


# Procedure file

Basic information	
COS - Procedure on a strategy paper (historic)	1997/2202(COS)
Electronic means of payment in the single market	Procedure completed
Subject	2.50.04.02 Electronic money and payments, cross-border credit transfers

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>JURI</b> Legal Affairs, Citizens' Rights		23/09/1997
		ELDR <a href="#">THORS Astrid</a>	
Council of the European Union	Committee for opinion	Rapporteur for opinion	Appointed
	<b>ECON</b> Economic and Monetary Affairs, Industrial Policy	The committee decided not to give an opinion.	
	<b>ENVI</b> Environment, Public Health and Consumer Protection	The committee decided not to give an opinion.	

Key events			
09/07/1997	Non-legislative basic document published	COM(1997)0353	Summary
02/10/1997	Committee referral announced in Parliament		
22/01/1998	Vote in committee		Summary
22/01/1998	Committee report tabled for plenary	<a href="#">A4-0028/1998</a>	
19/02/1998	Debate in Parliament		
20/02/1998	Decision by Parliament	T4-0107/1998	Summary
20/02/1998	End of procedure in Parliament		
16/03/1998	Final act published in Official Journal		

Technical information	
Procedure reference	1997/2202(COS)
Procedure type	COS - Procedure on a strategy paper (historic)
Procedure subtype	Commission strategy paper
Legal basis	Rules of Procedure EP 142

Stage reached in procedure	Procedure completed
Committee dossier	JURI/4/09239

Documentation gateway					
Non-legislative basic document		COM(1997)0353	09/07/1997	EC	Summary
Committee report tabled for plenary, single reading		<a href="#">A4-0028/1998</a> <a href="#">OJ C 080 16.03.1998, p. 0003</a>	22/01/1998	EP	
Economic and Social Committee: opinion, report		<a href="#">CES0103/1998</a> <a href="#">OJ C 095 30.03.1998, p. 0015</a>	28/01/1998	ESC	Summary
Text adopted by Parliament, single reading		T4-0107/1998 <a href="#">OJ C 080 16.03.1998, p. 0284-0290</a>	20/02/1998	EP	Summary

## Electronic means of payment in the single market

**OBJECTIVE:** adoption by the European Commission of a recommendation to the Member States and issuers of electronic payment instruments with a view to establishing minimum rules for the relationship between the issuer and holder. **SUBSTANCE:** in order to take full advantage of the effects of the Single Market and Economic and Monetary Union, the Commission feels that individuals and businesses must be able to make payments under the same conditions in respect of rapidity, reliability and low cost throughout the Community. The new recommendation from the Commission, which is attached to the Communication, modernizes and updates Recommendation 88/590/EEC of 17 November 1988 concerning payment systems and in particular the relationship between card holder and card issuer. Its first objective is to establish certain minimum standards to ensure that users receive an appropriate level of information. This information should include, first of all, details of the conditions of contract governing the use of an electronic payment instrument, which must allow the consumer to make his or her choice in full knowledge of the facts, thus helping to consolidate competition in this area. Information must also be provided on transactions after they have been carried out. Secondly, to ensure transparency, the obligations and liabilities of the parties must be clearly set out. Minimum standards are laid down for this purpose. Finally, to facilitate access for consumers to simplified redress procedures, the recommendation calls on Member States to ensure that there are adequate and effective means for the settlement of disputes between holders and issuers. With a deadline of 31 December 1998, the Commission calls on: - issuers of electronic payment instruments to act in accordance with the provisions set out in the new recommendation; - Member States to ensure that there are adequate and effective means for the settlement of disputes between issuers and users, in accordance with the recommendation. The Commission will undertake a study of the implementation of the recommendation at the end of 1998; if it is not implemented satisfactorily, the Commission will propose a binding directive. ?

## Electronic means of payment in the single market

"If electronic cash transactions are to increase in future, the question of consumer protection cannot be left to wait. Customer confidence is a major problem for these new methods of payment. This is why our committee believes the Commission's paper has come at just the right time and why we have given it our unanimous support." This was the chairman of the Committee, described the situation following the adoption of the report by Astrid THORS (ELDR, Fin). In its motion for a resolution, the committee calls for a directive to be drawn up on electronic means of payment. The main goal of the directive should be to clarify the definitions of, and differentiate, credit cards, payment cards, cash cards and other payment systems. Customer awareness must be improved by ensuring that clients are handed copies of the contract and all applicable conditions. Clear rules need to be introduced establishing liabilities in case of loss or theft. In addition, the resolution criticises the deplorable practice whereby banks charge commission in addition to their profit margin on buying and selling. ?

