

REGULATION (EC) No 2560/2001 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 19 December 2001
on cross-border payments in euro

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95(1) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Having regard to the opinion of the European Central Bank ⁽³⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽⁴⁾,

Whereas:

- (1) Directive 97/5/EC of the European Parliament and of the Council of 27 January 1997 on cross-border credit transfers ⁽⁵⁾ 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. It emerges from the findings of a study undertaken by the Commission and released on 20 September 2001 that consumers are given insufficient or no information on the cost of transfers, and that the average cost of cross-border credit transfers has hardly changed since 1993 when a comparable study was carried out.
- (2) The Commission's Communication to the European Parliament and the Council of 31 January 2000 on Retail Payments in the Internal Market, together with the European Parliament Resolutions of 26 October 2000 on the Commission Communication and of 4 July 2001 on means to assist economic actors in switching to the euro, and the reports of the European Central Bank of September 1999 and September 2000 on improving cross-border payment services have each underlined the urgent need for effective improvements in this field.
- (3) The Commission's Communication to the European Parliament, the Council, the Economic and Social Committee, the Committee of the Regions and the Euro-

pean Central Bank of 3 April 2001 on the preparations for the introduction of euro notes and coins 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, thus making the concept of the euro zone as a 'domestic payment area' tangible and transparently clear to citizens.

- (4) Compared with the objective that was reaffirmed when euro book money was introduced, namely to achieve an, if not uniform, at least similar charge structure for the euro, there have been no significant results in terms of reducing the cost of cross-border payments compared to internal payments.
- (5) The volume of cross-border payments is growing steadily as completion of the internal market takes place. In this area without borders, payments have been further facilitated by the introduction of the euro.
- (6) The fact that the level of charges for cross-border payments continues to remain higher than the level of charges for internal payments is hampering cross-border trade and therefore constitutes an obstacle to the proper functioning of the internal market. This is also likely to affect confidence in the euro. Therefore, in order to facilitate the functioning of the internal market, it is necessary to ensure that charges for cross-border payments in euro are the same as charges for payments made in euro within a Member State, which will also bolster confidence in the euro.
- (7) For cross-border electronic payment transactions in euro, the principle of equal charges should apply, taking account of the adjustment periods and the institutions' extra workload relating to the transition to the euro, as from 1 July 2002. In order to allow the implementation of the necessary infrastructure and conditions, a transitional period for cross-border credit transfers should apply until 1 July 2003.
- (8) At present, it is not advisable to apply the principle of uniform charges for paper cheques as by nature they cannot be processed as efficiently as the other means of payment, in particular electronic payments. However, the principle of transparent charges should also apply to cheques.

⁽¹⁾ OJ C 270 E, 25.9.2001, p. 270.

⁽²⁾ Opinion delivered on 10 December 2001 (not yet published in the Official Journal).

⁽³⁾ OJ C 308, 1.11.2001, p. 17.

⁽⁴⁾ Opinion of the European Parliament of 15 November 2001 (not yet published in the Official Journal), Council Common Position of 7 December 2001 (OJ C 363, 19.12.2001, p. 1) and Decision of the European Parliament of 13 December 2001.

⁽⁵⁾ OJ L 43, 14.2.1997, p. 25.

- (9) In order to allow a customer to assess the cost of a cross-border payment, it is necessary that he be informed of the charges applied and any modification to them. The same holds for the case that a currency other than the euro is involved in the cross-border euro-payment transaction.
- (10) This Regulation does not affect the possibility for institutions to offer an all-inclusive fee for different payment services, provided that this does not discriminate between cross-border and national payments.
- (11) It is also important to provide for improvements to facilitate the execution of cross-border payments by payment institutions. In this respect, standardisation should be promoted as regards, in particular, the use of the International Bank Account Number (IBAN) ⁽¹⁾ and the Bank Identifier Code (BIC) ⁽²⁾ necessary for automated processing of cross-border credit transfers. The widest use of these codes is considered to be essential. In addition, other measures which entail extra costs should be removed in order to lower the charges to customers for cross-border payments.
- (12) To lighten the burden on institutions that carry out cross-border payments, it is necessary to gradually remove the obligations concerning regular national declarations for the purposes of balance-of-payments statistics.
- (13) In order to ensure that this Regulation is observed, the Member States should ensure that there are adequate and effective procedures for lodging complaints or appeals for settling any disputes between the originator and his institution or between the beneficiary and his institution, where applicable using existing procedures.
- (14) It is desirable that not later than 1 July 2004 the Commission should present a report on the application of this Regulation.
- (15) Provision should be made for a procedure whereby this Regulation can also be applied to cross-border payments made in a currency of another Member State where that Member State so decides,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

This Regulation lays down rules on cross-border payments in euro in order to ensure that charges for those payments are the same as those for payments in euro within a Member State.

⁽¹⁾ ISO Standard No 13613.

⁽²⁾ ISO Standard No 9362.

It shall apply to cross-border payments in euro up to EUR 50 000 within the Community.

