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REPORT  

on the proposal for a Council directive laying down the general arrangements for excise duty (recast)  

Committee on Economic and Monetary Affairs  

Rapporteur: Miguel Viegas  

(Recast – Rule 104 of the Rules of Procedure)  

(Simplified procedure – Rule 50(1) of the Rules of Procedure)
**Symbols for procedures**

* Consultation procedure  
*** Consent procedure  
****I Ordinary legislative procedure (first reading)  
****II Ordinary legislative procedure (second reading)  
****III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

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**Amendments to a draft act**

**Amendments by Parliament set out in two columns**

Deletions are indicated in *bold italics* in the left-hand column. Replacements are indicated in *bold italics* in both columns. New text is indicated in *bold italics* in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

**Amendments by Parliament in the form of a consolidated text**

New text is highlighted in *bold italics*. Deletions are indicated using either the `▌` symbol or strikeout. Replacements are indicated by highlighting the new text in *bold italics* and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.
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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council directive laying down the general arrangements for excise duty (recast)

(Special legislative procedure – consultation – recast)

The European Parliament,

– having regard to the Commission proposal to the Council (COM(2018)0346),
– having regard to Article 113 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C8-0381/2018),
– having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts¹,
– having regard to the letter of 22 February 2019 from the Committee on Legal Affairs to the Committee on Economic and Monetary Affairs in accordance with Rule 104(3) of its Rules of Procedure,
– having regard to Rules 104 and 78c of its Rules of Procedure,
– having regard to the report of the Committee on Economic and Monetary Affairs (A8-0117/2019),

A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the Commission proposal does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance;

1. Approves the Commission proposal as adapted to the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;

2. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

3. Asks the Council to consult Parliament again if it intends to substantially amend the text approved by Parliament;

4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

EXPLANATORY STATEMENT

Council Directive 2008/118/EC, which replaced Council Directive 92/12/EEC, sets out general arrangements for goods subject to excise duty, like energy products and electricity, alcohol and alcoholic beverages, and manufactured tobacco. The Directive also placed a particular emphasis on the production, storage, and movement of excise goods between Member States. The main objective of the Directive is to allow the free movement of goods while at the same time ensuring that the correct tax debt is ultimately collected by the Member States.

The Commission’s Regulatory Fitness and Performance Program (REFIT) initiative was announced in Annex II of the Commission Work Programme for 2017 at the same time as a REFIT initiative for Directive 92/83/EEC. Therefore, a proposal to amend Directive 92/83/EEC will also be presented to the Council along with this proposal.

The Commission carried out an evaluation of Directive 2008/118/EC in the framework of the Commission’s REFIT programme and submitted a report to the Council and the European Parliament on the implementation and evaluation of Council Directive 2008/118/EC on April 21st 2017. The results of the evaluation were largely echoed by Council Conclusions, which were adopted on December 5th 2017.

The Commission report and the Council conclusions, while reflecting general satisfaction with the Excise Movement and Control System (EMCS), identified certain areas of improvement. The main areas highlighted concerned the improvement of the alignment between excise and customs procedures and the partial or full automation of intra-EU movements of excise goods that have been released for consumption.

The following additional areas are addressed in the proposal:

• with regard to consignors who carry out an independent economic activity and who wish to dispatch excise goods, released for consumption in one Member State, to persons, in another Member State, not carrying out any independent economic activity: the introduction of the possibility for the consignor to use a tax representative and the deletion of the possibility for the competent authority of the Member State of destination to require a tax representative;
• a common solution for natural partial losses during a movement;
• automation of the exemption certificate and its handling for movements of excise products to consignees exempted from the payment of excise duties;
• a guarantee waiver for energy products moved by pipelines;

It is important that excise arrangements for distance selling should be compatible with VAT arrangements. To this end, later in 2018 the Commission will be studying options for new arrangements for the distance selling of excise goods.

The Directive has been substantially amended several times and further amendments will be made. The Directive also contains several references to outdated legislation which should be updated at the same time. Consequently the Commission has decided to recast Directive 2008/118/EC in the interest of clarity.
ANNEX: LETTER FROM THE COMMITTEE ON LEGAL AFFAIRS

D(2019)7359

Mr Roberto GUALTIERI
Chair, Committee on Economic and Monetary Affairs
ASP 15G206
Brussels

Subject: Proposal for a Council Directive laying down the general arrangements for excise duty (recast)

Dear Chair,

The Committee on Legal Affairs has examined the proposal referred to above, pursuant to Rule 104 on Recasting, as introduced into the Parliament's Rules of Procedure.

Paragraph 3 of that Rule reads as follows:

“If the committee responsible for legal affairs considers that the proposal does not entail any substantive changes other than those identified as such in the proposal, it shall inform the committee responsible for the subject matter thereof.

In such a case, over and above the conditions laid down in Rules 169 and 170, amendments shall be admissible within the committee responsible for the subject-matter only if they concern those parts of the proposal which contain changes.

