



**2018/0413(CNS)**

15.10.2019

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## **DRAFT 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.

## CONTENTS

	<b>Page</b>
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION .....	5
EXPLANATORY STATEMENT .....	9



## 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 – C9-0016/2019 – 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 (C9-0016/2019),
  - having regard to Rule 82 of its Rules of Procedure,
  - having regard to the report of the Committee on Economic and Monetary Affairs (A9-0000/2019),
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*

***(2 a) According to the 2019 Final Report in the context of the ‘Study and Reports on the VAT Gap in the EU-28 Member States’ prepared for the Commission, the VAT gap, that is the difference between the expected VAT revenue and the amount actually***

*collected, in the Union amounted to EUR 137 billion in 2017, representing EUR 267 of lost revenue per person in the Union. There are, however, big differences between 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).*

Or. en

## Amendment 2

### Proposal for a regulation Recital 2 b (new)

*Text proposed by the Commission*

*Amendment*

*(2 b) 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 heads of tax administrations aiming at 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. The use of blockchain technology could also be used to better protect personal*

*data and improve the online exchange of information between tax authorities.*

Or. en

### Amendment 3

#### Proposal for a regulation Recital 13

*Text proposed by the Commission*

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

*Amendment*

(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.

Or. en

### Amendment 4

#### Proposal for a regulation Recital 14 a (new)

*Text proposed by the Commission*

*Amendment*

**(14 a) 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 5****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...<sup>17</sup>

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<sup>17</sup> 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...<sup>17</sup>. **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.**

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<sup>17</sup> OJ C [...], [...], p. [...].

**Amendment 6****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*

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.



## 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.