## Electronic means of payment in the single market

The Committee took the view that the classification of ?innovative products? proposed by the Commission (?bank-account-access? and ?electronic money?), while important for the purposes of regulation, was inadequate as it did not specify in which of the two categories prepaid bank issue cards should be placed. These allowed remote access to a bank account, even if such access were limited to the value-storage stage: in that respect, they would belong to the category of ?bank-account-access products?. However, these cards did not allow any further access to the account in their use stage. On access to the account, the Committee pointed out that only once ? with reference to the classification ? did the Commission document refer to ?accounts held at financial institutions?. Whenever the subject was referred to subsequently, and in the Recommendation itself, the reference was simply to an ?account? which was not further specified. Since the collection of deposits, and hence the opening of accounts, was limited to properly authorised financial institutions, clarification was needed as to whether this omission was deliberate or whether ?accounts? was always meant to refer to those opened with financial institutions. This clarification was essential for understanding whether, when the document referred to cards allowing access to the account, it meant cards issued by banks or cards which might be issued by non-banking institutions as well. Given that it was, at least for the moment, illegal for the latter to raise funds, the Committee held to the first of these two interpretations. The Committee agreed with the approach of extending the 1988 Recommendation to reloadable electronic money products which could be linked with the account: in practice this meant, at least up to now, bank-type prepaid cards. The Recommendation?s scope therefore excluded single-use and non-reloadable prepaid cards such as telephone cards, motorway toll cards, etc. Such cards were very popular with consumers; their features were low unit value, which made loss

or theft a financially tolerable event, anonymity in use, transferability (no PIN required) and low cost, made possible by the use of off-line devices. Even when possible disadvantages (e.g. demagnetisation of the strip) or certain abuses (e.g. date of expiry of the card and non-reimbursability) were taken into account, the Commission clearly considered that the practicality of this instrument and the low values involved meant that no regulation was required. The Committee accepted this approach, but called upon the European and national authorities and consumer organisations to take care to ensure that any disadvantages and abuses were eliminated on a case-by-case basis. As a result, it called upon the Commission to monitor the development of the market, deciding in good time whether or not to intervene with regulatory provisions. The article-by-article examination of the Commission's Recommendation led the Committee to make a number of critical observations on the problems identified: lack of clarity in defining the scope, inconsistency in the terms and content, omission or exclusion of cards not giving access to a bank account, etc. In order to protect the consumer, the Committee proposed establishing a maximum limit on the loadable value (ECU 150) of prepaid cards. The Committee stressed, as it had done many times previously, the need to fight not only against counterfeiting and fraud but particularly against organised crime. The Committee felt the need to draw the Commission's attention to the fact that nowhere in the Communication or Recommendation was it explained whether the previous Recommendation 88/590/EEC would remain valid for non-electronic payment instruments which were never mentioned in the document under consideration. To conclude, the Committee noted that the Recommendation was based on classifications: electronic payment instruments, remote access instruments, electronic money instruments. The existing products were sometimes difficult to classify, but their differing characteristics required so many distinctions, exemptions and inclusions that a common regulation would be difficult to consult. The Committee wondered whether it would not be desirable to give greater cohesion and clarity to the whole matter by taking account of the specific nature of each type of instrument and drawing up separate rules for each of them. Given that each product had a name, it would be better to use this to identify it: the rules would thereby gain in clarity, to the advantage especially of the consumer for whom technical terminology had very little meaning.

## Electronic means of payment in the single market

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In adopting the report by Mrs Astrid THORS (ELDR, Fin) the European Parliament calls for a proposal for the directive on electronic payment systems and money transactions effected in connection with Internet. The objective would be to clarify definitions taking account of the need to differentiate the rules concerning credit cards, payment cards, cash cards and payment systems. Parliament communicates to the Commission its preference for self-regulatory mechanisms rather than heavy legislation for attaining consumer protection and high security standards. In order to make self-regulatory mechanisms effective at least three sets of rules have to be introduced: - rules aimed at ensuring customer awareness about potential liabilities; - clear and fair provisions on liabilities arising in the case of loss or theft and rules on the burden of proof; - rules to protect consumers in the event of failure of supplier or card issuer. Parliament regrets that the deplorable practice of banks charging commission in addition to their buying/selling profit of margin has not been addressed in the recommendation. ?