



Plenary sitting

A8-0215/2018

22.6.2018

REPORT

on the amended proposal for a Council regulation amending Regulation (EU) No 904/2010 as regards measures to strengthen administrative cooperation in the field of value-added tax
(COM(2017)0706 – C8-0441/2017 – 2017/0248(CNS))

Committee on Economic and Monetary Affairs

Rapporteur: Roberts Zīle

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 amended proposal for a Council regulation amending Regulation (EU) No 904/2010 as regards measures to strengthen administrative cooperation in the field of value-added tax
(COM(2017)0706 – C8-0441/2017 – 2017/0248(CNS))**

(Special legislative procedure – consultation)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2017)0706),
 - having regard to Article 113 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C8-0441/2017),
 - having regard to Rule 78c of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A8-0215/2018),
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 1 a (new)

Text proposed by the Commission

Amendment

(1a) 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, Member States have a shared responsibility for the protection of the VAT revenue of all Member States.

Amendment 2

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) *Carrying out an* administrative enquiry is often necessary to combat VAT fraud in particular when the taxable person is not established in the Member *States* where the tax is due. To ensure the proper enforcement of VAT *and* to avoid duplication of work and administrative burden *of* tax authorities and *business*, *where at least two Member States consider that an administrative enquiry* into the amounts declared by a taxable person *non-established* on their territory but taxable therein, *is necessary*, the Member State where the taxable person is established *should* undertake the enquiry and the requiring Member *States should* assist the Member State of establishment by taking part *actively* in the enquiry.

Amendment

(2) *An* administrative enquiry is often necessary to combat VAT fraud, in particular when the taxable person is not established in the Member *State* where the tax is due. To ensure the proper enforcement of VAT, to avoid duplication of work and *to reduce the* administrative burden *on* tax authorities and *businesses*, *an administrative enquiry needs to be carried out* into the amounts declared by a taxable person *who is not established* on their territory but *is* taxable therein. The Member State where the taxable person is established *must* undertake the enquiry and the requiring Member *State(s) must* assist the Member State of establishment by *actively* taking part in the enquiry.

Amendment 3

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) For the purpose of ensuring the effective and efficient monitoring of VAT on cross-border transactions, Regulation (EU) No 904/2010 provides for the presence of officials in administrative offices and during administrative enquiries in other Member States. In order to strengthen the capacity of tax authorities to check cross-border supplies, there should

Amendment

(11) For the purpose of ensuring the effective and efficient monitoring of VAT on cross-border transactions, Regulation (EU) No 904/2010 provides for the presence of officials in administrative offices and during administrative enquiries in other Member States. In order to strengthen the capacity of tax authorities *by providing them with enhanced technical*

be joint audits enabling officials from two or more Member States to form a single audit team and actively take part in a joint administrative enquiry.

and human resources to check cross-border supplies, there should be joint audits enabling officials from two or more Member States to form a single audit team and actively take part in a joint administrative enquiry, *in a cooperative and productive spirit and on terms to be agreed by the Member States in order to detect and counter cross-border VAT fraud which is currently eroding the tax bases of Member States.*

Amendment 4

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) In order to combat the most serious cross-border fraud schemes, it is necessary to clarify and strengthen the governance, tasks and functioning of Eurofisc. Eurofisc liaison officials should be able to access, exchange, process and analyse all necessary information swiftly and coordinate any follow-up actions. It is also necessary to strengthen the cooperation with other authorities involved in the fight against VAT fraud at Union level, in particular through the exchange of targeted information with Europol and the European Anti-Fraud Office. Therefore, Eurofisc liaison officials should *be able to* share, spontaneously or on foot of a request, information and intelligence with Europol *and* the European Anti-Fraud Office. This would enable Eurofisc liaison officials to receive data and intelligence held by Europol and the European Anti-Fraud Office in order to identify the real perpetrators of the VAT fraud activities.

Amendment

(13) In order to combat the most serious cross-border fraud schemes, it is necessary to clarify and strengthen the governance, tasks and functioning of Eurofisc. Eurofisc liaison officials should be able to access, exchange, process and analyse all necessary information swiftly and coordinate any follow-up actions. It is also necessary to strengthen the cooperation with other authorities involved in the fight against VAT fraud at Union level, in particular through the exchange of targeted information with Europol and the European Anti-Fraud Office. Therefore, Eurofisc liaison officials should share, spontaneously or on foot of a request, information and intelligence with Europol, the European Anti-Fraud Office, *and, for participating Member States, the European Public Prosecutor's Office, especially for suspicion of VAT fraud above a certain amount.* This would enable Eurofisc liaison officials to receive data and intelligence held by Europol and the European Anti-Fraud Office in order to identify the real perpetrators of the VAT fraud activities.

