



Plenary sitting

A9-0047/2019

6.12.2019

REPORT

on the proposal for a Council regulation amending Regulation (EU)
No 904/2010 as regards measures to strengthen administrative cooperation in
order to combat VAT fraud
(COM(2018)0813 – C8-0016/2019 – 2018/0413(CNS))

Committee on Economic and Monetary Affairs

Rapporteur: Lídia Pereira

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.)

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 regulation amending Regulation (EU) No 904/2010 as regards measures to strengthen administrative cooperation in order to combat VAT fraud

(COM(2018)0813 – C8-0016/2019 – 2018/0413(CNS))

(Special legislative procedure – consultation)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2018)0813),
 - having regard to Article 113 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C8-0016/2019),
 - having regard to Rule 82 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A9-0047/2019),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, in accordance with Article 293(2) of the Treaty on the Functioning of the European Union;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to substantially amend the Commission proposal;
 5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation

Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) According to the 2019 Final Report in the context of the ‘Study and Reports on the VAT Gap in the EU-28 Member States’^{3a} prepared for the Commission, the VAT gap, that is to say,

the difference between the expected VAT revenue and the amount actually collected, in the Union amounted to EUR 137,5 billion in 2017, representing a loss of 11,2 % of the total expected VAT revenue and EUR 267 of lost revenue per person in the Union. There are, however, big differences between Member States, with VAT gaps ranging from 0,6% up to 35,5%. That highlights the need for more transnational cooperation in order to better combat VAT e-commerce fraud in particular, as well as VAT fraud more generally (including carousel fraud).

^{3a} Available on https://ec.europa.eu/taxation_customs/sites/taxation/files/vat-gap-full-report-2019_en.pdf.

Amendment 2

Proposal for a regulation Recital 2 b (new)

Text proposed by the Commission

Amendment

(2b) VAT fraud is often linked with organised crime and a very small number of those organised networks can be responsible for billions of euro in cross-border VAT fraud, affecting not only revenue collection in Member States but also having a negative impact on the Union's own resources. Therefore, it is necessary to adopt an ambitious mandate for the European Public Prosecutor's Office (EPPO) in collaboration with national judicial authorities in order to ensure the efficient prosecution of fraudsters before the national courts. Organised cross-border VAT fraud should be duly prosecuted and the fraudsters should be penalised.

Amendment 3

Proposal for a regulation Recital 2 c (new)

Text proposed by the Commission

Amendment

(2c) The strategy for fighting against VAT fraud should evolve in parallel with the increasing modernisation and digitalisation of the economy while rendering the VAT system as simple as possible for businesses and citizens. It is therefore particularly important that Member States continue to invest in technology-led tax collection, notably by automatically linking corporate cash registers and sales systems to VAT returns. In addition, tax authorities should continue their efforts towards closer cooperation and exchange of best practices, including through the Tax Administration EU Summit (TADEUS), a network of Member States' heads of tax administrations that seeks better coordination at strategic level between tax administrations. In that regard, tax authorities should work towards an effective communication and interoperability between all databases regarding fiscal matters at Union level. Blockchain technology could also be used in order to better protect personal data and improve the online exchange of information between tax authorities.

Amendment 4

Proposal for a regulation Recital 8

Text proposed by the Commission

Amendment

(8) A central electronic information system 'CESOP' where Member States transmit payment information they store at national level, would achieve the objective of fighting e-commerce VAT fraud more

(8) A central electronic information system 'CESOP' where Member States transmit payment information they store at national level, would achieve the objective of fighting e-commerce VAT fraud more

effectively. This system should aggregate, in relation to individual payees, all VAT relevant information regarding payment transactions transmitted by Member States and should allow for a full overview of payments received by payees from payers located in the Member States. Furthermore, this information system should recognise multiple records from the same payment transactions, clean the information received from the Member States (e.g. remove duplicates, correct error in data, etc.) and permit Eurofisc liaison officials of Member States to cross-check payment data with the VAT information they dispose of and make enquiries for the purpose of an investigation into suspected VAT fraud or to detect VAT fraud.

effectively. This system should aggregate, in relation to individual payees, all VAT relevant information regarding payment transactions transmitted by Member States and should allow for a full overview of payments received by payees from payers located in the Member States. Furthermore, this information system should recognise multiple records from the same payment transactions, clean the information received from the Member States (e.g. remove duplicates, correct error in data, etc.) and permit Eurofisc liaison officials of Member States to cross-check payment data with the VAT information they dispose of and make enquiries for the purpose of an investigation into suspected VAT fraud or to detect VAT fraud. ***All Member States should participate in all Eurofisc working groups and appoint liaison officials accordingly.***

Amendment 5

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) The exchange of payment data between tax authorities is crucial to combat fraud effectively. Only the Eurofisc liaison officials should process the payment information and only with the objective of fighting VAT fraud. That information should not be used for other purposes than the ones established by this Regulation, such as for commercial purposes.

