Article 79: Non-execution, defective or late execution

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 79(1)-(3)

Requirement
For payer-placed orders, the payer's provider is responsible for correct execution unless it proves receipt by the recipient's provider in accordance with Article 73(1); responsibility then shifts as specified. Orders placed by or through the recipient follow the separate transmission and execution allocation in paragraph 2. The article requires the applicable refund, account restoration, funds availability and value-date correction, and allocates responsible charges and interest.

Responsible
The relevant payer or recipient provider performs the remedy under the applicable route. The provider identified by the relevant paragraph must trace the transaction on request regardless of its ultimate liability.

Timing
Payer-provider refunds under paragraph 1 are immediate; the residual payer-provider refund under paragraph 2 is without undue delay. Trace requests require immediate efforts without charging the payer. Correct value dates follow the paragraph-specific rules.

Conditions and exceptions
The article expressly preserves Articles 55, 78(2) and 83. Payer-initiated and recipient-initiated orders have different allocations; prove the receipt and transmission facts before choosing a remedy.

PSD2 comparison
PSD2 Article 89. 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

- Collect time-stamped order receipt, transmission, settlement and recipient-provider receipt evidence.

- Run tracing promptly alongside the liability assessment.

- Include value dates, charges and interest when calculating the required remedy.

Common misreadings

- Every delayed transfer is not automatically an unauthorised transfer.

- Proving the recipient's provider received the funds changes the specified allocation; it does not establish that the recipient already had funds available.

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