Amendment 5

Proposal for a regulation

Recital 15

Text proposed by the Commission

(15) Organising the forwarding of requests for VAT refunds — pursuant to Article 5 of Council Directive 2008/9/EC³⁵ offers an opportunity to reduce the administrative burden for the competent authorities to recover unpaid **VAT debts** in the Member State of establishment.

³⁵ Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State (OJ L 44, 20.2.2008, p. 23).

Amendment

(15) Organising the forwarding of requests for VAT refunds — pursuant to Article 5 of Council Directive 2008/9/EC³⁵ offers an opportunity to reduce the administrative burden for the competent authorities to recover unpaid **tax liabilities** in the Member State of establishment.

³⁵ Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State (OJ L 44, 20.2.2008, p. 23).

Amendment 6

Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) To protect the financial interests of the Union against serious cross-border VAT fraud, the Member States participating in the European Public Prosecutor's Office should communicate to that office, including via Eurofisc liaisons officials, information on the most serious VAT offences as referred to in Article 2(2) of Directive (EU) 2017/1371 of the European Parliament and of the Council³⁶.

³⁶ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of

Amendment

(16) To protect the financial interests of the Union against serious cross-border VAT fraud, the Member States participating in the European Public Prosecutor's Office should communicate to that office **in a timely manner**, including via Eurofisc liaisons officials, information on the most serious VAT offences as referred to in Article 2(2) of Directive (EU) 2017/1371 of the European Parliament and of the Council³⁶.

³⁶ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of

Amendment 7

Proposal for a regulation

Recital 18

Text proposed by the Commission

(18) The Commission *may* have access to the information communicated or collected pursuant to Regulation (EU) No 904/2010 *only* in so far as it is necessary for care, maintenance and development of the electronic systems hosted by the Commission and used by the Member States for the purpose of this Regulation.

Amendment

(18) The Commission *should* have access to the information communicated or collected pursuant to Regulation (EU) No 904/2010 in so far as it is necessary for care, maintenance and development of the electronic systems hosted by the Commission and used by the Member States for the purpose of this Regulation, *and to ensure the proper implementation of 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 8

Proposal for a regulation

Recital 19

Text proposed by the Commission

(19) For the purposes of this Regulation, it is appropriate to consider limitations on certain rights and obligations laid down by Regulation (EU) 2016/679 of the European Parliament and of the Council³⁷ in order to safeguard the interests referred to in Article 23(1)(e) of that Regulation. Such limitations are necessary and proportionate in view of the potential loss of revenue for Member States and the crucial importance of making information available in order to combating fraud effectively.

Amendment

(19) For the purposes of this Regulation, it is appropriate to consider limitations on certain rights and obligations laid down by Regulation (EU) 2016/679 of the European Parliament and of the Council³⁷ in order to safeguard the interests referred to in Article 23(1)(e) of that Regulation. Such limitations are necessary and proportionate in view of the potential loss of revenue for Member States and the crucial importance of making information available in order to combating fraud effectively. *Such limitations, however, should not go beyond what is strictly necessary to achieve that objective and must meet the high standards required by Article 52(1)*

of the Charter of Fundamental Rights of the European Union. In addition, any future implementing acts to this Regulation should comply with the data protection requirements laid down in the Regulation (EU) 2016/679 and Regulation (EC) No 45/2001 of the European Parliament and of the Council.^{37a}

³⁷ Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (OJ L 119, 4.5.2016, p. 1).

³⁷ Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (OJ L 119, 4.5.2016, p. 1).

^{37a}*Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).*

Amendment 9

Proposal for a regulation Recital 20 a (new)

Text proposed by the Commission

Amendment

(20a) 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 quantify and analyse VAT fraud.

Amendment 10

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point b

Regulation (EU) No 904/2010

Article 7 – paragraph 4

Text proposed by the Commission

4. *The request referred to in paragraph 1 may contain a reasoned request for a specific administrative enquiry. The requested authority shall undertake the administrative enquiry in coordination with the requesting authority. The tools and procedures referred to in Articles 28 to 30 of this Regulation may be used. If the requested authority takes the view that no administrative enquiry is necessary, it shall immediately inform the requesting authority of the reasons thereof.*

Notwithstanding the first subparagraph, an enquiry into the amounts declared by a taxable person established in the Member State of the requested authority and which are taxable in the Member State of the requesting authority, may be refused solely on any of the following grounds:

(a) on the grounds provided for in Article 54(1), assessed by the requested authority in conformity with a statement of best practices concerning the interaction of this paragraph and Article 54(1), to be adopted in accordance with the procedure provided for in Article 58(2);

(b) on the grounds provided for in paragraphs 2, 3 and 4 of Article 54;

(c) on the grounds that the requested authority had already supplied the

Amendment

4. Where the competent *authority* of a Member State *considers* that an administrative enquiry is required, *it shall submit a reasoned request. The* requested authority shall not refuse to undertake that enquiry. *If the information is already available, the requested authority shall supply it to the requesting authorities without delay. If the requesting Member State is not satisfied with the information received, it shall inform the requested Member State that it is proceed with the administrative inquiry.*

That administrative enquiry shall be carried out *in accordance with the rules in force in the requested Member State by* officials of the requesting and requested authorities. The officials of the requesting *authority* shall exercise the same powers of inspection as those conferred on officials of the requested authority. The officials of the requesting *authority* shall, *in particular*, have access to the same premises and documents as the officials of the requested authority for the sole purpose of carrying out the administrative enquiry.

requesting authority with information on the same taxable person as a result of an administrative enquiry held less than two years previously.

