Article 63: Payer liability for unauthorised transactions

Council first-reading position 8543/1/26 REV 1, 4 November 2026. Verified 19 November 2026. Final wording and numbering may change.

Application
The Council position provides for general application 21 months after eventual entry into force under Article 124. Final Official Journal text and calendar dates remain to be checked.

Provision
Article 63(1)-(6)

Requirement
For specified losses from a lost, stolen or misappropriated instrument or personalised security credentials, the payer may bear up to EUR 50, subject to Article 63(1). Under paragraph 2, the payer bears all losses caused by payer fraud or intentional or grossly negligent breach of Article 53. Under paragraph 3, first sentence, failure by the payer's provider to require strong customer authentication protects the payer from financial losses unless the payer acted fraudulently. The separate second sentence states that the payer bears no financial losses where either provider applies an authentication exemption. Paragraphs 3 and 4 separately allocate certain authentication-related losses between the relevant recipient, recipient provider and payer provider. Paragraph 5 protects against specified post-notification losses and lack of an always-available notification facility, except payer fraud.

Responsible
The payer and payment providers bear losses under the applicable paragraph. The recipient's provider must compensate the payer's provider where paragraph 4 applies to its authentication exemption.

Timing
Assess the circumstances at the transaction and at notification. After notification under Article 53, the payer generally bears no financial consequences from use of the lost, stolen or misappropriated instrument, except payer fraud.

Conditions and exceptions
The EUR 50 route excludes specified undetectable losses, subject to payer fraud, and losses caused by provider staff, agents, branches or outsourced entities. If required authentication is missing, paragraph 3 first sentence protects the payer unless the payer acted fraudulently. Its separate exemption sentence states that the payer bears no financial losses where either provider applies an authentication exemption. Lack of an always-available notification facility also triggers the paragraph 5 protection, except payer fraud.

PSD2 comparison
PSD2 Article 74. The Council correlation is an article-level starting point, not equivalence of every duty.

Source: Council of the European Union, 8543/1/26 REV 1. Updated article card.

What it means for the fraud function

- Classify the authentication outcome as applied, exempted or required but missing; preserve who selected any exemption.

- Collect evidence of Article 53 conduct and causation before applying unlimited payer liability.

- Keep customer redress and inter-provider compensation as separate case actions.

Common misreadings

- EUR 50 is a possible limited exposure in a specified route, not an automatic charge in every fraud case.

- The exemption sentence in Article 63(3) is separate from its preceding missing-authentication sentence. Do not silently import the first sentence’s payer-fraud wording into the exemption sentence; apply the precise text and relevant facts.

Episodes: Coverage follows the curriculum. Links on the updated HTML card.