



8.6.2015

NATIONAL PARLIAMENT REASONED OPINION ON SUBSIDIARITY

Subject: Reasoned opinion of the Swedish Parliament on the proposal for a Council directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation
(COM(2015)0135 – C8-0085/2015 – 2015/0068(CNS))

Under Article 6 of the Protocol (No 2) on the application of the principles of subsidiarity and proportionality, national parliaments may, within eight weeks of the date of transmission of a draft legislative act, send the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why they consider that the draft in question does not comply with the principle of subsidiarity.

The Swedish Parliament has sent the attached reasoned opinion on the aforementioned proposal for a directive.

Under Parliament's Rules of Procedure the Committee on Legal Affairs is responsible for compliance with the subsidiarity principle.

ANNEX 2

Reasoned opinion of the Swedish Parliament (Riksdag)

The Riksdag considers that exchanges of information on tax rulings which could potentially affect the tax bases of more than one Member State require a common and mandatory approach, and it therefore does not have any objections to the Commission's view that effective information on advance cross-border rulings and advance pricing arrangements can only be achieved through action at Union level.

As regards the question of whether the Commission proposal remains within the limits of what is necessary in order to achieve an effective exchange of information, the Riksdag considers there to be a risk that the broad manner in which the requirement to provide information is framed may generate such a large quantity of information as to seriously impede the attainment of the aim. Information is, for example, supposed to be provided on all types of advance ruling in the form of dialogue, replies to letters, rulings in connection with audits, etc., which the tax authorities issue to undertakings whose operations are not confined to Sweden. There may also be grounds for querying whether the requirement to provide information, and the resultant flood of information, need really include bilateral and multilateral pricing arrangements issued under the terms of a mutual agreement between the states concerned. In this respect the proposal does not contribute to the overriding aim of limiting the scope for tax evasion. The proposal also requires briefings on rulings issued up to ten years before the entry into force, with the aim of providing full information about rulings which remain valid. The Riksdag takes the view that consideration should be given to whether this relatively long period of retroactivity could be reduced. The broad framing of the requirement to provide information and the secrecy in which it is to be provided create problems.

In conclusion, the Riksdag considers that in some respects the proposal has been so drafted that it goes beyond what is necessary for the purpose of attaining the aims in view, and that it is therefore incompatible with the subsidiarity principle.