



2020/0082(CNS)

9.6.2020

DRAFT REPORT

on the proposal for a Council decision amending Directives (EU) 2017/2455 and (EU) 2019/1995 as regards the dates of transposition and application due to the outbreak of the COVID-19 crisis
(COM(2020)0198 – C9-0137/2020 – 2020/0082(CNS))

Committee on Economic and Monetary Affairs

Rapporteur: Ondřej Kovařík

(Simplified procedure – Rule 52(2) of the Rules of Procedure)

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 decision amending Directives (EU) 2017/2455 and (EU) 2019/1995 as regards the dates of transposition and application due to the outbreak of the COVID-19
(COM(2020)0198 – C9-0137/2020 – 2020/0082(CNS))**

(Special legislative procedure – consultation)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2020)0198),
 - having regard to Article 113 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C9-0137/2020),
 - having regard to Rule 82 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A9-0000/2020),
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 decision
Recital 3 a (new)**

Text proposed by the Commission

Amendment

(3a) Although the COVID-19 outbreak creates genuine difficulties for national administrations, it should not be used as an excuse to further delay the

implementation of commonly agreed rules. Before the outbreak, some Member States had signalled that they would encounter delays in the implementation of the new system. Beyond the immediate difficulties linked to the COVID-19 outbreak, governments should spare no efforts to implement the new system. Member States which are facing issues which could cause a delay in the full implementation of the rules should use the technical assistance provided by the Commission to ensure correct and complete implementation of the e-commerce package. The e-commerce package's goals of facilitating the global competitiveness of European SMEs, easing the administrative pressure on Union sellers and ensuring that online platforms contribute to a fairer VAT collection system while combatting tax fraud are key aspects of a level playing field for all businesses, which is particularly important in the context of the post-COVID-19 recovery.

Or. en

Amendment 2

Proposal for a decision

Recital 4

Text proposed by the Commission

(4) Taking into consideration the challenges **that** Member States **are facing to tackle the** COVID-19 **crisis** and the fact that the new provisions are based on the principle that all Member States have to update their IT systems in order to be able to apply the provisions laid down in Directives (EU) 2017/2455 and (EU) 2019/1995, thus ensuring the collection and transmission of information and payments under the modified schemes, **it is**

Amendment

(4) Taking into consideration the **new** challenges **faced by** Member States **as a result of** the COVID-19 **outbreak** and the fact that the new provisions are based on the principle that all Member States have to update their IT systems in order to be able to apply the provisions laid down in Directives (EU) 2017/2455 and (EU) 2019/1995, thus ensuring the collection and transmission of information and payments under the modified schemes, **it**

necessary to postpone the dates of transposition and application of those Directives by *six* months. *A postponement of six months is appropriate, because the delay should be kept as short as possible to minimise additional budgetary losses for Member States.*

might be necessary to postpone the dates of application of those Directives by *three* months. *Postponement is not desirable, as it will lead to a loss of revenue and an increased VAT gap, while prolonging unfair competition between non-EU and Union sellers. However, a postponement of three months might be appropriate as it aligns with the period of lockdown across most Member States. An even longer postponement would extend the risk of VAT fraud at a time when public finances should be replenished in order to fight the pandemic and its economic and social consequences. A longer delay of six months could lead to a loss of revenue of between EUR 2,5 billion and EUR 3,5 billion for Member States. In light of the crisis caused by the COVID-19 outbreak, it is of the utmost importance to avoid further loss of revenues.*

Or. en

Amendment 3

Proposal for a decision

Article 1 – paragraph 1 – point 1 – point a

Directive (EU) 2017/2455

Article 2 – title

Text proposed by the Commission

Amendments to Directive 2006/112/EC
with effect from *1 July 2021*

Amendment

Amendments to Directive 2006/112/EC
with effect from *1 April 2021*

Or. en

Amendment 4

Proposal for a decision

Article 1 – paragraph 1 – point 1 – point b

Directive (EU) 2017/2455

Article 2 – paragraph 1 – introductory sentence

Text proposed by the Commission

With effect from **1 July 2021**, Directive 2006/112/EC is amended as follows:

Amendment

With effect from **1 April 2021**, Directive 2006/112/EC is amended as follows:

Or. en

Amendment 5

Proposal for a decision

Article 1 – paragraph 1 – point 2

Directive (EU) 2017/2455

Article 3 – paragraph 1

Text proposed by the Commission

With effect from **1 July 2021**, Title IV of Directive 2009/132/EC is deleted.

