

Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation') (Text with EEA relevance)

CHAPTER VI

CROSS-BORDER ENFORCEMENT OF FINANCIAL ADMINISTRATIVE PENALTIES AND/OR FINES

Article 13

Scope

1 Without prejudice to the means which are or may be provided for in other Union legislation, the principles of mutual assistance and mutual recognition as well as the measures and procedures provided for in this Chapter shall apply to the cross-border enforcement of financial administrative penalties and/or fines imposed on a service provider established in a Member State, for failure to comply with the applicable rules on posting of workers in another Member State.

2 This Chapter shall apply to financial administrative penalties and/or fines, including fees and surcharges, imposed by competent authorities or confirmed by administrative or judicial bodies or, where applicable, resulting from industrial tribunals, relating to non-compliance with Directive 96/71/EC or this Directive.

This Chapter shall not apply to the enforcement of penalties which fall under the scope of application of Council Framework Decision 2005/214/JHA⁽¹⁾, Council Regulation (EC) No 44/2001⁽²⁾ or Council Decision 2006/325/EC⁽³⁾.

Article 14

Designation of the competent authorities

Each Member State shall inform the Commission through IMI which authority or authorities, under its national law, are competent for the purpose of this Chapter. Member States may designate, if it is necessary as a result of the organisation of their internal systems, one or more central authorities responsible for the administrative transmission and reception of requests and to assist other relevant authorities.

Article 15

General principles — mutual assistance and recognition

1 At the request of the requesting authority, the requested authority shall, subject to Articles 16 and 17:

- a recover an administrative penalty and/or fine that has been imposed in accordance with the laws and procedures of the requesting Member State by a competent authority or

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- confirmed by an administrative or judicial body or, where applicable, by industrial tribunals, which is not subject to further appeal; or
- b notify a decision imposing such a penalty and/or fine.

In addition, the requested authority shall notify any other relevant document related to the recovery of such a penalty and/or fine, including the judgment or final decision, which may be in the form of a certified copy, that constitutes the legal basis and title for the execution of the request for recovery.

2 The requesting authority shall ensure that the request for recovery of an administrative penalty and/or fine or the notification of a decision imposing such a penalty and/or fine is made in accordance with the laws, regulations and administrative practices in force in that Member State.

Such a request shall only be made when the requesting authority is unable to recover or to notify in accordance with its laws, regulations and administrative practices.

The requesting authority shall not make a request for recovery of an administrative penalty and/or fine or notification of a decision imposing such a penalty and/or fine if and as long as the penalty and/or fine, as well as the underlying claim and/or the instrument permitting its enforcement in the requesting Member State, are contested or challenged in that Member State.

3 The competent authority requested to recover an administrative penalty and/or fine or to notify a decision imposing such a penalty and/or fine which has been transmitted in accordance with this Chapter and Article 21, shall recognise it without any further formality being required and shall forthwith take all the necessary measures for its execution, unless that requested authority decides to invoke one of the grounds for refusal provided for in Article 17.

4 For the purpose of recovery of an administrative penalty and/or fine or notification of a decision imposing such a penalty and/or fine, the requested authority shall act in accordance with the national laws, regulations and administrative practices in force in the requested Member State applying to the same or, in the absence of the same, a similar infringement or decision.

The notification of a decision imposing an administrative penalty and/or fine by the requested authority and the request for recovery shall, in accordance with the national laws, regulations and administrative practices of the requested Member State, be deemed to have the same effect as if it had been made by the requesting Member State.

Article 16

Request for recovery or notification

1 The request of the requesting authority for recovery of an administrative penalty and/or fine as well as the notification of a decision concerning such a penalty and/or fine shall be carried out without undue delay by means of a uniform instrument and shall at least indicate:

- a the name and known address of the addressee, and any other relevant data or information for the identification of the addressee;
- b a summary of the facts and circumstances of the infringement, the nature of the offence and the relevant applicable rules;
- c the instrument permitting enforcement in the requesting Member State and all other relevant information or documents, including those of a judicial nature, concerning the underlying claim, administrative penalty and/or fine; and

- d the name, address and other contact details regarding the competent authority responsible for the assessment of the administrative penalty and/or fine, and, if different, the competent body where further information can be obtained concerning the penalty and/or fine or the possibilities for contesting the payment obligation or decision imposing it.

