

Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (Text with EEA relevance)

CHAPTER V

COMPETENT AUTHORITIES AND ALTERNATIVE DISPUTE RESOLUTION

Article 21

Competent authorities

1 Member States shall designate the national competent authorities empowered to ensure the application and enforcement of this Directive and shall ensure that they are granted investigation and enforcement powers and adequate resources necessary for the efficient and effective performance of their duties.

The competent authorities shall be either public authorities or bodies recognised by national law or by public authorities expressly empowered for that purpose by national law. They shall not be payment service providers, with the exception of national central banks.

2 Member States shall ensure that competent authorities and all persons who work or who have worked for competent authorities, as well as auditors and experts instructed by competent authorities, are bound by the obligation of professional secrecy. No confidential information which they may receive in the course of their duties may be divulged to any person or authority whatsoever, save in summary or aggregate form, without prejudice to cases covered by criminal law or by this Directive. This shall not, however, prevent competent authorities from exchanging or transmitting confidential information in accordance with Union and national law.

3 Member States shall ensure that the authorities designated as competent for ensuring the application and enforcement of this Directive are either or both of the following:

- a competent authorities as defined in point (2) of Article 4 of Regulation (EU) No 1093/2010;
- b authorities other than the competent authorities referred to in point (a) provided that national laws, regulations or administrative provisions require those authorities to cooperate with the competent authorities referred to in point (a) whenever necessary in order to carry out their duties under this Directive, including for the purposes of cooperating with EBA as required under this Directive.

4 Member States shall notify the Commission and EBA of the competent authorities and of any changes thereto. The first such notification shall be made as soon as possible and at the latest by 18 September 2016.

5 The competent authorities shall exercise their powers in conformity with national law either:

- a directly under their own authority or under the supervision of the judicial authorities; or
- b by application to courts which are competent to grant the necessary decision, including, where appropriate, by appeal, if the application to grant the necessary decision is not successful.

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6 Where there is more than one competent authority on their territory, Member States shall ensure that their respective duties are clearly defined and that those authorities collaborate closely so that they can discharge their respective duties effectively.

7 The Commission shall publish a list of the competent authorities in the *Official Journal of the European Union* at least once a year, and update it continuously on its website.

Article 22

Obligation to cooperate

1 Competent authorities of different Member States shall cooperate with each other whenever necessary for the purpose of carrying out their duties under this Directive, making use of their powers, whether set out in this Directive or in national law.

Competent authorities shall render assistance to competent authorities of the other Member States. In particular, they shall exchange information and cooperate in any investigation or supervisory activities.

In order to facilitate and accelerate cooperation, and more particularly the exchange of information, each Member State shall designate one single competent authority as a contact point for the purposes of this Directive. The Member State shall communicate to the Commission and to the other Member States the names of the authorities which are designated to receive requests for exchange of information or cooperation pursuant to this paragraph.

2 Member States shall take the necessary administrative and organisational measures to facilitate assistance provided for in paragraph 1.

3 Competent authorities of Member States having been designated as contact points for the purposes of this Directive in accordance with paragraph 1 shall without undue delay supply one another with the information required for the purposes of carrying out the duties of the competent authorities as set out in the measures adopted pursuant to this Directive.

Competent authorities exchanging information with other competent authorities under this Directive may indicate at the time of communication that such information must not be disclosed without their express agreement, in which case such information may be exchanged solely for the purposes for which those authorities gave their agreement.

The competent authority having been designated as the contact point may transmit the information received to the other competent authorities; however it shall not transmit the information to other bodies or natural or legal persons without the express agreement of the competent authorities which disclosed it and solely for the purposes for which those authorities gave their agreement, except in duly justified circumstances in which case it shall immediately inform the contact point that supplied the information.

4 A competent authority may refuse to act on a request for cooperation in carrying out an investigation or supervisory activity or to exchange information as provided for in paragraph 3 only where:

- a such an investigation, on-the-spot verification, supervisory activity or exchange of information might adversely affect the sovereignty, security or public policy of the Member State addressed;
- b judicial proceedings have already been initiated in respect of the same actions and the same persons before the authorities of the Member State addressed;

- c final judgement has already been delivered in the Member State addressed in respect of the same persons and the same actions.

In the event of such a refusal, the competent authority shall notify the requesting competent authority accordingly, providing as detailed information as possible.

Article 23

Settlement of disagreements between competent authorities of different Member States

The competent authorities may refer the situation to EBA where a request for cooperation, in particular the exchange of information, has been rejected or has not been acted upon within a reasonable time, and may request EBA's assistance in accordance with Article 19 of Regulation (EU) No 1093/2010. In such cases, EBA may act in accordance with the powers conferred on it by that Article and any binding decision made by EBA in accordance with that Article shall be binding on the competent authorities concerned regardless of whether those competent authorities are members of EBA or not.

Article 24

Alternative dispute resolution

Member States shall ensure that consumers have access to effective and efficient alternative dispute resolution procedures for the settlement of disputes concerning rights and obligations established under this Directive. Such alternative dispute resolution procedures and the entities offering them shall comply with the quality requirements laid down by Directive 2013/11/EU.

Article 25

Mechanism in the event of refusal of a payment account for which a fee is charged

Without prejudice to Article 16, Member States may set up a specific mechanism to ensure that consumers who do not have a payment account in their territory and who have been denied access to a payment account for which a fee is charged by credit institutions will have effective access to a payment account with basic features, free of charge.