Amendment

(11) The exchange of payment data between tax authorities is crucial to combat fraud effectively. Only the Eurofisc liaison officials should process the payment information and only with the objective of fighting VAT fraud. That information should not be used for other purposes than the ones established by this Regulation, such as for commercial purposes, ***and should also be applied in the implementation of Directive (EU) 2015/849 of the European Parliament and of the Council^{6a}.***

^{6a} Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the

purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

Amendment 6

Proposal for a regulation

Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) Given the low number of Member States publishing estimates of VAT losses due to intra-community fraud, having comparable data on intra-Community VAT fraud would contribute to better targeted cooperation between Member States. Therefore, the Commission, together with the Member States, should develop a common statistical approach to the quantification and analysis of VAT fraud.

Amendment 7

Proposal for a regulation

Recital 13

Text proposed by the Commission

Amendment

(13) It is necessary and proportionate that payment service providers retain records of the information in relation to payment transactions for a ***two-years*** period to assist Member States fight e-commerce VAT fraud and detect fraudsters. ***This*** period ***constitute*** the minimum necessary for Member States to carry out controls effectively and investigate into suspected VAT fraud or detect VAT fraud, and it is proportionate considering the massive volume of the

(13) It is necessary and proportionate that payment service providers retain records of the information in relation to payment transactions for a ***three-year*** period to assist Member States fight e-commerce VAT fraud and detect fraudsters. ***That*** period ***constitutes*** the minimum necessary for Member States to carry out controls effectively and investigate into suspected VAT fraud or detect VAT fraud, and it is proportionate considering the massive volume of the

payment information and its sensitivity in terms of protection of personal data.

payment information and its sensitivity in terms of protection of personal data.

Amendment 8

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) Each Member States' Eurofisc liaison officials should be able to access and analyse the information in relation to the payment transactions for the purpose of fighting VAT fraud. Duly accredited persons of the Commission should access the information **only** for the purpose of developing and maintaining the central electronic information system. Both groups of users should be bound by the confidentiality rules laid down in this Regulation.

Amendment

(14) Each Member States' Eurofisc liaison officials should be able to access and analyse the information in relation to the payment transactions for the purpose of fighting VAT fraud. Duly accredited persons of the Commission should access the information for the purpose of developing and maintaining the central electronic information system **and to ensure the proper implementation of this Regulation**. Both groups of users should be bound by the confidentiality rules laid down in this Regulation. **In addition, it should be possible for the Commission to conduct visits in Member States to evaluate how the administrative cooperation arrangements work.**

Amendment 9

Proposal for a regulation

Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) The management of CESOP as well as the analysis of crucial information constitute additional tasks for Eurofisc. Eurofisc's annual report should examine whether the resources devoted to Eurofisc are adequate and sufficient to improve cooperation between Member States and fight efficiently against VAT fraud.

Amendment 10

Proposal for a regulation Recital 18

Text proposed by the Commission

(18) The European Data Protection Supervisor was consulted in accordance with **paragraph 1 of** Article 42 of Regulation (EU) 2018/1725 and delivered an opinion on...¹⁷

¹⁷ OJ C [...], [...], p. [...].

Amendment

(18) The European Data Protection Supervisor (**EDPS**) was consulted in accordance with Article 42(**I**) of Regulation (EU) 2018/1725 and delivered an opinion on...¹⁷. **Personal data protection being a fundamental value of the Union, the EDPS should be consulted on any measure to be taken pursuant Article 24e of Regulation (EU) No 904/2010, as amended by this Regulation.**

¹⁷ OJ C [...], [...], p. [...].

Amendment 11

Proposal for a regulation Article 1 – paragraph 1 – point 1 a (new) Regulation (EU) No 904/2010 Chapter II – Section 2 – Article 12a (new)

Text proposed by the Commission

Amendment

(1a) in Section 2 of CHAPTER II, the following Article is added:

‘Article 12a

All Member States are requested to take measures in order to reduce the percentage of late replies and improve the quality of requests for information. Member States shall inform the Commission about those measures.’

Amendment 12

Proposal for a regulation Article 1 – paragraph 1 – point 2 – point d Regulation (EU) No 904/2010 Article 24c – paragraph 2

Text proposed by the Commission

2. CESOP shall retain the information referred to in points (a) **and (b)** of paragraph 1 for a maximum period of **two** years from the expiry of the year when the information was transferred into the system.

