



Plenary sitting

A9-0049/2021

17.3.2021

REPORT

on the draft Council regulation amending Regulation (EEC, Euratom) No 1553/89 on the definitive uniform arrangements for the collection of own resources accruing from value added tax
(12771/2020 – C9-0364/2020 – 2018/0133(NLE))

Committee on Budgets

Rapporteurs: José Manuel Fernandes, Valérie Hayer

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 draft Council regulation amending Regulation (EEC, Euratom) No 1553/89 on the definitive uniform arrangements for the collection of own resources accruing from value added tax
(12771/2020 – C9-0364/2020 – 2018/0133(NLE))**

(Consultation)

The European Parliament,

- having regard to the Council draft (12771/2020),
- having regard to Article 322(2) of the Treaty on the Functioning of the European Union and Article 106a of the Treaty establishing the European Atomic Energy Community pursuant to which the Council consulted Parliament (C9-0364/2020),
- having regard to the Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources¹,
- having regard to Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom², and in particular Article 10 thereof,
- having regard to its resolutions of 14 March 2018 on the next MFF: preparing the Parliament's position on the MFF post-2020³ and on reform of the European Union's system of own resources⁴,
- having regard to its resolution of 30 May 2018 on the 2021-2027 multiannual financial framework and own resources⁵,
- having regard to its interim report of 14 November 2018 on the multiannual financial

¹ Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources (OJ L 433I, 22.12.2020, p. 28).

² OJ L 424, 15.12.2020, p. 1.

³ OJ C 162, 10.5.2019, p. 51.

⁴ OJ C 162, 10.5.2019, p. 71.

⁵ Texts adopted, P8_TA(2018)0226.

- framework 2021-2027 – Parliament’s position with a view to an agreement⁶,
- having regard to its resolution of 10 October 2019 on the 2021-2027 multiannual financial framework and own resources: time to meet citizens' expectations⁷,
 - having regard to the statements by the Commission and the Council of 10 October 2019 on the 2021-2027 multiannual financial framework and own resources: time to meet citizens’ expectations,
 - having regard to its resolution of 15 May 2020 on the new multiannual financial framework, own resources and the recovery plan⁸,
 - having regard to its legislative resolution of 16 September 2020 on the draft Council decision on the system of Own Resources of the European Union⁹,
 - having regard to Rule 82 of its Rules of Procedure,
 - having regard to the report of the Committee on Budgets (A9-0049/2021),
1. Approves the Council draft as amended;
 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 its draft;
 4. Instructs its President to forward its position to the Council and the Commission.

⁶ Texts adopted, P8_TA(2018)0449.

⁷ Texts adopted, P9_TA(2019)0032.

⁸ Texts adopted, P9_TA(2020)0124.

⁹ Texts adopted, P9_TA(2020)0220.

Amendment 1
Draft regulation

Article 1 – paragraph 8

Council draft

(8) Article 9 is replaced by the following:

"Article 9

1. Any corrections to the statements referred to in Article 7(1) for previous financial years, for whatever reason, shall be made in agreement between the Commission and the Member State concerned.

If the Member State and the Commission do not agree on a correction, the Commission shall inform the Member State concerned in a letter about the necessary correction. That letter shall constitute "measures" as referred to in point (c) of Article 12(2) of Council Regulation 609/2014.

2. The Member State concerned may request the Commission to review the correction communicated in accordance with the second subparagraph of paragraph 1 within two months from the day of the receipt of the letter mentioned in the second subparagraph of paragraph 1. This review procedure shall be concluded with a decision by the Commission to be adopted by the Commission at the latest three months after the day of receipt of the Member State's request.

Where the Commission's decision reviews the amounts in full or partially corresponding to the correction, the Member State shall make available the corresponding amount. Neither the Member State's request to review the correction nor an action for annulment against the Commission's decision shall

Amendment

(8) Article 9 is replaced by the following:

"Article 9

1. Any corrections to the statements referred to in Article 7(1) for previous financial years, for whatever reason, shall be made in agreement between the Commission and the Member State concerned.

