



2022/0409(CNS)

5.5.2023

DRAFT REPORT

on the proposal for a Council regulation amending Regulation (EU)
No 904/2010 as regards the VAT administrative cooperation arrangements
needed for the digital age
(COM(2022)0703 – C9-0023/2023 – 2022/0409(CNS))

Committee on Economic and Monetary Affairs

Rapporteur: Olivier Chastel

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

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	5
EXPLANATORY STATEMENT	31

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council regulation amending Regulation (EU) No 904/2010 as regards the VAT administrative cooperation arrangements needed for the digital age (COM(2022)0703 – C9-0023/2023 – 2022/0409(CNS))

(Special legislative procedure – consultation)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2022)0703),
 - having regard to Article 113 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C9-0023/2023),
 - having regard to Rule 82 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A9-0000/2023),
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

Text proposed by the Commission

(2) Council Directive (EU) XX/XXX¹⁵ [OP please insert number and year of the Council Directive amending Directive 2006/112/EC as regards VAT rules for the digital age adopted the same day as this Regulation] introduced into Council

Amendment

(2) Council Directive (EU) XX/XXX¹⁵ [OP please insert number and year of the Council Directive amending Directive 2006/112/EC as regards VAT rules for the digital age adopted the same day as this Regulation] introduced into Council

Directive 2006/112/EC¹⁶ digital reporting requirements ('DRR'). Those requirements oblige taxable persons identified for VAT purposes to submit to Member States information on each intra-Community supply of goods, on each intra-Community acquisition of goods and on each supply of a service that is taxable in a Member State other than the one in which the supplier is established. Member States need to exchange and process that information on intra-Community transactions to monitor the correct application of VAT and to detect fraud.

¹⁵ Council Directive (EU) XXX/XXXX of (OJ L., dd/mm/yy, p. X). [OP Please insert full ref.]

¹⁶ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

Directive 2006/112/EC¹⁶ digital reporting requirements ('DRR'). Those requirements oblige taxable persons identified for VAT purposes to submit to Member States information on each intra-Community supply of goods, on each intra-Community acquisition of goods and on each supply of a service that is taxable in a Member State other than the one in which the supplier is established. Member States need to exchange and process that information on intra-Community transactions to monitor the correct application of VAT and to detect fraud. ***Those requirements do not apply to defence-related purchases, which are exempted under Articles 143 and 151 of Directive 2006/112/EC.***

¹⁵ Council Directive (EU) XXX/XXXX of (OJ L., dd/mm/yy, p. X). [OP Please insert full ref.]

¹⁶ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

Or. en

Justification

Member States tax administrations would have a wide access to sensitive information relating to defence and national security, which would undermine the confidentiality clauses in these types of contracts.

Amendment 2

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) The existing cooperation between Member States' tax authorities is based on exchanging aggregated information between national electronic systems. The introduction of DRR aims to increase tax

Amendment

(3) The existing cooperation between Member States' tax authorities is based on exchanging aggregated information between national electronic systems. The introduction of DRR aims to increase tax

collection by providing transaction-by-transaction data to tax administrations in a timely manner. To make those data available to other tax administrations in an efficient manner, and to facilitate a common implementation of analysis and crosschecks, as well as a common interpretation of those analyses and crosschecks, a central system where VAT information is shared is necessary.

collection by providing transaction-by-transaction data to tax administrations in a timely manner. To make those data available to other tax administrations in an efficient manner, and to facilitate a common implementation of analysis and crosschecks, as well as a common interpretation of those analyses and crosschecks, a *secure and up-to-date* central system where VAT information is shared is necessary.

Or. en

Amendment 3

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) In order to enable Member States to fight VAT fraud more effectively, a central electronic VAT information exchange system ('central VIES') for sharing VAT information should be established. That system should receive, from national electronic systems of Member States information about intra-Community transactions as reported by the respective suppliers and acquirers in different Member States. That system should also receive from Member States the VAT identification information of taxable persons making intra-Community transactions. Furthermore, whenever data are changed, the metadata for tracking the modification time should be uploaded into the central VIES as well.

Amendment

(4) In order to enable Member States, *the European Public Prosecutor's Office (EPPO), the European Anti-Fraud Office (OLAF), Eurofisc and the European Union Agency for Law Enforcement Cooperation (Europol)* to fight VAT fraud more effectively, a central electronic VAT information exchange system ('central VIES') for sharing VAT information should be established. That system should receive, from national electronic systems of Member States information about intra-Community transactions as reported by the respective suppliers and acquirers in different Member States. That system should also receive from Member States the VAT identification information of taxable persons making intra-Community transactions. Furthermore, whenever data are changed, the metadata for tracking the modification time should be uploaded into the central VIES as well.

Or. en

Justification

The EU efforts to combat cross-border VAT fraud include a framework of new bodies that must be mentioned in the regulation. EPPO, OLAF, Eurofisc and EUROPOL play a central role as safeguard mechanisms to protect public money and therefore shall access all the data sources enabling to fulfil their mandate, especially the future central VIES. For instance, the EPPO is the unique institution competent to investigate the most serious and complex VAT fraud schemes (PIF Directive + EPPO reg.). See also EP Res.19.01.2023 Protection of EU's financial interests annual report 21 (2022/2152 INI).

Amendment 4

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) To assist Member States in their fight against VAT fraud and to detect fraudsters, VAT identification information and VAT information on intra-Community transactions should be retained for 5 years. That period constitutes the minimum period necessary for Member States to carry out controls effectively and investigate suspected VAT fraud or detect such fraud. It is also proportionate considering the massive volume of the intra-Community transaction information and the sensitivity of the information as commercial and personal data.

