

IBAN Discrimination

EFIP Secretariat



Directorate-General for
Financial Stability,
Financial Services and
Capital Markets Union



EUROPEAN CENTRAL BANK

EUROSYSTEM

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Introduction

- Article 9 of SEPA Regulation (EU) No 260/2012 states that the payer or the payee cannot specify the Member State in which the account to be debited or credited is located
- Despite the directly applicable rule, some companies and even public administrations still refuse to make or receive payments in euro (direct debits or credit transfers) to/from non-domestic accounts
- In June 2023, the EFIP co-chairs asked members to fill in a questionnaire on IBAN discrimination

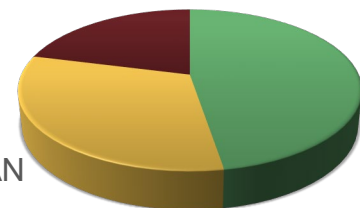
Findings

26 members answered (out of 27)

- 16 (62%) members (BG, CZ, CY, DK, EE, FI, HR, HU, LT, LU, LV, MT, PL, RO, SE, SK) reported that there is no IBAN discrimination in their country
- 6 (23%) members (BE, ES, IE, IT, PT, SI) reported some cases of IBAN discrimination, but they did not see it as a big problem
- 4 (15%) members (AT, DE, FR, NL) representing a rather large share of the European payment market, are aware of the high number of IBAN discrimination cases on their territory

Extracting the euro countries, 19 answers

- 9 (47%) members (CY, EE, FI, HR, LT, LU, LV, MT, SK) reported that there is no IBAN discrimination in their country
- 6 (32%) members (BE, ES, IE, IT, PT, SI) reported some cases of IBAN discrimination, but they did not see it as a big problem
- 4 (21%) members (AT, DE, FR, NL) representing a rather large share of the European payment market, are aware of the high number of IBAN discrimination cases on their territory



- No discrimination
- Some cases
- Significant problem

Data of the IBAN discrimination from different sources

Country	Accept my IBAN			Complaints received, reported in the questionnaire		
	2021	2022	2023/09	2022	2023 08	Remarks
AT	30	30	47		53	So far received by the Enforcement and Law
DE	192	139	142		800	Received since 06/2017 by the Wettbewerbszentrale
ES	278	301	140	8	5	Complaints received by AECOSAN and Banco de España, excluding public administrations
FR	658	280	92	45 (2021-Q1/2022)		DGCCRF
IE	89	106	25	183	61	Reported directly to National Competent Authorities, including all complaints Accept my IBAN figures from which out of scope complaints have been deducted
IT	122	126	67	20	10	By the AGCM and Bank of Italy
NL	61	54	31	159	135	Complaint received by DNB, only about 30% are actually involving IBAN discrimination

Main reasons reported

- Costs incurred to upgrade outdated IT systems (to store, process and reconcile payments with non-local, country-specific IBAN)
- Forms, direct debit mandates and other online documentation (like FAQs) not updated in the customer channels
- Lack of awareness or misinterpretation of the law
- Fear of greater risk of payment fraud when using a foreign IBAN
- Extra legal costs and dedicated processes to handle/reject/refund direct debits in a different country

Are the countermeasures sufficient?

- All countries reporting IBAN discrimination to be an issue, also think the measures taken against them are efficient
- The results will be seen with delay because technical upgrades are costly and take a long time

But...

- Market participants and associations complain that the problem still remains after almost a decade
- It might even be bigger, it just does not surface or come into the awareness of the authorities

Best practices from Member States

- Targeted investigations of companies in areas where IBAN discrimination occurs (key offenders)
- Communication campaigns to raise awareness of IBAN discrimination
- Web form to report complaints, website information and Q&A's about IBAN discrimination or dedicated mailbox with automatic reply of user's instructions
- Set up an IBAN-discrimination desk, i.e., a central complaint office to acquire information, prompt the investigation and apply the administrative steps
- A progressive approach: explanations asked; warning; request of implementation plan; monitoring the implementation; mandating the compliance; administrative fines
- Fines proportionate to the cost of compliance
- Amending national legislation where national accounts are requested by law

Ensuring compliance with the SEPA Regulation

Member States

- Designate national competent authorities responsible for ensuring compliance with the SEPA Regulation
- Ensure that the competent authorities have all the powers for the performance of their duties
- Lay down rules on the penalties applicable to infringements of the SEPA Regulation and take the necessary measures to ensure their implementation
- The penalties must be effective, proportionate and dissuasive

European Commission

- As 'guardian of the treaties', the Commission is responsible for ensuring that Member States apply the SEPA Regulation properly
- If compliance is not ensured in Member States and IBAN discrimination persists, the Commission is prepared to continue to take enforcement action against Member States, such as EU Pilots or infringement procedures

Suggested next steps

- Request to the competent authorities to act decisively to combat this practice and report back progress:
 - Amend national laws where necessary
 - Move from a “waiting for complaints” approach to an active one: send sample requests to self-declare the compliance and conduct targeted investigations in areas where IBAN discrimination occurs (key offenders)
 - Communication campaigns to raise awareness of IBAN discrimination
 - Separate access point for IBAN discrimination complaints from other complaints
 - Impose without delay appropriate fines of sufficient level to provide clear incentives to make the necessary investments to achieve compliance very soon
- Follow up on the “Accept my IBAN” coalition’s suggestion to set-up a dedicated forum to regularly share information on the state of IBAN discrimination, actions and progress