Amendment 13

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point d

Regulation (EU) No 904/2010

Article 24d– subparagraph 2 (new)

Text proposed by the Commission

Amendment

2. CESOP shall retain the information referred to in points (a) **to (c)** of paragraph 1 for a maximum period of **five** years from the expiry of the year when the information was transferred into the system.

In addition, it should be possible for the Commission to conduct visits in Member States in order to evaluate how cooperation arrangements on cross-border VAT fraud between Member States work.

Amendment 14

Proposal for a regulation

Article 1 – paragraph 1 – point 2 a (new)

Regulation (EU) No 904/2010

Chapter X – Article 36 – paragraph 2 – introductory part

Present text

‘2. The liaison officials of the Member States participating in **a particular** Eurofisc working field (hereinafter ‘participating Eurofisc liaison officials’) shall designate a coordinator (hereinafter ‘Eurofisc working field coordinator’), among the participating Eurofisc liaison officials, for a limited period of time. Eurofisc working field coordinators shall:’

Amendment

(2a) in Article 36(2), the introductory part is replaced by the following:

‘2. The liaison officials of the Member States participating in **the relevant** Eurofisc working field (hereinafter ‘participating Eurofisc liaison officials’) shall designate a coordinator (hereinafter ‘Eurofisc working field coordinator’), among the participating Eurofisc liaison officials, for a limited period of time. Eurofisc working field coordinators shall:’

Amendment 15

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU) No 904/2010

Article 37 – subparagraph 1a (new)

Text proposed by the Commission

The annual report shall at ***a minimum*** indicate in detail in relation to each Member State the number of controls carried out ***and*** the additional VAT assessed and collected as a result of the information processed pursuant to Article 24d.

Amendment

The annual report shall at ***least*** indicate in detail in relation to each Member State:

- the number of controls carried out;
- ***the number of officials authorised to be present in the offices of the administrative authorities of another Member State and the number of officials present during the administrative enquiries carried out in the territory of the requested Member State;***
- ***the number of simultaneous controls organised with one or several Member States and the number of participating officials in pre-selection meetings for simultaneous controls;***
- ***the number of Joint Audit Teams each Member State has participated in;***
- ***steps taken in order to inform auditors about the instruments under this Regulation;***
- ***the number of qualified human resources personnel to ensure presence in administrative offices, participation in administrative enquiries and simultaneous controls (as referred to in Articles 28 to 30);***
- ***the number of staff present in the single central liaison office and in other***

designated liaison departments, and also any other competent officials, who can directly exchange information on the basis of this Regulation (as referred to in Article 4) and how information is being collected and exchanged between these bodies; and

- the additional VAT assessed and collected as a result of the information processed pursuant to Article 24d.

Amendment 16

Proposal for a regulation

Article 1 – paragraph 1 – point 3 a (new)

Regulation (EU) No 904/2010

Chapter XIII – Article 49a (new)

Text proposed by the Commission

Amendment

(3a) in CHAPTER XIII, the following Article is added:

‘Article 49a

Member States and the Commission shall establish a common system of collecting statistics on intra-Community VAT fraud and shall publish national estimates of VAT losses resulting from that fraud, as well as estimates for the Union as a whole. The Commission shall adopt by means of implementing acts the practical arrangements for such statistical system. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 58(2).’

Amendment 17

Proposal for a regulation

Article 1 – paragraph 1 – point 3 a (new)

Regulation (EU) No 904/2010

Chapter XIV – Article 50 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

***(3a) in Article 50 of CHAPTER XIV,
the following paragraph is inserted:***

‘1a. When a Member State provides wider information to a third country than that provided for under Chapters II and III of this Regulation, that Member State shall not refuse to provide that information to any other Member State requesting cooperation or having an interest in receiving the information.’

EXPLANATORY STATEMENT

E-commerce has been growing rapidly in recent years, helping consumers to buy goods and services online. Consumers can choose between different suppliers, products and brands. They can also pay online in a trustful environment without moving from their computer or smartphone. Suppliers have changed their business models to benefit from e-commerce and sell their products to consumers globally without the need for a physical retail presence. However, this opportunity is also exploited by fraudulent businesses to gain an unfair market advantage by not fulfilling their VAT obligations.

According to the Commission, the VAT gap (the difference between the expected VAT revenue and the amount actually collected) in the EU currently amounts €137 billion, representing a €267 of lost revenue per person in the EU. There are however big differences between EU Member States, with VAT gaps ranging from under 0,7% of the total expected revenue in some Member States to 35,5% in others. This proves the need for more transnational cooperation to better fight against VAT e-commerce fraud in particular but more generally VAT fraud (including carousel fraud).

