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REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

on the application of Regulation EU n°260/2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009

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1. INTRODUCTION AND SUMMARY

Regulation EU n°260/2012[1] establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009, also known as *the Single Euro Payments Area (SEPA) Regulation* or *SEPA end-date Regulation* was adopted in 2012 and has been a major step forward in the proper functioning of the internal market through the creation of an integrated market for electronic payments in euro that makes no distinction between national and cross-border payments.

The Regulation imposed 1 February 2014 as an end-date for migration in the euro area. A month before the initial end-date for migration, the end-date was postponed by 6 months until 1 August 2014 to take into account delays in the migration observed in various Member States. This 6-month delay was sufficient to ensure a smooth transition from legacy credit transfers and direct debits in euro to SEPA credit transfers (SCT) and direct debits (SDD).

Member States that do not belong to the euro area had until 31 October 2016 to migrate to SCT and SDD.

In its article 15, the SEPA Regulation mandates the Commission to present a report on the application of the Regulation*: "By 1 February 2017, the Commission shall present to the European Parliament, the Council, the European Economic and Social Committee, ECB and EBA a report on the application of this Regulation accompanied, if appropriate, by a proposal."*

On 15 December, the European Commission sent a questionnaire to Member States for reply by 31 January 2017 about a series of issues related to the application of the Regulation such as the migration from legacy credit transfers and direct debits to SCT and SDD for each and every Member State, the use of options by Member States, the authorities designated for ensuring compliance with the Regulation and their powers, or the issues that may still be encountered across the EU with regards to the implementation of the Regulation.

Member States' responses formed the basis for this implementation report.

The report has also been submitted to and discussed at the EU Forum of national SEPA coordination committees of 21 April 2017, a European Commission expert group in charge of monitoring the implementation of SEPA across the EU.

This report concludes that, overall, the SEPA Regulation is correctly applied across the EU. There is currently no need for a follow-up legislative proposal. The very few

[1] http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32012R0260

and well identified issues (IBAN discrimination and competent authorities competences) that persist have been addressed by Member States and their resolution should be closely monitored. The main issue to be closely observed is the IBAN discrimination by payees (i.e. imposing on payers to pay from an account located in a specific country, which is contrary to article 9 of the Regulation) as the number of cases have decreased but new cases could still appear.

The SEPA project did not end with the completed migration to the SEPA SCT and SDD standards. It is very much alive through initiatives that participate in building the Single Euro Payments Area such as 'SCT inst' - a European project for instant payments in euro that will be launched in November 2017 - or the Mobile Proxy Forum - an initiative aiming at interoperating peer-to-peer mobile payments solutions across the EU, projects supported by the Euro Retail Payments Board, chaired by the European Central Bank and where the European Commission sits as an observer.

2. MEMBER STATES' REPORTING

2.1. MIGRATION TO SEPA CREDIT TRANSFERS AND SEPA DIRECT DEBITS

The figures below were communicated by Member States and reflect the state of play as of December 2016 regarding the use of SEPA instruments instead of legacy credit transfers and direct debits that were in use before. The figures show that, across the EU, nearly all credit transfers and direct debits in euro are now processed in compliance with the SCT and SDD standards (Tables 1 and 2). Some further efforts are to be done to reach full compliance in few non-euro area Member States for which the deadline for migration was 31 October 2016.

With respect to SDD, some Member States decided to discontinue legacy direct debits and opt for solutions combining SEPA Credit Transfers and e-invoicing. In those cases, SEPA Direct Debits can still be offered by payment services providers within the country but will rather find a use in cross-border transactions and not national transactions anymore, mainly to serve companies that would need them in their cross-border activities. These countries are all marked "not applicable - N/A" in table 2, 5 and 6 even though there may be a very limited use of SDDs.

Table 1: SCT migration rates communicated by Member States as of end 2016

Euro area	SCT migration rate
Austria	100%
Belgium	100%
Cyprus	100%
Estonia	100%
Finland	100%
France	100%
Germany	100%
Greece	100%
Ireland	100%
Italy	100%
Latvia	100%
Lithuania	100%[4]
Luxembourg	100%
Malta	100%
The Netherlands	100%
Portugal	100%
Slovakia	100%
Slovenia	100%
Spain	100%

Non Euro area	SCT migration rate
Bulgaria	64%[2]
Croatia	100%
Czech Republic	100%
Denmark	100%
Hungary	100%
Poland	100%
Romania	Partially compliant[3]
Sweden	100%
United Kingdom	100%

[2] Figures as of 31 September 2016. All payment services providers (PSPs) have confirmed their readiness for compliance by October 31, 2016, which should be reflected in the finalised statistics for SCT for Q4 of 2016 – not yet available

[3] Most requirements have been implemented. However, four institutions in Romania appear to be only partially compliant.