2 In addition to that which has been provided for in paragraph 1, the request shall indicate:

- a in the case of notification of a decision, the purpose of the notification and the period within which it shall be effected;
- b in the case of a request for recovery, the date when the judgment or decision has become enforceable or final, a description of the nature and amount of the administrative penalty and/or fine, any dates relevant to the enforcement process, including whether, and if so how, the judgment or decision has been served on defendant(s) and/or given in default of appearance, a confirmation from the requesting authority that the penalty and/or fine is not subject to any further appeal, and the underlying claim in respect of which the request is made and its different components.

3 The requested authority shall take all the necessary steps to notify the service provider of the request for recovery or of the decision imposing an administrative penalty and/or fine and of the relevant documents, where necessary, in accordance with its national law and/or practice as soon as possible, and no later than one month of receipt of the request.

The requested authority shall as soon as possible inform the requesting authority of:

- a the action taken on its request for recovery and notification and, more specifically, of the date on which the addressee was notified;
- b the grounds for refusal, in the event that it refuses to execute a request for recovery of an administrative penalty and/or fine or to notify a decision imposing an administrative penalty and/or fine in accordance with Article 17.

Article 17

Grounds for refusal

The requested authorities shall not be obliged to execute a request for recovery or notification if the request does not contain the information referred to in Article 16(1) and (2), is incomplete or manifestly does not correspond to the underlying decision.

In addition, the requested authorities may refuse to execute a request for recovery in the following circumstances:

- (a) following inquiries by the requested authority it is obvious that the envisaged costs or resources required to recover the administrative penalty and/or fine are disproportionate in relation to the amount to be recovered or would give rise to significant difficulties;
- (b) the overall financial penalty and/or fine is below EUR 350 or the equivalent to that amount;
- (c) fundamental rights and freedoms of defendants and legal principles that apply to them as laid down in the Constitution of the requested Member State are not respected.

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Article 18

Suspension of the procedure

1 If, in the course of the recovery or notification procedure, the administrative penalty and/or fine and/or underlying claim is challenged or appealed by the service provider concerned or by an interested party, the cross-border enforcement procedure of the penalty and/or fine imposed shall be suspended pending the decision of the appropriate competent body or authority in the requesting Member State in the matter.

Any challenge or appeal shall be made to the appropriate competent body or authority in the requesting Member State.

The requesting authority shall without delay notify the requested authority of the contestation.

2 Disputes concerning the enforcement measures taken in the requested Member State or concerning the validity of a notification made by a requested authority shall be brought before the competent body or judicial authority of that Member State in accordance with its laws and regulations.

Article 19

Costs

1 Amounts recovered with respect to the penalties and/or fines referred to in this Chapter shall accrue to the requested authority.

The requested authority shall recover the amounts due in the currency of its Member State, in accordance with the laws, regulations and administrative procedures or practices which apply to similar claims in that Member State.

The requested authority shall, if necessary, in accordance with its national law and practice convert the penalty and/or fine into the currency of the requested State at the rate of exchange applying on the date when the penalty and/or fine was imposed.

2 Member States shall not claim from each other the reimbursement of costs arising from any mutual assistance they grant each other pursuant to this Directive or resulting from its application.

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- (1) Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties ([OJ L 76, 22.3.2005, p. 16](#)).
- (2) Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the enforcement of judgments in civil and commercial matters ([OJ L 12, 16.1.2001, p. 1](#)).
- (3) Council Decision 2006/325/EC of 27 April 2006 concerning the conclusion of the Agreement between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ([OJ L 120, 5.5.2006, p. 22](#)).