Where the requested authority refuses an administrative enquiry referred to in the second subparagraph on the grounds set out in points (a) or (b), it shall nevertheless provide to the requesting authority the dates and values of any relevant supplies made by the taxable person in the Member State of the requesting authority over the previous two years.

Where the competent *authorities* of *at least two* Member States consider that an administrative enquiry is required, *the* requested authority shall not refuse to undertake that enquiry. *Member States shall ensure that arrangements are put in place between those requesting authorities and the requested authority whereby officials authorised by the requesting authorities shall take part in the administrative enquiry carried out in the territory of the requested authority with a view to collecting the information referred to in the second subparagraph. Such* administrative enquiry shall be carried out *jointly by the* officials of the requesting and requested authorities. The officials of the requesting *authorities* shall exercise the same powers of inspection as those conferred on officials of the requested authority. The officials of the requesting *authorities* shall have access to the same premises and documents as the officials of the requested authority for the sole purpose of carrying out the administrative enquiry.

Justification

The EU must establish effective inspection mechanisms. It is therefore important to allow a single Member State to ask for an administrative enquiry to be carried out, and to participate in that enquiry. Officials in the requesting State are often more familiar with the file, and it is therefore crucial that they are able to play an active part in the inspection, while upholding the rules in force under the law of the country concerned.

Amendment 11

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point b

Regulation (EU) No 904/2010

Article 7 – paragraph 4 – subparagraph 1

Text proposed by the Commission

The request referred to in paragraph 1 may contain a reasoned request for a specific administrative enquiry. The requested authority shall undertake the administrative enquiry in coordination with the requesting authority. The tools and procedures referred to in Articles 28 to 30 of this Regulation may be used. If the requested authority takes the view that no administrative enquiry is necessary, it shall immediately inform the requesting authority of the reasons thereof.

Amendment

Where the competent authority of a Member State considers that an administrative enquiry is required, it shall submit a reasoned request. The requested authority shall not refuse to undertake that enquiry and, if the information is already available, the requested authority shall supply it to the requesting authorities without delay. If the requesting Member State is not satisfied with the information received, it shall inform the requested Member State that it is to press ahead with the administrative inquiry. That administrative enquiry shall be carried out in accordance with the rules in force in the requested Member State by officials of the requesting and requested authorities. The officials of the requesting authority shall exercise the same powers of inspection as those conferred on officials of the requested authority. The officials of the requesting authority shall, in particular, have access to the same premises and documents as the officials of the requested authority for the sole purpose of carrying out the administrative enquiry.

Justification

With the rollout of the mini-one-stop-shop, a significant proportion of States' VAT will be collected in other Member States. It is therefore vital for the EU to have effective inspection systems. It is therefore proposed that a single Member State should be allowed to ask for an administrative enquiry to be carried out, and to participate in that enquiry. Officials in the requesting State are more familiar with the file, and it is therefore crucial that they are able to play an active part in the inspection, while upholding the rules in force under law of the country concerned.

Amendment 12

Proposal for a regulation

Article 1 – paragraph 1 – point 1 – point b

Regulation (EU) No 904/2010

Article 7 – paragraph 4 – subparagraph 4

Text proposed by the Commission

Where *the* competent *authorities* of *at least two* Member States *consider* that an administrative enquiry is required, the requested authority shall not refuse to undertake *that* enquiry. Member States shall ensure that arrangements are put in place between *those* requesting *authorities* and the requested authority whereby officials authorised by the requesting *authorities* shall take part in the administrative enquiry carried out in the territory of the requested authority with a view to collecting the information referred to in the second subparagraph. Such administrative enquiry shall be carried out jointly by the officials of the requesting and requested authorities. The officials of the requesting authorities shall exercise the same powers of inspection as those conferred on officials of the requested *authority*. The officials of the requesting *authorities* shall have access to the same *premises and documents as the officials of the requested authority for the sole purpose of carrying out the administrative enquiry*.