[4] One particular type of credit transfer service, so-called utility payments, is still in transition from legacy practices to SEPA requirements. Utility payments are addressed to utility providers and require additional data for payment reconciliation and consumption readings. According to inter-sectoral agreement between PSPs and utility providers, utility payments are to migrate to SEPA credit transfers by 1 April 2017.

Table 2: SDD migration rates communicated by Member States as of end 2016

Euro area	SDD migration rate
Austria	100%
Belgium	100%
Cyprus	100%
Estonia	N/A[7]
Finland	100%[8]
France	100%
Germany	100%
Greece	100%
Ireland	100%
Italy	100%
Latvia	N/A[7]
Lithuania	N/A[7]
Luxembourg	100%
Malta	100%
The Netherlands	100%
Portugal	100%
Slovakia	100%
Slovenia	100%
Spain	100%

Non Euro area	SDD migration rate
Bulgaria	N/A[5]
Croatia	N/A[6]
Czech Republic	100%
Denmark	100%
Hungary	100%[9]
Poland	100%
Romania	100%
Sweden	N/A[10]
United Kingdom	100%

A historical perspective, provided in tables 3, 4, 5 and 6, shows that depending on the Member States concerned, the migration flow either followed a big bang approach (e.g. Estonia) or a progressive migration to SEPA instruments (e.g. Germany). The same tables also indicate that the 6 month delay proved a necessary step as migration rates communicated for January 2014, though already quite high for SEPA Credit Transfers, were not sufficient to ensure full processing of payments in the case of SEPA Direct Debits. Unexpected issues could have arisen on 1 February 2014, when the SEPA end-date Regulation was supposed to become applicable, with the potential risk of payments not being processed after that date.

[5] Not relevant as only one bank has adhered to a SEPA Direct debit scheme (SDD B2B scheme).
[6] Payment service providers in the Republic of Croatia do not provide direct debit services in euro.
[7] National direct debits were replaced by SEPA credit transfers combined with e-invoices
[8] Very low use of SEPA Direct Debits. National direct debits were replaced by SEPA Credit Transfer combined with e-invoices but banks remain reachable for SDD.
[9] Only one payment service provider offers SDD services
[10] Not relevant as only very few SDD processed

Table 3[11]**:** Evolution of SCT migration rates from 2008 to today for euro area Member States

Euro area	2nd half 2008	2nd half 2011	Jan.2014	Feb.2014	Aug.2014	Dec.2016
Austria	1.44%	11.89%	66.2%	74.95%	90%	100%
Belgium	2.76%	44.79%	86.79%	95.64%	100%	100%
Cyprus	29.85%	60.06%	100%	100%	100%	100%
Estonia		0.95%	2.65%	99.7%	100%	100%
Finland	1.35%	67.57%	100%	100%	100%	100%
France	0.58%	24.72%	84,0%	91.7%	100%	100%
Germany	0.29%	5.56%	58.51%	77.85%	100%	100%
Greece	0.54%	1.71%	81.53%	83.12%	99.38%	100%
Ireland	0.19%	2.34%	60.89%	90.61%	100%	100%
Italy	0.73%	10.62%	61.49%	89.86%	100%	100%
Latvia			100%	100%	100%	100%
Lithuania[12]						100%
Luxembourg	85.76%	90.27%	96.3%	96.3%	97.81%	100%
Malta	3.28%	9.71%	68.72%	80.16%	100%	100%
The Netherlands	0.15%	0.88%	86.38%	91.75%	99.08%	100%
Portugal	0.68%	1.48%	89.16%	92.32%	98.91%	100%
Slovakia	0%	1.03%	100%	100%	100%	100%
Slovenia	0.1%	55.74%	99.3%	99.36%	100%	100%
Spain	1.51%	31.77%	82.71%	90.5%	100%	100%

The figures for February 2014 and August 2014 are highlighted as they show the differences in migration rates between the original end-date and the actual end-date that, in January 2014, was postponed by six months from February to August 2014.

