

Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC (Text with EEA relevance) (repealed)

#### 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 64*

#### **Receipt of payment orders**

1 Member States shall ensure that the point in time of receipt is the time when the payment order transmitted directly by the payer or indirectly by or through a payee is received by the payer's payment service provider. If the point in 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 his 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 set funds at his payment service provider's disposal, the point in time of receipt for the purposes of Article 69 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 65*

#### **Refusal of payment orders**

1 Where the payment service provider refuses to execute a payment order, 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 Community or national legislation.

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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 69.

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

2 In cases where all the conditions set out in the payer's framework contract are met, the payer's payment service provider shall not refuse to execute an authorised payment order irrespective of whether the payment order is initiated by a payer or by or through a payee, unless prohibited by other relevant Community or national legislation.

3 For the purposes of Articles 69 and 75 a payment order of which execution has been refused shall be deemed not to have been received.

#### *Article 66*

### **Irrevocability of a payment order**

1 Member States shall ensure that the payment service user may 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 or through the payee, the payer may not revoke the payment order after transmitting the payment order or giving his 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 64(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 specified in paragraphs 1 to 4, the payment order may be revoked only if agreed between the payment service user and his payment service provider. 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 payment service provider may charge for revocation.

#### *Article 67*

### **Amounts transferred and amounts received**

1 Member States shall require the payment service provider of the payer, the payment service provider 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 his payment service provider may agree that the 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. In cases where the payment transaction is initiated by or through the payee, his payment service provider shall ensure that the full amount of the payment transaction is received by the payee.

## *Section 2*

### ***Execution time and value date***

#### *Article 68*

##### **Scope**

- 1 This Section shall apply to:
  - a payment transactions in euro;
  - b national payment transactions in the currency of the Member State outside the euro area concerned; and
  - 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 shall apply to other payment transactions, unless otherwise agreed between the payment service user and his payment service provider, with the exception of Article 73, which is not at the disposal of the parties. However, when the payment service user and his payment service provider agree on a longer period than those laid down in Article 69, for intra-Community payment transactions such period shall not exceed 4 business days following the point in time of receipt in accordance with Article 64.

#### *Article 69*

##### **Payment transactions to a payment account**

- 1 Member States shall require the payer's payment service provider to ensure that, after the point in time of receipt in accordance with Article 64, the amount of the payment transaction is credited to the payee's payment service provider's account at the latest by the end of the next business day. Until 1 January 2012, a payer and his payment service provider may agree on a period no longer than three business days. These periods 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 73.
- 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 his payment service provider, enabling settlement, as far as direct debit is concerned, on the agreed due date.

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### *Article 70*

#### **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 period specified in Article 69.

### *Article 71*

#### **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 the point of time of the 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 next business day after the receipt of the funds.

### *Article 72*

#### **National payment transactions**

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

### *Article 73*

#### **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.

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.

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

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### Section 3

#### **Liability**

#### Article 74

##### **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 75 for non-execution or defective execution of the payment transaction.

However the payer's payment service provider shall make reasonable efforts to recover the funds involved in the payment transaction.

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

3 If the payment service user provides information additional to that specified in Articles 37(1)(a) or 42(2)(b), 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 75

##### **Non-execution or defective execution**

1 Where a payment order is initiated by the payer, his payment service provider shall, without prejudice to Article 58, Article 74(2) and (3), and Article 78, be liable to the payer for correct execution of the payment transaction, unless he 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 69(1), in which 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, he 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.

Where the payee's payment service provider is liable under the first subparagraph, he 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.

In the case of a non-executed or defectively executed payment transaction where the payment order is initiated by the payer, his 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.

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2 Where a payment order is initiated by or through the payee, his payment service provider shall, without prejudice to Article 58, Article 74(2) and (3), and Article 78, be liable to the payee for correct transmission of the payment order to the payment service provider of the payer in accordance with Article 69(3). Where the payee's payment service provider is liable under this subparagraph, he shall immediately re-transmit the payment order in question to the payment service provider of the payer.

In addition, the payment service provider of the payee shall, without prejudice to Article 58, Article 74(2) and (3), and Article 78, be liable to the payee for handling the payment transaction in accordance with its obligations under Article 73. Where the payee's payment service provider is liable under this subparagraph, he 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.

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.

In the case of a non-executed or defectively executed payment transaction where the payment order is initiated by or through the payee, his 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.

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 execution of the payment transaction.

#### *Article 76*

### **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 his payment service provider.

#### *Article 77*

### **Right of recourse**

1 Where the liability of a payment service provider under Article 75 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 Article 75.

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.

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### *Article 78*

#### **No liability**

Liability under Chapter 2 and 3 shall not apply 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 national or Community legislation.