Amendment

Where *a* competent *authority* of *a* Member State *considers* that an administrative enquiry is required, *it shall submit a duly justified request*. The requested authority shall not refuse to undertake *the* enquiry *concerned, and if the information is already available, the requested authority shall supply it to the requesting authority prior to receipt of any request*. Member States shall ensure that arrangements are put in place between *the* requesting *authority* and the requested authority whereby *officials* authorised by the requesting *authority* shall take part in the administrative enquiry carried out in the territory of the requested authority with a view to collecting the information referred to in the second subparagraph. Such administrative enquiry shall be carried out jointly by the officials of the requesting and requested *authorities in a cooperative and productive spirit*. The officials of the requesting *authority* shall have access to the same *information, documents and premises and shall, insofar as permitted under the law of the requested Member State, be able to directly question individuals in order to detect and counter cross-border VAT fraud which is currently eroding national tax bases*.

Amendment 13

Proposal for a regulation

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

Regulation (EU) No 904/2010

Article 12 a (new)

Text proposed by the Commission

Amendment

(1a) *The following Article is inserted:*

‘Article 12a

All Member States shall implement a set of operational targets for reducing the percentage of late replies and improving the quality of requests for information and shall inform the Commission about those targets.’

Amendment 14

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EU) No 904/2010

Article 13 – paragraph 3

Text proposed by the Commission

Amendment

3. The information shall be forwarded **by means of** standard forms or by other means which the respective competent authorities deem appropriate. The Commission shall adopt by means of implementing acts **the standard forms**. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 58(2);

3. The information shall be forwarded **using** standard forms or by other means which the respective competent authorities deem appropriate. The Commission shall adopt **the standard forms** by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 58(2);

Amendment 15

Proposal for a regulation

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

Regulation (EU) No 904/2010

Article 14 – paragraph 1 – subparagraph 2

Present text

Amendment

‘A Member State may abstain from taking part in the automatic exchange of information with respect to one or more

(2a) in Article 14(1) the second subparagraph is replaced by the following:

‘A Member State may abstain from taking part in the automatic exchange of information with respect to one or more

categories where the collection of information for such exchange would require the imposition of *new* obligations on persons liable for VAT or would impose a disproportionate administrative burden on the Member State.’

categories where the collection of information for such exchange would require the imposition of *disproportionate* obligations on persons liable for VAT or would impose a disproportionate administrative burden on the Member State.’

Amendment 16

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point a
Regulation (EU) No 904/2010
Article 17 – paragraph 1 – point e

Text proposed by the Commission

(e) information *as regards* the status of a certified taxable person pursuant to Article 13a of Directive 2006/112/EC, as well as the date on which that status was granted, refused and withdrawn.

Amendment

(e) information *regarding* the status of a certified taxable person pursuant to Article 13a of Directive 2006/112/EC, as well as the date on which that status was granted, refused and withdrawn.

Amendment 17

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point b
Regulation (EU) No 904/2010
Article 17 – paragraph 1 – point f

Text proposed by the Commission

‘(f) information which it collects pursuant to points (a) and (b) of Article 143(2) of Directive 2006/112/EC, as well as the country of origin, the country of destination, the commodity code, the currency, the total amount, the exchange rate, the *prices of the individual items* and the net weight.’;

Amendment

‘(f) information which it collects pursuant to points (a) and (b) of Article 143(2) of Directive 2006/112/EC, as well as the country of origin, *the exporter’s identification data*, the country of destination, the commodity code, the currency, the total amount, the exchange rate, the *item price* and the net weight.’;

Amendment 18

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point e

Text proposed by the Commission

3. The Commission shall determine by means of implementing acts the **exact** categories of information referred to in point (f) of paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 58(2).;

Amendment

3. The Commission shall determine by means of implementing acts the **specific categories to be comprised in the standard forms, templates and procedures for the provision** of information referred to in point (f) of paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 58(2).

Amendment 19

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point a
Regulation (EU) No 904/2010
Article 21 – paragraph 1a

Text proposed by the Commission

1a. Every Member State shall grant its officials who check the requirements provided for in Article 143(2) of Directive 2006/112/EC access to the information referred to in points (b) and (c) of Article(17)(1) of this Regulation for which automated access is granted by the other Member States.;

Amendment

1a. Every Member State shall grant its officials who check the requirements provided for in Article 143(2) of Directive 2006/112/EC access to the information referred to in points (b) and (c) of Article(17)(1) of this Regulation, **including to the register of certified taxable persons**, for which automated access is granted by the other Member States.;

Amendment 20

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point b – point i
Regulation (EU) No 904/2010
Article 21 – paragraph 2 – point e – point i

Text proposed by the Commission

(i) access is in connection with an investigation into suspected fraud or is to detect or identify perpetrators of fraud;

Amendment

(i) access is in connection with an investigation into suspected fraud or is to detect or identify perpetrators of fraud **and**

serious misconduct;

Amendment 21

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point b – point i

Regulation (EU) No 904/2010

Article 21 – paragraph 2 – point e – point ii

Text proposed by the Commission

(ii) access is through a Eurofisc liaison official, as referred to in Article 36(1), who holds a personal user identification for the electronic systems allowing access to this information.;