For Member States that do not belong to the euro area, the SEPA Regulation required a migration by 31 October 2016 as indicated in its article 16§8: *"Payment Services Providers located in, and Payment Services Users making use of a payment service in a Member State which does not have the euro as its currency shall comply with the requirements of Articles 4 and 5 by 31 October 2016. Operators of retail payment systems for a Member State which does not have the euro as its currency shall comply with the requirements of Article 4(2) by 31 October 2016."*

Table 4: Evolution of SCT migration rates in 2015 and 2016 for non-euro area Member States

Non Euro area	H2 2015	Q1 2016	Q2 2016	Dec 2016
Bulgaria	59.21%	60.7%	61.9%	100%
Croatia				100%
Czech Republic	87.18%	89.5%	90.02%	100%
Denmark	100%	100%	100%	100%
Hungary	84.35%	84.16%		100%
Poland				100%
Romania	44.66%	46.01%	45.38%	Partially compliant
Sweden	95%	95%		99%
United Kingdom	100%	100%	100%	100%

[11] Except for data marked "December 2016", all data for tables 3 to 6 are extracted from ECB tables available on the ECB website - http://www.ecb.europa.eu/paym/retpaym/paymint/indicators/html/index.en.html
[12] Lithuania joined the euro area on 1 January 2015 and had until the 1 January 2016 to migrate all euro credit transfers.

Table 5: Evolution of SDD migration rates from 2013 to today for euro area Member States

Euro area	Q1 2013	Q4 2013	Jan.2014	Feb.2014	Aug.2014	Dec.2016
Austria	11.15%	34.65%	73.95%	87.89%	99%	100%
Belgium	19.17%	38.54%	64.09%	89.89%	100%	100%
Cyprus	0%	0%	0%	0%	100%	100%
Estonia					N/A	N/A
Finland					N/A	N/A
France	0.78%	17.94%	72.51%	87.02%	100%	100%
Germany	0.14%	10.51%	29.4%	53.4%	100%	100%
Greece	50.13%	67.84%	70.1%	69.53%	99.64%	100%
Ireland	0.42%	22.09%	61.35%	89.65%	100%	100%
Italy	0.01%	2.83%	34.3%	53.28%	100%	100%
Latvia			0%	0%	0%[13]	N/A
Lithuania						N/A
Luxembourg	0.06%	15.92%	49.09%	74.37%	98.05%	100%
Malta	0%	0%	23.35%	47.79%	100%	100%
The Netherlands	0.01%	32.62%	73.62%	84.38%	99.81%	100%
Portugal	0.1%	7.55%	26.68%	53.14%	99.88%	100%
Slovakia	0%	0%	0.01%	100%	100%	100%
Slovenia	86.81%	99.33%	100%	100%	100%	100%
Spain	0.02%	1.8%	15.34%	48.82%	100%	100%

Table 6: Evolution of SDD migration rates in 2015 and 2016 for non-euro area Member States

Non Euro area	H2 2015	Q1 2016	Q2 2016	Dec 2016
Bulgaria				N/A
Croatia				N/A
Czech Republic				100%
Denmark				100%
Hungary				100%
Poland	100%	100%	100%	100%
Romania	0.04%	0%	0.02%	100%
Sweden				N/A
United Kingdom	100%	100%	100%	100%

2.2. OPTIONS USED BY MEMBER STATES

In order to allow for a smooth transition to SCT and SDD, the SEPA Regulation allowed for various options to be activated by Member States of the euro area until February 2016.

These options were the following:

- **Option 1: conversion facilities for consumers**. Typically, consumers' payment services providers would accept a national account number (BBAN) to initiate a transaction and convert that number into an international account number (IBAN).

- **Option 2: continuation of niche products.** Domestic legacy credit transfer or direct debit transactions with a cumulative market share, based on the official

[13] Latvia had until 1 January 2015 to migrate. Latvia replaced legacy direct debits with SCT-based e-invoicing solutions

payment statistics published annually by the ECB, of less than 10 % of the total number of credit transfers or direct debit transactions respectively, could be continued until 1 February 2016 (e.g. TIP in France, RID Finanziario in Italy, Direct Debit with no refund in the Netherlands).

- **Option 3: one-off direct debits**. These services allowing consumers to make payment transactions that would be generated using a payment card at the point of sale which would result in a direct debit to and from a payment account identified by a BBAN or an IBAN could be continued until 1 February 2016 (e.g Elektronisches Lastschriftverfahren – ELV – payments in Austria and Germany), unless made compliant with the SEPA requirements.

- **Option 4: a delayed usage of standard message format ISO 20022 XML** for payment services users (PSUs) which initiate or receive individual credit transfers or direct debits that are bundled together for transmission.

- **Option 5: a delayed BIC elimination for national payment transactions**, as today payers do not have to provide BIC for payments to be executed within the EU, the IBAN only is sufficient.

