

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

Article 6

Dispute resolution by the Advisory Commission

1 Upon a request made by the affected person to the competent authorities of the Member States concerned, an advisory commission (an ‘Advisory Commission’) shall be set up by such competent authorities in accordance with Article 8 where:

- a the complaint submitted by such affected person was rejected under Article 5(1) by at least one, but not all of the competent authorities of Member States concerned; or
- b the competent authorities of the Member States concerned had accepted the complaint that was submitted by the affected person but failed to reach an agreement on how to resolve the question in dispute by mutual agreement within the time limit provided for in Article 4(1).

The affected person may only make such a request if, in accordance with any applicable national rules against a rejection referred to in Article 5(1): no appeal can be made; no appeal is pending; or the affected person has formally renounced his right of appeal. The request shall include a declaration to this effect.

The affected person shall make the request to set up an Advisory Commission in writing, not later than 50 days from the date of receipt of the notification under Articles 3(5) or 4(3) or 50 days from the date of delivery of the decision by the relevant court or judicial body under Article 5(3), as the case may be. The Advisory Commission shall be set up not later than 120 days from the receipt of such request, and once set up, its chair shall inform the affected person thereof without delay.

2 The Advisory Commission set up in the case of point (a) of paragraph 1 shall adopt a decision on the acceptance of the complaint within 6 months from the date of its establishment. It shall notify the competent authorities of its decision within 30 days of the adoption thereof.

Where the Advisory Commission has confirmed that all of the requirements under Article 3 have been satisfied, the mutual agreement procedure provided for in Article 4 shall be initiated at the request of one of the competent authorities. The competent authority concerned shall notify the Advisory Commission, the other competent authorities concerned and the affected person of that request. The period provided for in Article 4(1) shall start from the date of the notification of the decision taken by the Advisory Commission of the acceptance of the complaint.

Where none of the competent authorities has requested initiation of the mutual agreement procedure within 60 days of the date of the notification of the decision of the Advisory Commission, the Advisory Commission shall provide an opinion on how to resolve the question in dispute as provided for in Article 14(1). In such a case, for the purposes of Article 14(1), the Advisory Commission shall be deemed to have been set up on the date on which that 60-day period expired.

3 In the case of point (b) of the first subparagraph of paragraph (1) of this Article, the Advisory Commission shall deliver an opinion on how to resolve the question in dispute in accordance with Article 14(1).