Amendment

(ii) access is through a Eurofisc liaison official, as referred to in Article 36(1), who holds a personal user identification for the electronic systems allowing access to this information ***and the register of certified taxable persons.***;

Amendment 22

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point c

Regulation (EU) No 904/2010

Article 21 – paragraph 2a – subparagraph 1 – introductory part

Text proposed by the Commission

With respect to the information referred to in Article 17(1)(f), at least the following ***details*** shall be accessible:

Amendment

With respect to the information referred to in Article 17(1)(f), at least the following ***information*** shall be accessible:

Amendment 23

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point c

Regulation (EU) No 904/2010

Article 21 – paragraph 2a – subparagraph 1 – point a

Text proposed by the Commission

(a) the VAT identification numbers issued by the Member State receiving the information;

Amendment

(a) the VAT identification numbers issued by the Member State receiving the information ***and the register of certified taxable persons.***;

Amendment 24

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point c

Regulation (EU) No 904/2010

Article 21 – paragraph 2a – subparagraph 1 – point c

Text proposed by the Commission

(c) the country of origin, the country of destination, the commodity code, the currency, the total amount, the exchange rate, the *prices of the individual items* and the net weight of the imported goods followed by an intra-Community supply of goods from each person referred to in point (b) to each person holding a VAT identification number referred to in point (a);

Amendment

(c) the country of origin, the country of destination, the commodity code, the currency, the total amount, the exchange rate, the *item price* and the net weight of the imported goods followed by an intra-Community supply of goods from each person referred to in point (b) to each person holding a VAT identification number referred to in point (a);

Amendment 25

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point c

Regulation (EU) No 904/2010

Article 21 – paragraph 2a – subparagraph 1 – point d – introductory part

Text proposed by the Commission

the country of origin, the country of destination, the commodity code, the currency, the total amount, the exchange rate, the *prices of the individual items* and the net weight of the imported goods followed by an intra-Community supply of goods from each person referred to in point (b) to each person holding a VAT identification number issued by another Member State under the following conditions:

Amendment

the country of origin, the country of destination, the commodity code, the currency, the total amount, the exchange rate, the *item price* and the net weight of the imported goods followed by an intra-Community supply of goods from each person referred to in point (b) to each person holding a VAT identification number issued by another Member State under the following conditions:

Amendment 26

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point c

Regulation (EU) No 904/2010

Article 21 – paragraph 2a – subparagraph 1 – point d – point i

Text proposed by the Commission

(i) access is in connection with an investigation into suspected fraud or is to detect or identify perpetrators of fraud;

Amendment

(i) access is in connection with an investigation into suspected fraud or is to detect or identify perpetrators of fraud **and serious misconduct**;

Amendment 27

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EU) No 904/2010

Article 21a – paragraph 2 – subparagraph 1 – point i

Text proposed by the Commission

(i) access is in connection with an investigation into suspected fraud or is to detect or identify perpetrators of fraud;

Amendment

(i) access is in connection with an investigation into suspected fraud or is to detect or identify perpetrators of fraud **and serious misconduct**;

Amendment 28

Proposal for a regulation

Article 1 – paragraph 1 – point 8 – point a

Regulation (EU) No 904/2010

Article 28 – paragraph 2a

Text proposed by the Commission

‘2a. By agreement between the requesting authority and the requested authority, and in accordance with the arrangements laid down by the latter, officials authorised by the requesting authority may, with a view to collecting and exchanging the information referred to in Article 1, take part in the administrative enquiries carried out in the territory of the requested Member State. Such administrative enquiries shall be carried out jointly by the officials of the requesting and requested authorities. ***The officials of the requesting authority shall exercise the same powers of inspection as those conferred on officials*** of the requested

Amendment

‘2a. By agreement between the requesting authority and the requested authority, and in accordance with the arrangements laid down by the latter, officials authorised by the requesting authority may, with a view to collecting and exchanging the information referred to in Article 1, take part in the administrative enquiries carried out in the territory of the requested Member State. Such administrative enquiries shall be carried out jointly ***in a spirit of mutual trust and fruitful cooperation*** by the officials of the requesting and requested authorities, ***respecting the administrative practices of those authorities and the national law of***

authority. The officials of the requesting authorities shall have access to the same premises and documents as the officials of the requested authority for the sole purpose of carrying out the administrative enquiry. By agreement between the requesting authority and the requested authority, and in accordance with the arrangements laid down by the requested authority, **both** authorities may draft a common audit report.’;

the Member State with the aim of combating cross-border VAT fraud of the requested authority. The officials of the requesting authorities shall have access to the same premises and documents as the officials of the requested authority for the sole purpose of carrying out the administrative enquiry. By agreement between the requesting authority and the requested authority, and in accordance with the arrangements laid down by the requested authority, ***the participating*** authorities may draft a common audit report.’;

Amendment 29

Proposal for a regulation

Article 1 – paragraph 1 – point 11 – point a

Regulation (EU) No 904/2010

Article 33 – paragraph 1

Text proposed by the Commission

1. In order to promote and facilitate multilateral cooperation in the fight against VAT fraud, this Chapter establishes a network for the swift exchange, processing and analysis of targeted information between Member States and for the coordination of any follow-up actions (‘Eurofisc’).

