Article 83: Abnormal and unforeseeable circumstances

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 83, unnumbered provision

Requirement
Liability under Chapter 4 or Chapter 5 does not arise where the qualifying circumstances are abnormal, unforeseeable and beyond the invoking party’s control, with consequences unavoidable despite all contrary efforts. The alternative specified route applies where a provider is bound by other obligations under Union or national law.

Responsible
The party invoking the circumstances must establish that the claimed exception fits. Legal and incident teams should assess the relevant liability chapter and competing obligation.

Timing
Assess the circumstances and unavoidable consequences for the event giving rise to the liability claim. No numerical deadline is stated in Article 83.

Conditions and exceptions
The exception concerns liability under the identified chapters. It is not an exclusion from the whole Regulation or a general waiver for ordinary operational difficulty.

PSD2 comparison
PSD2 Article 93. 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

- Preserve incident causation, control and mitigation evidence contemporaneously.

- Identify the exact legal obligation relied on under the alternative route.

- Explain the chapter-specific legal assessment rather than using a generic force-majeure case code.

Common misreadings

- A supplier outage or workload increase does not by itself establish abnormal and unforeseeable circumstances.

- The fact that an event was outside the bank’s direct systems does not alone prove unavoidable consequences.

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