Most Member States made use of at least one of these options as indicated in Table 7 which shows, where relevant, the use as well as the later deactivation of those options by Member States.

These options were only relevant for Member States of the euro area given that they were valid until 1 February 2016 for Member States that had migrated before. They were not applicable for Member States[14] from outside the euro area which had a target date for migration set on 31 October 2016.

Table 7: Use of options by Member States and current status of these options.

Euro area	Option 1	Option 2	Option 3	Option 4	Option 5	Status in May 2017
Austria		√	√			All deactivated
Belgium						None activated
Cyprus	√			√	√	All deactivated
Estonia	√					Partially deactivated[15]
Finland						None activated
France		√				Deactivated
Germany	√		√		√	All deactivated
Greece		√		√	√	All deactivated
Ireland					√	Deactivated
Italy		√		√		All deactivated

[14] In the UK, the 'Payments in Euro (Credit Transfers and Direct Debits) Regulations 2012' were laid before Parliament on 18 December 2012 and came into force on 15 January 2013. Article 19 of these Regulations states what derogations were applied. Regulation 19 provides for the derogation under Article 16(3) and (4) of the SEPA Regulation to apply in relation to the requirements of Articles 8(2) and (3) of that Regulation until 1st February 2016. The derogations under Article 16(2) and (8), applying to non-euro Member States, mean that the requirements of Articles 3, 4 and 5 of the SEPA Regulation did not apply until 31 October 2016. Essentially this meant that, for most requirements, PSPs located in the UK were set a migration end date of 31 October 2016.

[15] Some credit insitutions in Estonia still provide the services for conversion from BBAN to IBAN

Latvia				√		Deactivated
Lithuania						None activated
Luxembourg						None activated
Malta					√	Deactivated
The Netherlands	√	√				All deactivated
Portugal	√			√	√	All deactivated
Slovakia	√			√		All deactivated
Slovenia						None activated
Spain	√	√		√		All deactivated

2.3. IBAN DISCRIMINATION

Consumers across the EU have reported and complained about firms and payments (e.g., tax payments, cross-border utility payments) that can only be done from or to a national payment account in euro. Such restrictions are not allowed under article 3 (reachability) and article 9 (payment accessibility) of the SEPA Regulation and constitute a real barrier to the smooth functioning of SEPA.

This issue was and remains the number one priority for the European Commission in relation with the application of the SEPA Regulation as it undermines one of the most tangible benefits that consumers and companies can experience from the SEPA Regulation: the freedom to pay from anywhere within the EU, the freedom to use one and only one bank account (in euro) for each and every transaction within the EU allowing them also to reduce the costs linked to the maintenance of two or more payment accounts.

The European Commission raised the issue in various fora to ensure awareness among market participants of the payment industry but also Member States: the Payment Systems Market Expert Group, the EU Forum on National SEPA Committees and the Euro Retail Payments Board.

In addition, the European Commission services informed individual complainants of their rights and directed them towards the National authorities designated to ensure compliance with the SEPA Regulation at national level.

Finally, in 2015 and 2016, the European Commission services addressed about fifteen letters to Member States where cases of IBAN discrimination had been reported, enquiring on continued discriminations that were not addressed by National authorities. It appeared that various Member States had designated authorities in charge of the compliance of Payment Services Providers but not Payment Services Users (such as utility company) – see chapter 2.4 for more details.

National authorities have been addressing these issues:

- De Nederlandsche Bank (DNB), the Central Bank for the Netherlands, has received more than 250 complaints of payment services users about IBAN-discrimination, mostly consumers' complaints against companies. DNB has been particularly active in dealing with these cases in proposing intermediation and solving complaints. To address the problem of discrimination of foreign payment services users, DNB has also put in place cooperation arrangements with other relevant competent authorities, including central banks.

- BaFin and the Bundesbank registered 75 complaints by the end of 2016. 66 of these were related to IBAN discrimination. Where the complaints were justified, remedies could be given, both in cases of breaches by payment service providers or by payment service users. According to feedback from companies, technical conversion problems were often involved, which were remedied over time. It appears that the different measures taken allowed to solve these problems.
- Banca d'Italia received 4 complaints in 2013, 35 complaints in 2014, 14 complaints in 2015 and 6 complaints in 2016. The Italian Competition Authority has not received any complaints to date. In 2017, Banca d'Italia received two complaints related to IBAN discrimination. As in similar cases, Banca d'Italia contributes to solving these problems by contacting the parties involved and facilitating the dialogue.