Amendment

1. In order to promote and facilitate multilateral cooperation in the fight against VAT fraud, this Chapter establishes a network for the swift exchange, processing and analysis of targeted information ***on cross-border fraud schemes*** between Member States and for the coordination of any follow-up actions (‘Eurofisc’).

Amendment 30

Proposal for a regulation

Article 1 – paragraph 1 – point 11 – point b – point i

Regulation (EU) No 904/2010

Article 33 – paragraph 2 – point b

Text proposed by the Commission

(b) carry out and coordinate the swift multilateral exchange and the joint processing and analysis of targeted information in the subject areas in which Eurofisc operates (‘Eurofisc working

Amendment

(b) carry out and coordinate the swift multilateral exchange and the joint processing and analysis of targeted information ***on cross-border fraud schemes*** in the subject areas in which

fields’);

Eurofisc operates (‘Eurofisc working fields’);

Amendment 31

Proposal for a regulation

Article 1 – paragraph 1 – point 11 – point b – point ii

Regulation (EU) No 904/2010

Article 33 – paragraph 2 – point d

Text proposed by the Commission

(d) coordinate participating Member States’ administrative enquiries *into the suspects and perpetrators* of fraud identified by the Eurofisc liaison officials as referred to in Article 36(1).

Amendment

(d) coordinate participating Member States’ administrative enquiries of fraud identified by the Eurofisc liaison officials as referred to in Article 36(1).

Amendment 32

Proposal for a regulation

Article 1 – paragraph 1 – point 12

Regulation (EU) No 904/2010

Article 34 – paragraph 2

Text proposed by the Commission

2. Member States having chosen to take part in a Eurofisc working field shall actively participate in the multilateral exchange and the joint processing and analysis of targeted information between all participating Member States and in the coordination of any follow-up actions.

Amendment

2. Member States having chosen to take part in a Eurofisc working field shall actively participate in the multilateral exchange and the joint processing and analysis of targeted information *on cross-border fraud schemes* between all participating Member States and in the coordination of any follow-up actions.

Amendment 33

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EU) No 904/2010

Article 35 – paragraph 1

Text proposed by the Commission

The Commission shall provide Eurofisc

Amendment

The Commission shall provide Eurofisc

with technical and logistical support. The Commission shall **not** have access to the information referred to in Article 1, which may be exchanged over Eurofisc, **except in** the circumstances provided for in Article 55(2).’;

with **the necessary** technical and logistical support. The Commission shall have access to the information referred to in Article 1, which may be exchanged over Eurofisc, **for** the circumstances provided for in Article 55(2).’;

Amendment 34

Proposal for a regulation

Article 1 – paragraph 1 – point 14 – point c

Regulation (EU) No 904/2010

Article 36 – paragraph 3

Text proposed by the Commission

3. Eurofisc working field coordinators may **forward**, on their own initiative or on request, **some of the collated and processed** information to Europol and the European Anti-Fraud Office (‘OLAF’), as agreed by the working field participants.

Amendment

3. Eurofisc working field coordinators may, on their own initiative or on request, **forward relevant information on the most serious cross-border VAT offences** to Europol and the European Anti-Fraud Office (‘OLAF’), as agreed by the working field participants.

Amendment 35

Proposal for a regulation

Article premier – paragraph 1 – point 14 – point c

Regulation (EU) No 904/2010

Article 36 – paragraph 4

Text proposed by the Commission

4. Eurofisc working field coordinators shall make the information received from Europol and OLAF available to the other participating Eurofisc liaison officials; this information shall be exchanged by electronic means.

Amendment

4. **Eurofisc working field coordinators may ask Europol and OLAF for relevant information.** Eurofisc working field coordinators shall make the information received from Europol and OLAF available to the other participating Eurofisc liaison officials; this information shall be exchanged by electronic means.

Justification

It is vital for there to be two-way information exchange between Eurofisc and Europol.

Amendment 36

Proposal for a regulation

Article 1 – paragraph 1 – point 16

Regulation (EU) No 904/2010

Article 48 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Where the Member State of establishment becomes aware that a taxable person making a request for refund of VAT, in accordance with Article 5 of Directive 2008/9/EC, has undisputed VAT liabilities in that Member State of establishment, it **may** inform the Member State of refund of those liabilities so that the Member State of refund **shall request** the consent of the taxable person for the transfer of the VAT refund directly to the Member State of establishment in order to discharge the outstanding VAT liabilities. Where the taxable person consents to this transfer, the Member State of refund on behalf of the taxable person shall transfer this amount to the Member State of establishment, to the extent that it is required to discharge the outstanding VAT liability. The Member State of establishment shall inform the taxable person whether the amount transferred amounts to either a full or a partial discharge of the VAT liability within **15** days of the receipt of the transfer from the Member State of refund.

