3) (including any information requested under Article 3(3)(f) that was not submitted within the deadline specified in Article 3(4));
- b there is no question in dispute; or
- c the complaint was not submitted within the 3-year period set out in Article 3(1).

When informing the affected person in accordance with the provisions of Article 3(5), the competent authority shall provide the general reasons for its rejection.

2 Where a competent authority of a Member State concerned has not taken a decision on the complaint within the time provided for in Article 3(5), the complaint shall be deemed to be accepted by that competent authority.

3 The affected person shall be entitled to appeal against the decision of the competent authorities of the Member States concerned in accordance with national rules where all competent authorities of the Member States concerned have rejected the complaint. An affected person who exercises this appeal right shall be barred from making a request under Article 6(1) (a):

- a while the decision is still under appeal according to the laws of the Member State concerned;
- b where the rejection decision can still be further appealed under the appeal procedure of the Member States concerned; or
- c when a rejection decision has been confirmed under the appeal procedure in point (a) but it is not possible to derogate from the decision of the relevant court or other judicial bodies in any of the Member States concerned.

Where the appeal right has been exercised, the decision of the relevant court or other judicial body shall be considered for the purposes of Article 6(1)(a).