If the Member State and the Commission do not agree on a correction, the Commission shall inform the Member State concerned in a letter about the necessary correction. That letter shall constitute "measures" as referred to in point (c) of Article 12(2) of Council Regulation 609/2014.

affect the Member State's obligation to make available the amount corresponding to the correction.

All corrections shall be incorporated in aggregate statements, which shall amend the previous statements for the financial years concerned.

3. *The Commission shall adopt implementing acts further detailing the procedural modalities for the review procedure referred to in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13(3). The adoption of these implementing acts shall be without prejudice to the application of the review procedure set out in paragraph 2.*

4. No further corrections shall be made to the statements referred to in Article 7(1) after 31 July of the fourth year following the financial year concerned, unless those corrections concern points previously notified either by the Commission or by the Member State concerned.";

2. No further corrections shall be made to the statements referred to in Article 7(1) after 31 July of the fourth year following the financial year concerned, unless those corrections concern points previously notified either by the Commission or by the Member State concerned.";

EXPLANATORY STATEMENT

The Regulation amending Regulation 1553/89 on the definitive uniform arrangements for the collection of own resources accruing from value added tax (VAT) is part of the own resources reform package proposed by the Commission in May 2018. The Commission proposed substantial simplifications in the calculation and implementation of the VAT-based own resources which the European Parliament had demanded for a long time and which it welcomed in various resolutions and in the legislative opinion on the own resources system of September 2020.

The co-rapporteurs note that the Council draft regulation displays numerous modifications of the Commission proposal. In particular the provisions on a multiannual ‘freezing’ of the Weighted Average Rate of the VAT per Member State will simplify and streamline the calculation, implementation and control of the VAT-based own resource. Hence, your co-rapporteurs are in favour of providing the legislative opinion without delay so that the new, simplified VAT-based own resource can be implemented (retroactively as of January 2021) as soon as the ratification procedure of the own resources decision is completed and the new ORD enters into force.

Nevertheless, and without wishing to slow down the process, the co-rapporteurs propose one Amendment to the Council regulation. It concerns the deletion of the paragraphs which would create a rapid review procedure. It is the same provision that should also be deleted in the Council draft regulation of the new Making Available Regulation for the plastic waste-based own resource.

Background and justification

A review procedure for payments under reservation has been suggested by the German presidency of the Council in MAR2¹⁰ for the plastic based own resource and in the amended VAT-own resources regulation. The application of the same procedure to all own resources has been requested by a majority of Member States.

The co-rapporteurs acknowledge the utility of the possibility to enter a reservation when making available a contested amount. They also agree that Member States and the Commission should in principle have legal recourse to contest individual cases.

The co-rapporteurs consider the introduction of a rapid review provision as potentially counter-productive. Member States might be allowed by such a mechanism to contest their liability which could cause delays. It might also entail a ‘suspensive effect’ on the late payment interests in certain circumstances, thus potentially disrupting the incentivising purpose of these interest payments.

Once introduced for the VAT- and for the plastic-based own resources, there would be pressure to apply the same procedure to traditional own resources and in the future to all new own

¹⁰ Commission proposal COM(2018) 326 final, latest Council document 13142/20 of 16 December 2020.

resources. The review procedure in the present draft regulation would risk to result in a reversal of the ‘burden of proof’ concerning the accuracy of the calculations and provision of data. The position of the Commission could be weakened. The number of cases brought before the European Court of Justice might multiply.

The rapid review clause could thus result in a proliferation of requests for reviews and ensuing interruptions and disturbances of the making available ‘machinery’. It would bind administrative capacities and would require additional staff at national level and in the Commission. The administrative costs involved and the consequences for eventual late payment interest could be disproportionate. The proper functioning of the own resources system could be severely compromised. This in turn, could also be used by some as a justification for rejecting the introduction of new own resources.

The co-rapporteurs therefore propose to Article 1 (8) which would replace Article 9 in the amended regulation.

The co-rapporteurs look forward to discussing general principles, but also legal and technical details of the own resources system with the other institutions in the framework of the regular dialogue that has been established in the Interinstitutional Agreement and the roadmap towards the introduction of new own resources. The occasion of the legislative proposals for new own resources based on a digital levy, the revised ETS and a Carbon Border Adjustment Mechanism in by mid-2021 could be used to revisit and consolidate the implementing and making available rules under Article 311(4) and 322(2) in a spirit of efficiency, efficacy and mutual trust.

