

Council Directive (EU) 2017/1852 of 10 October 2017 on
tax dispute resolution mechanisms in the European Union

Article 8

The Advisory Commission

1 The Advisory Commission referred to in Article 6 shall have the following composition:

- a one chair;
- b one representative of each competent authority concerned. If the competent authorities agree, the number of such representatives may be increased to two for each competent authority;
- c one independent person of standing, who shall be appointed by each competent authority of the Member States concerned from the list referred to in Article 9. If the competent authorities agree, the number of such persons appointed may be increased to two for each competent authority.

2 The rules for the appointment of the independent persons of standing shall be agreed between the competent authorities of the Member States concerned. Following the appointment of the independent persons of standing, a substitute shall be appointed for each of them according to the rules for the appointment of the independent persons in cases where the independent persons are prevented from carrying out their duties.

3 Where the rules for the appointment of independent persons of standing have not been agreed in accordance with paragraph 2, the appointment of such persons shall be carried out by drawing lots.

4 Except where the independent persons of standing have been appointed by the competent court or national appointing body as provided in Article 7(1), the competent authority of any of the Member States concerned may object to the appointment of any particular independent person of standing for any reason agreed in advance between the competent authorities concerned or for any of the following reasons:

- a that person belongs to or is working on behalf of one of the tax administrations concerned or was in such a situation at any time during the previous 3 years;
- b that person has, or has had, a material holding in or voting right in or is or has been an employee of or adviser, at any time during the last 5 years prior to the date of his appointment, to any affected person concerned;
- c that person does not offer a sufficient guarantee of objectivity for the settlement of the dispute or disputes to be decided;
- d that person is an employee with an enterprise that provides tax advice or otherwise gives tax advice on a professional basis, or was in such a situation at any time during a period of at least 3 years prior to the date of his appointment.

5 Any competent authority of a Member State concerned may request that a person of standing who has been appointed in accordance with paragraph 2 or 3, or his substitute, shall disclose any interest, relationship or any other matter that is likely to affect that person's independence or impartiality or that might reasonably create an appearance of bias in the proceedings.

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For a period of 12 months after the decision of the Advisory Commission was delivered, an independent person of standing who is part of the Advisory Commission shall not be in a situation that would have given cause to a competent authority to object to his appointment as provided for in this paragraph had he been in that situation at the time of appointment to that Advisory Commission.

6 The representatives of the competent authorities and the independent persons of standing appointed in accordance with paragraph 1 of this Article shall elect a chair from the list of persons referred to in Article 9. Unless the representatives of each competent authority and independent persons of standing agree otherwise, the chair shall be a judge.