Amendment

Where the Member State of establishment becomes aware that a taxable person making a request for refund of VAT, in accordance with Article 5 of Directive 2008/9/EC, has undisputed VAT liabilities in that Member State of establishment, it **shall** inform the Member State of refund of those liabilities so that the Member State of refund **requests** the consent of the taxable person for the transfer of the VAT refund directly to the Member State of establishment in order to discharge the outstanding VAT liabilities. Where the taxable person consents to this transfer, the Member State of refund on behalf of the taxable person shall transfer this amount to the Member State of establishment, to the extent that it is required to discharge the outstanding VAT liability. The Member State of establishment shall inform the taxable person whether the amount transferred amounts to either a full or a partial discharge of the VAT liability within **10 working** days of the receipt of the transfer from the Member State of refund.

Amendment 37

Proposal for a regulation

Article 1 – paragraph 1 – point 18

Regulation (EU) No 904/2010

Article 49 – paragraph 2a – subparagraph 2

Text proposed by the Commission

The Member States may communicate to the European Anti-fraud Office any

Amendment

Without prejudice to Article 36(3), the Member States may communicate to the

available information about offences against the common VAT system to enable it to consider appropriate action in accordance with its mandate.’

European Anti-fraud Office any available information about offences against the common VAT system to enable it to consider appropriate action in accordance with its mandate.’

Amendment 38

Proposal for a regulation

Article 1 – paragraph 1 – point 18 a (new)

Regulation (EU) No 904/2010

Article 49 a (new)

Text proposed by the Commission

Amendment

(18a) The following Article is inserted:

“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 39

Proposal for a regulation

Article 1 – paragraph 1 – point 18 b (new)

Regulation (EU) No 904/2010

Article 50 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(18b) In Article 50, 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

may not refuse to provide that information to any other Member State requesting cooperation or having an interest to receive it.'

Amendment 40

Proposal for a regulation

Article 1 – paragraph 1 – point 19 – point a

Regulation (EU) No 904/2010

Article 55 – paragraph 2

Text proposed by the Commission

2. Persons duly accredited by the Security Accreditation Authority of the Commission *may* have access to this information *only* in so far as it is necessary for care, maintenance and development of the electronic systems hosted by the Commission and used by the Member States to implement this Regulation;

Amendment

2. Persons duly accredited by the Security Accreditation Authority of the Commission *shall* have access to this information in so far as it is necessary for care, maintenance and development of the electronic systems hosted by the Commission and used by the Member States to implement this Regulation, *and to ensure the proper implementation of this Regulation;*

Amendment 41

Proposal for a regulation

Article 1 – paragraph 1 – point 19 – point b

Regulation (EU) No 904/2010

Article 55 – paragraph 5

Text proposed by the Commission

5. All storage, processing or exchange of information referred to in this Regulation is subject to the provisions of Regulation **(EU) 2016/679 of the European Parliament and of the Council**(*). However, Member States shall, for the purpose of the correct application of this Regulation, restrict the scope of the obligations and rights provided for in Articles 12 to 22 and Articles 5 and 34 of Regulation (EU) 2016/679 to the extent required in order to safeguard the interests referred to in Article

Amendment

5. All storage, processing or exchange of information referred to in this Regulation is subject to the provisions of Regulation (EU) 2016/679 of the European Parliament and the Council(*). However, Member States shall, for the purpose of the correct application of this Regulation, restrict the scope of the obligations and rights provided for in Articles 12 to 22 and Articles 5 and 34 of Regulation (EU) 2016/679 to the extent required in order to safeguard the interests referred to in Article 23(1)(e) of that Regulation. The processing

23(1)(e) of that Regulation. The processing and storage of information referred to in this Regulation shall be *carried out* only for the purposes referred to in Article 1(1) of this Regulation and the storage periods of this information shall be limited to the extent necessary to achieve those purposes.’

and storage of information referred to in this Regulation shall be *approved* only for the purposes referred to in Article 1(1) of this Regulation and the storage periods of this information shall be limited to the extent necessary to achieve those purposes.’

EXPLANATORY STATEMENT

Value added tax (VAT) is an important source of tax revenue for the Member States. Yet countries are missing out on some of that revenue due to fraud. Within the context of VAT, cross-border tax fraud is one of the major problems facing the Member States. The current system of the taxation of trade between the Member States is unable keep up with the increasing speed of the economy.