Amendment

With effect from **1 April 2021**, Title IV of Directive 2009/132/EC is deleted.

Or. en

Amendment 6

Proposal for a decision

Article 1 – paragraph 1 – point 3 – point a

Directive (EU) 2017/2455

Article 4 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Member States shall adopt and publish, by **30 June 2021**, the laws, regulations and administrative provisions necessary to comply with Articles 2 and 3 of this Directive. They shall immediately communicate to the Commission the text of those provisions.

Amendment

Member States shall adopt and publish, by **31 March 2021**, the laws, regulations and administrative provisions necessary to comply with Articles 2 and 3 of this Directive. They shall immediately communicate to the Commission the text of those provisions.

Or. en

Amendment 7

Proposal for a decision

Article 1 – paragraph 1 – point 3 – point b

Directive (EU) 2017/2455

Article 4 – paragraph 1 – subparagraph 4

Text proposed by the Commission

They shall apply the measures necessary to comply with Articles 2 and 3 of this Directive from **1 July 2021**.

Amendment

They shall apply the measures necessary to comply with Articles 2 and 3 of this Directive from **1 April 2021**.

Or. en

Amendment 8

Proposal for a decision

Article 2 – paragraph 1

Directive (EU) 2019/1995

Article 2 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall adopt and publish, by **30 June 2021** at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Amendment

Member States shall adopt and publish, by **31 March 2021** at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Or. en

Amendment 9

Proposal for a decision

Article 2 – paragraph 1

Directive (EU) 2019/1995

Article 2 – paragraph 1 – subparagraph 2

Text proposed by the Commission

They shall apply those measures from **1 July 2021**.

Amendment

They shall apply those measures from **1 April 2021**.

EXPLANATORY STATEMENT

On 5 December 2017, the Council adopted Directive (EU) 2017/2455 (“the VAT ecommerce Directive”) and Council Regulation (EU) 2017/2454 (the VAT e-commerce Regulation) as part of the VAT e-commerce package. On 21 November 2019, the Council adopted Directive (EU) 2019/1995 (“the second VAT ecommerce Directive”).

The new VAT e-commerce system will make it easier for consumers and businesses, in particular start-ups and SMEs, to buy and sell goods cross-border online. It will also help Member States to recoup the current estimated €5 billion of VAT lost on online sales every year, by making sure that non-EU businesses do not get preferential treatment when selling to EU consumers - both directly and through online marketplaces.

The date of application of the major part of the VAT e-commerce package was unanimously voted to be 1 January 2021, allowing Member States sufficient time to adapt their legislation and IT systems.

The Commission presented a state of play of the readiness of Member States on 14 February 2020, whereby most Member States confirmed that they would be in a position to apply the rules by due date. Two Member States raised concerns and requested a postponement for the entry into application by one year or more. Due to the outbreak of the COVID-19 crisis, other Member States have raised concerns as regards the finalisation of their preparatory work and consequently as regards the application of the new rules by 1 January 2021. Similar concerns were raised by key economic operators, especially postal and courier operators.

As a consequence the Commission decided on 8 May 2020 to propose to postpone the date of application of the VAT e-commerce package by 6 months (from 1 January 2021 to 1 July 2021).

Although supporting a postponement of the date of application of the VAT e-commerce package due to the COVID-19 outbreak, your rapporteur disagrees with the 6 months proposed by the Commission. Instead, should some delay be necessary, postponement reflecting the duration of a lock down, could be considered, to provide authorities and other operators with additional time to compensate for the period of lockdown. Nevertheless, given the economic consequences, if feasible, no delay would be a better solution.

According to the Commission, the budgetary losses for Member States have been estimated at around EUR 5-7 billion yearly if the VAT e-commerce package is not implemented on time. A delay of 6 months would therefore amount at least to EUR 2.5-3.5 billion of foregone revenue for the Member States, given that these estimates do not take into account the huge increase of e-commerce during the COVID crisis. Member states should be cognisant of the consequences of such a delay and the effect on public finances in the EU, as well as a competitive EU market.

Your rapporteur considers that the delay should be kept as short as possible and reflect the length of the crisis (3 months), while reducing the risks and costs that were pointed out in the Commission evaluation of February 2020 to the greatest possible extent.