

INTRODUCTION

Dear Mr Chair,

Members of the Economic and Monetary Affairs Committee,

Ladies and Gentlemen,

I am pleased to be able to present to you our audit report on whether the EU is effectively tackling VAT fraud related to intra-community transactions. I would like to remind that the report has already been presented to the European Parliament's Committee on Budgetary Control and to the Council's Working Party on Taxation this April. In our report we made a number of recommendations some of which were addressed by the Commission through its proposals to reform the EU VAT system and its recent VAT Action Plan. I would be happy to reply after my presentation to any questions on particular issues such as the application of a reverse charge on which the Court's opinion is presented in paragraphs 88 and 89 of the Special Report.

Let me start with a short description of the background of the problems related to transactions within the EU, then I will present our main findings, and finally explain what we recommended.

- The elimination of internal EU borders in 1993 was good for many reasons, but it created important challenges in VAT collection. Previously, border controls ensured that importers could take over their goods only after they paid VAT, while exporters were allowed to claim VAT exemption only if Customs had accepted their export declarations. National tax authorities were able to cross-check for accuracy on data stated in export declarations with VAT returns.
- After 1993, border controls have been replaced by a mandatory exchange of information on cross-border trade between member states. Traders within the EU have to submit a form to their tax authorities in which they report their sales to buyers in other Member States, identified by their VAT numbers. Tax authorities in exporting MS then make these data automatically available to authorities in importing member states, via an electronic exchange system called VIES. Importantly, tax authorities in the exporting MS have direct interest in the accuracy of exporters' declarations, given that inaccurate reporting by exporters would mean loss of national revenue.
- The relevant EU regulation for our audit is the one on administrative cooperation and combating fraud in the field of VAT which also introduced other systems of information exchange on potentially fraudulent transactions, including Eurofisc, which is a network for exchanging targeted information on fraudulent companies and transactions. Furthermore, it introduced other tools for administrative cooperation facilitating exchange of information either on request or without prior request plus the possibility to conduct controls simultaneously in two or more Member States with the presence of tax officials from different Member States.

- However, for goods imported from outside the EU under so-called procedure 42 via one MS but with final destination in another MS, customs authorities no longer collect VAT. (In some member states, this is the case also for imports that have destination in this country). In such cases, it is the acquirer of the goods in the MS of final destination who is obliged to report these acquisitions and account for the VAT. And it is the tax representative of the importer who is obliged to enter data on imported goods sent to another MS into the VIES.
- As can be seen by the above, the current system poses a number of challenges for the collection of VAT and creates opportunities that fraudsters can exploit. The Commission's Action Plan on VAT and in particular the idea of a single VAT area and an EU-wide VAT system goes to the root of the problem and in concept should help to alleviate the challenges.

Our audit found that overall, there is system in place to combat VAT fraud in intra-community transactions that is overall sound but suffers from substantial weaknesses which mostly relate to how it is implemented:

Let me start by saying that in a survey that we sent to all Member States' tax authorities on the effectiveness of the administrative cooperation arrangements in fighting intra-community VAT fraud, most respondents expressed satisfaction with how the current system has been set up. However, during the audit, which covered practices in 6 member states, we also found the following weaknesses.

- First, there are substantial weaknesses in effective cross-checks between customs and tax data. Imports under regime 42 are often not reported in the VIES (our audit found this to be the case in 18 out of 150 targeted high risk transactions). Furthermore, customs often do not even check the accuracy of VAT numbers reported in customs declarations. Finally, tax authorities in the MSs in which custom procedures are conducted do not have built-in incentives to control whether tax representatives of importers have provided accurate recapitulative statements.
- Second, there are problems with accuracy, completeness and timeliness of data on VAT information sharing between Member States. Moreover, when irregular VAT numbers are discovered in the recapitulative statements, the tax authorities often do not follow up.
- Third, there is lack of cooperation and overlapping competences of administrative, judicial and law enforcement authorities.

- Fourth, Eurofisc is a decentralized structure and each MS is carrying out its own risk analysis on the basis of their own data. The result is that a high volume of data is exchanged which is of low risk or even not fraud related¹.
- Fifth, OLAF and Europol, who might contribute to prosecution of fraud, do not have access to VAT data electronically exchanged by member states.
- And finally, for the EU as a whole, there is currently no system of systematically estimating and collecting statistics on intra-Community VAT fraud and Missing Trader (MTIC) fraud in particular, that would facilitate setting performance indicators for measuring progress in this area. However, there are some Member States where significant progress has been made in and which could serve as a benchmark for other administrations.

To address these issues, we made recommendations to the Commission and to the Member States:

- **Commission**

- Propose legislative amendments that would ensure fully effective cross-checks between customs and VAT data
- Encourage MS to address weaknesses in Eurofisc and better coordinate policies on reverse charges
- Improve the timeliness of MS replies to information requests from other MS, improve the reliability of VAT Information Exchange System (VIES) and speed of multilateral controls
- Encourage removal of legal obstacles within MS that are preventing the exchange of information between various authorities at national and EU level
- Make data from VAT information (VIES) and Eurofisc available to OLAF and Europol.
- Start an initiative for establishing a common system of estimating the size of intra-Community VAT fraud.

- **Council**

- Approve the Commission's proposal on joint and several liability of the suppliers for VAT losses in the MS of destination

¹ See para 53 and footnote 22.

- Authorise the Commission to negotiate and sign Mutual Assistance Arrangements with countries where most internet services providers are established
- **EU Parliament and the Council**
 - Include VAT within the scope of the Directive on fight against fraud (the PIF Directive) and the European Public Prosecutor's Office Regulation
 - Grant OLAF clear competences and tools to investigate intra-Community VAT transactions where there might be suggestions of fraud affecting the Union's interests

The Commission has accepted most of our recommendations, but not the one on legislative amendments that would enable effective cross-checks between custom and tax data by all member states

We find the Commission's decline to act on this puzzling, particularly since this is a long-standing issue that was raised not only by ECA in its previous reports, but also by the French Court of Accounts, which stated in its 2015 report about Customs actions against fraud that "...the lack of such a network for quick and paperless exchange of information is the main cause of allowing VAT fraud in Europe..." Moreover, experts on VAT fraud from MS that participated in the so called Fiscalis Project Group already back in 2007 recommended that the issue be addressed.

We do however take some comfort from the Commission's statement that they would revisit the issue after they receive recommendations expected from Fiscalis 2020 Project Group, a report which we understand to be already available.

Finally, I would like to add that the Court of Auditors' most important objective is to safeguard the Union's financial interests. In this context, we have taken note of the recent Commission initiatives including its Action Plan on VAT – "Towards a single EU VAT area - Time to decide" which echoes some of the suggestions made by the Court. We shall continue to monitor progress in this area and will keep the Parliament informed of our findings on a regular basis. In this context, I would like to repeat that the Court is ready to contribute in the form of an Opinion on legislative proposals by the Commission on reforming the VAT regime and on tackling VAT fraud in particular, if so requested by the Parliament or Council. This opinion could cover issues not directly addressed by our recent reports such as on the taxation of intra-Community supplies following the destination principle.

Thank you for your attention.

Georgios KARAKATSANIS

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