Cases of IBAN discrimination were particularly reported in countries where the usage of SEPA Direct Debit is high and/or deemed convenient by consumers or companies (such as Belgium, France, Italy, Germany, Spain or the Netherlands) who welcome the possibility to use them also across borders, as offered by the SEPA Regulation. Most reported cases are due to a lack of knowledge of the Regulation's requirement by payment services users or limitations in legacy processes that do not allow foreign IBANs to be used (e.g. online or paper forms limiting the IBAN number to a fixed number of digits or displaying a pre-filled country prefix).

By contrast, countries where SDD are not widely used or which are not members of the euro area generally receive fewer complaints. For instance, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Greece, Hungary, Ireland, Lithuania, Luxembourg, Malta, Poland, Romania, Slovenia and Sweden reported less than 20 complaints altogether since the end-date (1 August 2014 or 31 October 2016 depending on the country).

2.4. DESIGNATION OF COMPETENT AUTHORITIES AND THEIR POWERS

The migration to SEPA involved various authorities such as the European Central Bank and national Central Banks. Major stakeholders in the migration were national competent authorities in charge of ensuring compliance with the Regulation.

In this respect, an issue encountered during the migration process and the subsequent months after 1 August 2014 is the scope of action of national competent authorities. Article 10 requires that Member States designate competent authorities for ensuring compliance with the Regulation. Some Member States interpreted the SEPA Regulation as limiting the obligation imposed on national competent authorities to ensure only that payment services providers comply with the Regulation, when the Regulation in fact contains obligations vis-à-vis payment services users (payees) as well (i.e. Article 9).

In practice, nearly all payment services providers were compliant with the Regulation on the 'end-date', i.e. 1 August 2014. This was, however, not the case for a number of payment services users, be they tax authorities, energy providers, telecommunication operators, insurance companies or other utility companies that did not respect the Regulation and in particular its article 9 related to the acceptance of any euro payment account within the EU for making or receiving payments.

In a number of cases, the competent authorities designated by Member States – in most cases Central Banks – had not been given powers over these payment services users. As a consequence, the Commission launched a series of pre-infringement procedures (called EU Pilots) to make sure that authorities would also be designated by Member States to ensure the compliance of payment services users. All but three Member States[16] are now compliant with the requirements of the Regulation.

Competent authorities and contact points for complaints are listed in Annex.

3. CONCLUSION AND NEXT STEPS FOR THE SEPA PROJECT

Overall, the SEPA Regulation has been correctly applied and implemented across the EU. There is currently no need for any follow-up legislative proposal. However, a few issues that have been addressed will continue to be closely monitored to ensure they are definitively tackled, in particular IBAN discrimination.

SCTs and SDDs have given European citizens an effective way to make credit transfers and direct debits in euro within the European Union. Based on this standard, new players have emerged on the payments market, offering payment initiation services and peer-to-peer mobile payments. Also, the emergence of new types of players can be expected thanks to the revised Payments Services Directive and the development of new projects within SEPA, such as SEPA instant payments that will be available as of November 2017.

These developments are supported by the Euro Retail Payments Board, an ECB-chaired body. This new entity, which replaced the former SEPA Council, aims at fostering the development of an integrated, innovative and competitive market for retail payments in euro in the European Union. It is composed of members from both the supply side of the market (banking community, payment institutions and e-money institutions) and the demand side of the market (consumers, retailers, online retailers, businesses/corporates, SMEs and national public administrations). In addition, five national central banks representing the Eurosystem and one representing the non-euro area community take part in the meetings on a rotating basis. The European Commission attends as an observer.

National SEPA committees and their European Forum set up by the Commission have played a key role in implementing the Single Euro Payments Area and in achieving the goal of allowing Europeans to do all their transactions in euro anywhere in the EU from a single account. While the SEPA transition is now almost completed, the transformation of payment systems is still on-going at a fast pace. Most of the national SEPA committees have been transformed into national payments committees/councils to steer this transformation. These national payments committees/councils now focus on new challenges, such as the transition to instant payments or mobile payments. Moreover, with the entry into force of PSD2 in January 2018, the national committees will have to monitor other developments and notably the arrival of new players on the payments market, such as account information aggregators and payment initiation service providers.

In order to support these new developments in the field of payments, to coordinate national initiatives and exchange information and best practices, the Commission is

[16] Poland, Latvia, Greece

examining, in close cooperation with the European Central Bank, how the EU Forum of national SEPA committees can be transformed into a platform for these reformed national payment committees/councils.