This Regulation shall not apply to cross-border payments made between institutions for their own account.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (a) 'cross-border payments' means:
- (i) 'cross-border credit transfers' being transactions carried out on the initiative of an originator via an institution or its branch in one Member State, with a view to making an amount of money available to a beneficiary at an institution or its branch in another Member State; the originator and the beneficiary may be one and the same person,
 - (ii) 'cross-border electronic payment transactions' being:
 - the cross-border transfers of funds effected by means of an electronic payment instrument, other than those ordered and executed by institutions,
 - cross-border cash withdrawals by means of an electronic payment instrument and the loading (and unloading) of an electronic money instrument at cash dispensing machines and automated teller machines at the premises of the issuer or an institution under contract to accept the payment instrument,
 - (iii) 'cross-border cheques' being those paper cheques defined in the Geneva Convention providing uniform laws for cheques of 19 March 1931 drawn on an institution located within the Community and used for cross-border transactions within the Community;
- (b) 'electronic payment instrument' means a remote access payment instrument and electronic money instrument that enables its holder to effect one or more electronic payment transactions;
- (c) 'remote access payment instrument' means an instrument enabling a holder to access funds held on his/her account at an institution, whereby payment may be made to a payee and normally requires a personal identification code and/or any other similar proof of identity. The remote access payment instrument includes in particular payment cards (whether credit, debit, deferred debit or charge cards) and cards having phone- and home-banking applications. This definition does not include cross-border credit transfers;

- (d) 'electronic money instrument' means a reloadable payment instrument, whether a stored-value card or a computer memory, on which value units are stored electronically;
- (e) 'institution' means any natural or legal person which, by way of business, executes cross-border payments;
- (f) 'charges levied' means any charge levied by an institution and directly linked to a cross-border payment transaction in euro.

Article 3

Charges for cross-border electronic payment transactions and credit transfers

1. With effect from 1 July 2002, charges levied by an institution in respect of cross-border electronic payment transactions in euro up to EUR 12 500 shall be the same as the charges levied by the same institution in respect of corresponding payments in euro transacted within the Member State in which the establishment of that institution executing the cross-border electronic payment transaction is located.
2. With effect from 1 July 2003 at the latest, charges levied by an institution in respect of cross-border credit transfers in euro up to EUR 12 500 shall be the same as the charges levied by the same institution in respect of corresponding credit transfers in euro transacted within the Member State in which the establishment of that institution executing the cross-border transfer is located.
3. With effect from 1 January 2006 the amount EUR 12 500 shall be raised to EUR 50 000.

Article 4

Transparency of charges

1. An institution shall make available to its customers in a readily comprehensible form, in writing, including, where appropriate, in accordance with national rules, by electronic means, prior information on the charges levied for cross-border payments and for payments effected within the Member State in which its establishment is located.

Member States may stipulate that a statement warning consumers of the charges relating to the cross-border use of cheques must appear on cheque books.

2. Any modification of the charges shall be communicated in the same way as indicated in paragraph 1 in advance of the date of application.
3. Where institutions levy charges for exchanging currencies into and from euro, institutions shall provide their customers with:
 - (a) prior information on all the exchange charges which they propose to apply; and

- (b) specific information on the various exchange charges which have been applied.

Article 5

Measures for facilitating cross-border transfers

1. An institution shall, where applicable, communicate to each customer upon request his International Bank Account Number (IBAN) and that institution's Bank Identifier Code (BIC).
2. The customer shall, upon request, communicate to the institution carrying out the transfer the IBAN of the beneficiary and the BIC of the beneficiary's institution. If the customer does not communicate the above information, additional charges may be levied on him by the institution. In this case, the institution must provide customers with information on the additional charges in accordance with Article 4.
3. With effect from 1 July 2003, institutions shall indicate on statements of account of each customer, or in an annex thereto, his IBAN and the institution's BIC.
4. For all cross-border invoicing of goods and services in the Community, a supplier who accepts payment by transfer shall communicate his IBAN and the BIC of his institution to his customers.

Article 6

Obligations of the Member States

1. Member States shall remove with effect from 1 July 2002 at the latest any national reporting obligations for cross-border payments up to EUR 12 500 for balance-of-payment statistics.
2. Member States shall remove with effect from 1 July 2002 at the latest any national obligations as to the minimum information to be provided concerning the beneficiary which prevent automation of payment execution.

Article 7

Compliance with this Regulation

Compliance with this Regulation shall be guaranteed by effective, proportionate and deterrent sanctions.

Article 8

Review clause

Not later than 1 July 2004, the Commission shall submit to the European Parliament and to the Council a report on the application of this Regulation, in particular on:

- changes in cross-border payment system infrastructures,
- the advisability of improving consumer services by strengthening the conditions of competition in the provision of cross-border payment services,

- the impact of the application of this Regulation on charges levied for payments made within a Member State,
- the advisability of increasing the amount provided for in Article 6(1) to EUR 50 000 as from 1 January 2006, taking into account any consequences for undertakings.

This report shall be accompanied, where appropriate, by proposals for amendments.

Article 9

Entry into force

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 also apply to cross-border payments made in the currency of another Member State when the latter notifies the Commission of its decision to extend the Regulation's application to its currency. The notification shall be published in the Official Journal by the Commission. The extension shall take effect 14 days after the said publication.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 19 December 2001.

For the European Parliament

The President

N. FONTAINE

For the Council

The President

A. NEYTS-UYTTEBROECK