This proposal relates to the mandatory transmission and exchange of VAT-relevant payment information between VAT authorities. The proposal goes hand in hand with the proposal introducing certain requirements to payment service providers (COM 2018/812). The proposal lays down rules for the Member States to collect in a harmonised way the records made electronically available by payment service providers. Furthermore, it sets up a new central electronic system for the storage of the payment information and for the further processing of this information by anti-fraud officials in the Member States within the Eurofisc framework.

The Rapporteur fully supports the Commission's proposal and proposes a few amendments, notably to ensure that the fight against VAT fraud is more effective. The Rapporteur also draws the attention on the need to evaluate whether exchange platform of virtual currencies should be included in the scope of the proposal.

Moreover, the Rapporteur considers that the strategy to fight against VAT fraud must evolve in parallel with the increasing modernisation and digitalization of our economy while rendering the VAT system as simple as possible for businesses and citizens. The Rapporteur therefore calls Member States to continue to invest in technology-led tax collection. In that regard, she considers that the use of the block chain technology could also be used to better protect personal data and improve the online exchange of information between tax authorities.

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Measures to strengthen administrative cooperation in order to combat VAT fraud
References	COM(2018)0813 – C8-0016/2019 – 2018/0413(CNS)
Date of consulting Parliament	20.12.2018
Committee responsible Date announced in plenary	ECON 14.1.2019
Rapporteurs Date appointed	Lídia Pereira 18.7.2019
Discussed in committee	4.11.2019 3.12.2019
Date adopted	3.12.2019
Result of final vote	+: 50 –: 2 0: 5
Members present for the final vote	Gunnar Beck, Marek Belka, Stefan Berger, Gilles Boyer, Cristian-Silviu Buşoi, Derk Jan Eppink, Engin Eroglu, Markus Ferber, Jonás Fernández, Raffaele Fitto, Frances Fitzgerald, Luis Garicano, Valentino Grant, José Gusmão, Enikő Győri, Danuta Maria Hübner, Stasys Jakeliūnas, Othmar Karas, Billy Kelleher, Ondřej Kovařík, Philippe Lamberts, Aušra Maldeikienė, Jörg Meuthen, Csaba Molnár, Luděk Niedermayer, Dimitrios Papadimoulis, Piernicola Pedicini, Lídia Pereira, Jake Pugh, Evelyn Regner, Antonio Maria Rinaldi, Robert Rowland, Martin Schirdewan, Pedro Silva Pereira, Paul Tang, Irene Tinagli, Inese Vaidere, Johan Van Overtveldt, Marco Zanni
Substitutes present for the final vote	Carmen Avram, Gabriele Bischoff, Damien Carême, Fabio Massimo Castaldo, Richard Corbett, Agnès Evren, Eugen Jurzyca, Pedro Marques, Fulvio Martusciello, Ville Niinistö, Bogdan Rzońca, Stéphane Séjourné, Monica Semedo, Antonio Tajani, Julie Ward
Substitutes under Rule 209(7) present for the final vote	Rosa D’Amato, Anna Deparnay-Grunenberg, Dino Giarrusso
Date tabled	9.12.2019

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

50	+
ECR	Derk Jan Eppink, Raffaele Fitto, Eugen Jurzyca, Bogdan Rzońca, Johan Van Oortveldt
GUE/NGL	José Gusmão, Dimitrios Papadimoulis, Martin Schirdewan
NI	Fabio Massimo Castaldo, Rosa D'Amato, Dino Giarrusso, Piernicola Pedicini
PPE	Stefan Berger, Cristian-Silviu Buşoi, Agnès Evren, Markus Ferber, Frances Fitzgerald, Enikő Győri, Danuta Maria Hübner, Othmar Karas, Aušra Maldeikienė, Fulvio Martusciello, Luděk Niedermayer, Lídia Pereira, Antonio Tajani, Inese Vaidere
RENEW	Gilles Boyer, Engin Eroglu, Luis Garicano, Billy Kelleher, Ondřej Kovařík, Stéphane Séjourné, Monica Semedo
S&D	Carmen Avram, Marek Belka, Gabriele Bischoff, Richard Corbett, Jonás Fernández, Pedro Marques, Csaba Molnár, Evelyn Regner, Pedro Silva Pereira, Paul Tang, Irene Tinagli, Julie Ward
VERTS/ALE	Damien Carême, Anna Deparnay-Grunenberg, Stasys Jakeliūnas, Philippe Lamberts, Ville Niinistö

2	-
ID	Gunnar Beck, Jörg Meuthen

5	0
ID	Valentino Grant, Antonio Maria Rinaldi, Marco Zanni
NI	Jake Pugh, Robert Rowland

Key to symbols:

+ : in favour

- : against

0 : abstention