Your Rapporteur welcomes the Commission's proposal to strengthen cooperation between Member States in order to help them fight the VAT fraud more easily, quickly and efficiently. However, some improvements were necessary.

Your Rapporteur believes that the legislative proposal needs to strike the right balance between requests for and analysing of information on the one hand and data protection and privacy on the other. Hence several amendments have been introduced that seek to more clearly define the operating boundaries of Eurofisc as well as the processing and use of information by the authorities. References to relevant data protection legislation have been inserted.

Similarly, the proposal has been improved so as to strike a better balance between the interests and responsibilities of the requesting and the requested authorities. Without undermining the ability for the requesting authorities to launch administrative enquiries, the rights of the requested authorities are now better served. Furthermore, a more simplified mechanism on how the Member States deal with outstanding VAT liabilities is introduced. Due to evolution of the respective file, Your Rapporteur has deleted provisions relating to certified taxable person.

With other minor amendments Your Rapporteur has strived to further improve and clarify the spirit of the proposal.

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Amended proposal for a Council regulation amending Regulation (EU) No 904/2010 as regards measures to strengthen administrative cooperation in the field of value-added tax	
References	COM(2017)0706 – C8-0441/2017 – COM(2017)0567 – C8-0362/2017 – 2017/0248(CNS)	
Date of consulting Parliament	23.10.2017	
Committee responsible Date announced in plenary	ECON 26.10.2017	
Committees asked for opinions Date announced in plenary	JURI 26.10.2017	
Not delivering opinions Date of decision	JURI 20.11.2017	
Rapporteurs Date appointed	Roberts Zīle 14.12.2017	
Discussed in committee	16.5.2018	18.6.2018
Date adopted	19.6.2018	
Result of final vote	+: 51 -: 2 0: 3	
Members present for the final vote	Gerolf Annemans, Burkhard Balz, Hugues Bayet, Pervenche Berès, David Coburn, Thierry Cornillet, Esther de Lange, Markus Ferber, Jonás Fernández, Sven Giegold, Neena Gill, Roberto Gualtieri, Brian Hayes, Gunnar Hökmark, Cătălin Sorin Ivan, Petr Ježek, Barbara Kappel, Georgios Kyrtos, Philippe Lamberts, Werner Langen, Olle Ludvigsson, Ivana Maletić, Fulvio Martusciello, Gabriel Mato, Alex Mayer, Bernard Monot, Caroline Nagtegaal, Luděk Niedermayer, Stanislaw Ozóg, Sirpa Pietikäinen, Anne Sander, Alfred Sant, Martin Schirdewan, Pedro Silva Pereira, Peter Simon, Theodor Dumitru Stolojan, Kay Swinburne, Paul Tang, Ramon Tremosa i Balcells, Ernest Urtasun, Marco Valli, Miguel Viegas, Jakob von Weizsäcker, Marco Zanni	
Substitutes present for the final vote	Andrea Cozzolino, Ashley Fox, Doru-Claudian Frunzuliță, Syed Kamall, Alain Lamassoure, Thomas Mann, Luigi Morgano, Michel Reimon, Joachim Starbatty	
Substitutes under Rule 200(2) present for the final vote	Jens Gieseke, Agnieszka Kozłowska-Rajewicz, Rupert Matthews	
Date tabled	22.6.2018	

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

51	+
ALDE	Thierry Cornillet, Petr Ježek, Caroline Nagtegaal, Ramon Tremosa i Balcells
ECR	Ashley Fox, Syed Kamall, Rupert Matthews, Stanisław Ożóg, Joachim Starbatty, Kay Swinburne
ENF	Barbara Kappel
GUE/NGL	Martin Schirdewan, Miguel Viegas
PPE	Burkhard Balz, Markus Ferber, Jens Gieseke, Brian Hayes, Gunnar Hökmark, Agnieszka Kozłowska-Rajewicz, Georgios Kyrtos, Alain Lamassoure, Esther de Lange, Werner Langen, Ivana Maletić, Thomas Mann, Fulvio Martusciello, Gabriel Mato, Luděk Niedermayer, Sirpa Pietikäinen, Anne Sander, Theodor Dumitru Stolojan
S&D	Hugues Bayet, Pervenche Berès, Andrea Cozzolino, Jonás Fernández, Doru-Claudian Frunzuliță, Neena Gill, Roberto Gualtieri, Cătălin Sorin Ivan, Olle Ludvigsson, Alex Mayer, Luigi Morgano, Alfred Sant, Pedro Silva Pereira, Peter Simon, Paul Tang, Jakob von Weizsäcker
VERTS/ALE	Sven Giegold, Philippe Lamberts, Michel Reimon, Ernest Urtasun

2	-
EFDD	David Coburn, Marco Valli

3	0
EFDD	Bernard Monot
ENF	Gerolf Annemans, Marco Zanni

Key to symbols:

+ : in favour

- : against

0 : abstention