However, amendments to parts of the proposal which remain unchanged may, by way of exception and on a case-by-case basis, be accepted by the Chair of the committee responsible for the subject matter if he or she considers that this is necessary for pressing reasons relating to the internal logic of the text or because the amendments are inextricably linked to other admissible amendments. Such reasons must be stated in a written justification to the amendments.”

Following the opinion of the Consultative Working Party of the legal services of the Parliament, the Council and the Commission, which has examined the recast proposal, and in keeping with the recommendations of the rapporteur, the Committee on Legal Affairs considers that the proposal in question does not include any substantive changes other than those identified as such and that, as regards the codification of the unchanged provisions of the earlier acts with those changes, the proposal contains a straightforward codification of the existing texts, without any change in their substance.

In conclusion, at its meeting of 19 February 2019, the Committee on Legal Affairs, with 22
votes in favour, 0 votes against and 0 abstentions\(^1\), recommends that the Committee on Economic and Monetary Affairs, as the committee responsible, can proceed to examine the above proposal in accordance with Rule 104.

Yours sincerely,

Pavel Svoboda


\(^1\) The following Members were present: Max Andersson, Joëlle Bergeron, Jean Marie Cavada, Costas Chrysogonos, Rosa Estarás Ferragut, Mady Delvaux, Pascal Durand, Enrico Gasbarra, Sajjad Karim, Sylvia Yvonne Kaufmann, Gilles Lebreton, António Marinho e Pinto, Joëlle Mélin, Angelika Niebler, Emil Radev, Evelyn Regner, Pavel Svoboda, Axel Voss, Tiemo Wölken, Francis Zammit Dimech, Kosma Zlotowski, Tadeusz Zwiefka.

CONSULTATIVE WORKING PARTY OF THE LEGAL SERVICES

Brussels, 23 January 2019

OPINION

FOR THE ATTENTION OF
THE EUROPEAN PARLIAMENT
THE COUNCIL
THE COMMISSION

Proposal for a directive of the European Parliament and of the Council laying down the general arrangements for excise duty

Having regard to the Inter-institutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts, and in particular to point 9 thereof, the Consultative Working Party consisting of the respective legal services of the European Parliament, the Council and the Commission met on 28 November and on 6 and 13 December 2018 for the purpose of examining the aforementioned proposal submitted by the Commission.


1. The following should have been marked with the grey-shaded type generally used for identifying substantive changes:

   - in recital 47, the words ‘or who dispatches or transports the goods on his or her own behalf’;
   - after recital 52, the entire text of recital 36 of Directive 2008/118/EC;
   - in Article 4, the adding of a new point 13;
   - in Article 7(3), the replacement of the words ‘release for consumption’ with the words ‘departure from a duty suspension arrangement as referred to in paragraph 2(a)’;
   - in Article 8(1)(d), the deletion of the words 'the person who declares the excise goods or on whose behalf they are declared upon importation';

¹ The Consultative Working Party worked on the basis of the English language version of the proposal, being the master-copy language version of the text under discussion.
- in Article 11, first paragraph, the replacement of an existing reference to 'Article 33(6)' with a new reference to ‘Article 38(4)’;
- in Article 13(1), the deletion of the initial words 'Without prejudice to Article 21(1)';
- in Article 16(2)(d), the adding of the word 'accounts' after the words ‘tax warehouse’;
- in Article 17(5), the words 'and 2';
- in Article 25(3), third subparagraph, the replacement of the word ‘it’ with the words ‘the confirmation’;
- in Article 30(1), the replacement of the word ‘messages’ with the words ‘electronic administrative documents’ and the adding of the words 'and of fallback documents referred to in Articles 27 and 28' in the context of;
- in Article 30(2), the replacement of the word ‘messages’ with the words ‘electronic administrative documents through the computerised system’;
- the deletion of the entire text of current point (c) of Article 29(1) of Directive 2008/118/EC;
- in Article 34(1), the deletion of the initial words 'Without prejudice to Article 36(1)' and the adding of the final words ‘of destination’;
- in Article 34(5), the adding of the final words ‘of destination’;
- the deletion of the entire text of the second subparagraph of Article 36(1) of Directive 2008/118/EC.

2. In recital 47, the deletion of the words ‘directly or indirectly’, currently appearing after the words ‘dispatched or transported’ in recital 29 of Directive 2008/118/EC, should have been marked as a formal adaptation;

3. In Article 20(1)(ii), the word ‘its’ should be deleted.

4. In Article 30(1), the reference erroneously made to ‘Article 55’ should be replaced by a reference to ‘Article 52’.

In consequence, examination of the proposal has enabled the Consultative Working Party to conclude, without dissent, that the proposal does not comprise any substantive amendments other than those identified as such. The Working Party also concluded, as regards the codification of the unchanged provisions of the earlier act with those substantive amendments, that the proposal contains a straightforward codification of the existing legal text, without any change in its substance.

F. DREXLER
Jurisconsult

H. LEGAL
Jurisconsult

L. ROMERO REQUENA
Director General
**PROCEDURE – COMMITTEE RESPONSIBLE**

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