On a general note, the co-rapporteurs think that a deep reform of the own resources system through the introduction of new own resources is of paramount importance for the future of the EU and the completion of the recovery plan as they will constitute the reimbursement part that should avoid putting the repayment costs on the shoulders of citizens or leading to cuts in EU programmes. The co-rapporteurs emphasise that the implementing rules are an integral part of the own resources system. They should be robust, yet open and flexible to accommodate also additional own resources with different characteristics. In this context, the co-rapporteurs recall the relevance of the Interinstitutional Agreement including its roadmap towards the introduction of own resources. It encompasses the different steps of the introduction of new own resources, but also the modalities of cooperation between the institutions and the principles that should govern the own resources reform. The amount of the proceeds of the new resources should be sufficient to cover, at least, the repayment costs of the borrowing under NGEU.

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Proposal for a Council Regulation amending Regulation (EEC, Euratom) No 1553/89 on the definitive uniform arrangements for the collection of own resources accruing from value added tax	
References	COM(2018)0328 – C8-0204/2018 – 2018/0133(NLE)	
Date of consultation / request for consent	23.5.2018	
Committee responsible Date announced in plenary	BUDG 31.5.2018	
Committees asked for opinions Date announced in plenary	ECON 31.5.2018	
Not delivering opinions Date of decision	ECON 22.7.2019	
Rapporteurs Date appointed	José Manuel Fernandes 10.10.2019	Valérie Hayer 10.10.2019
Discussed in committee	4.3.2021	
Date adopted	17.3.2021	
Result of final vote	+: 31 –: 2 0: 7	
Members present for the final vote	Rasmus Andresen, Robert Biedroń, Anna Bonfrisco, Olivier Chastel, Lefteris Christoforou, David Cormand, Paolo De Castro, José Manuel Fernandes, Eider Gardiazabal Rubial, Vlad Gheorghe, Valentino Grant, Elisabetta Gualmini, Francisco Guerreiro, Valérie Hayer, Niclas Herbst, Monika Hohlmeier, Mislav Kolakušić, Moritz Körner, Joachim Kuhs, Zbigniew Kuźmiuk, Ioannis Lagos, Héléne Laporte, Pierre Larrourou, Janusz Lewandowski, Margarida Marques, Silvia Modig, Siegfried Mureşan, Victor Negrescu, Andrey Novakov, Jan Olbrycht, Dimitrios Papadimoulis, Karlo Ressler, Bogdan Rzońca, Nicolae Ştefănuţă, Nils Torvalds, Nils Ušakovs, Johan Van Overtveldt, Rainer Wieland, Angelika Winzig	
Substitutes present for the final vote	Henrike Hahn	
Date tabled	17.3.2021	

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

31	+
ID	Hélène Laporte
PPE	Lefteris Christoforou, José Manuel Fernandes, Niclas Herbst, Monika Hohlmeier, Janusz Lewandowski, Siegfried Mureşan, Andrey Novakov, Jan Olbrycht, Karlo Ressler, Rainer Wieland, Angelika Winzig
Renew	Olivier Chastel, Vlad Gheorghe, Valérie Hayer, Nicolae Ştefănuţă, Nils Torvalds
S&D	Robert Biedroń, Paolo De Castro, Eider Gardiazabal Rubial, Elisabetta Gualmini, Pierre Larrourou, Margarida Marques, Victor Negrescu, Nils Ušakovs
The Left	Silvia Modig, Dimitrios Papadimoulis
Verts/ALE	Rasmus Andresen, David Cormand, Francisco Guerreiro, Henrike Hahn

2	-
ID	Joachim Kuhs
NI	Ioannis Lagos

7	0
ECR	Zbigniew Kuźmiuk, Bogdan Rzońca, Johan Van Overtveldt
ID	Anna Bonfrisco, Valentino Grant
NI	Mislav Kolakušić
Renew	Moritz Körner

Key to symbols:

+ : in favour

- : against

0 : abstention