Amendment

(8) To assist Member States in their fight against VAT fraud and to detect fraudsters, VAT identification information and VAT information on intra-Community transactions should be retained for 5 years ***within the companies concerned***. That period constitutes the minimum period necessary for Member States ***and, if appropriate, the EPPO*** to carry out controls effectively and investigate suspected VAT fraud or detect such fraud. It is also proportionate considering the massive volume of the intra-Community transaction information and the sensitivity of the information as commercial and personal data.

Or. en

Amendment 5

Proposal for a regulation

Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) Union business data collected through e-invoicing and e-reporting should, for security reasons and economic

sovereignty, be stored physically within the Union.

Or. en

Amendment 6

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) To detect mismatches in a timely manner and thereby improve the capability to fight VAT fraud, the central VIES should be able to automatically cross-check the information collected from both the supplier and acquirer through the DRR introduced by Directive (EU) XX/XXX [OP please insert number and year of the Council Directive amending Directive 2006/112/EC as regards VAT rules for the digital age adopted the same day as this Regulation¹⁷]. The results of such cross-checking should be made available to Member States for the appropriate follow-up.

¹⁷ Council Directive (EU) XXX/XXXX of (OJ L., dd/mm/yy, p. X).

Amendment

(9) To detect mismatches in a timely manner and thereby improve the capability to fight VAT fraud, the central VIES should be able to automatically cross-check the information collected from both the supplier and acquirer through the DRR introduced by Directive (EU) XX/XXX [OP please insert number and year of the Council Directive amending Directive 2006/112/EC as regards VAT rules for the digital age adopted the same day as this Regulation¹⁷]. The results of such cross-checking should be made available to Member States for the appropriate follow-up. ***For security reasons, DRR do not apply to defence and national security contracts.***

¹⁷ Council Directive (EU) XXX/XXXX of (OJ L., dd/mm/yy, p. X).

Or. en

Amendment 7

Proposal for a regulation

Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) To ensure a streamlined process, it is necessary for the central VIES to

reflect, in real time, status updates regarding validations of bulk data and regarding company subscriptions to trading partners. It is necessary for such status updates to be reliable in terms of data quality and system stability.

Or. en

Amendment 8

Proposal for a regulation Recital 10 b (new)

Text proposed by the Commission

Amendment

(10a) Since 2002, the Commission has made available on its website the ‘VIES VAT number validation’ functionality, to enable online checks of the validity of a VAT number. Given the significant increase of the demand on that functionality since its initial conception, significant upgrades are necessary to allow it handle mass validations, to improve the quality of the information it contains, to enable real-time updates and to reduce downtime. Therefore, in order to allow for the reliable performance of real-time checks of VAT numbers and in order for the central VIES to be fully effective, it is essential that the Commission improve the performance of the VIES VAT number validation functionality.

Or. en

Amendment 9

Proposal for a regulation Recital 10 c (new)

Text proposed by the Commission

Amendment

(10a) In the interest of simplification

and limiting compliance costs for both businesses, in particularly the SMEs, and tax administrations, the Commission should develop a secure and reliable software to connect businesses and national administrations with central VIES.

Or. en

Amendment 10

Proposal for a regulation Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) The safeguards provided for in Chapter XV of Regulation (EU) No 904/2010, in particular those provided for in Article 55 of that Regulation, should remain applicable to the processing of personal data.

Or. en

Amendment 11

Proposal for a regulation Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) It is paramount for any processing of personal data to comply with Regulations (EU) 2016/679^{1a} and (EU) 2018/1725^{1b}, in full respect of the European Charter on Fundamental Rights.

^{1a} Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the

processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

^{1b} Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

Or. en

Amendment 12

Proposal for a regulation

Recital 13

Text proposed by the Commission

(13) To fight VAT fraud, Member States' Eurofisc liaison officials as referred to in Article 36 of Regulation (EU) No 904/2010 should be able to access and analyse VAT information on intra-Community transactions. To monitor the correct application of VAT laws, Member States' officials who check whether the exemption of VAT for certain imported goods, which is laid down in Article 143(1), point (d), of Directive 2006/112/EC, applies, should also be able to access VAT identification information that is stored in the central VIES. Moreover, for the same reasons, Member States' competent authorities should select other officials who need to have direct access to the central VIES and grant them such access where needed. Finally, duly accredited persons of the Commission should be able to access the information

Amendment

(13) To fight VAT fraud, Member States' Eurofisc liaison officials as referred to in Article 36 of Regulation (EU) No 904/2010 **and the EPPO, OLAF, Eurofisc and Europol** should be able to access and analyse VAT information on intra-Community transactions. To monitor the correct application of VAT laws, Member States' officials who check whether the exemption of VAT for certain imported goods, which is laid down in Article 143(1), point (d), of Directive 2006/112/EC, applies, should also be able to access VAT identification information that is stored in the central VIES. Moreover, for the same reasons, Member States' competent authorities should select other officials who need to have direct access to the central VIES and grant them such access where needed. Finally, duly accredited persons of the Commission

contained in the central VIES, but only to the extent that such access is necessary for the development and maintenance of that system.

should be able to access the information contained in the central VIES, but only to the extent that such access is necessary for the development and maintenance of that system.

Or. en

Justification

In line with the recent position of the European Parliament resolution of 1 January 2023 on the protection of the European Union's interests - combating fraud- annual report 2021 (2022/2152 (INI)).

Amendment 13

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) To investigate suspected VAT fraud and to detect such fraud, the information systems supporting the Eurofisc network in the fight against VAT fraud, including the Transaction Network Analysis system and the central electronic system of payment information (“CESOP”), should have direct access to the central VIES.

Amendment

(14) To investigate suspected VAT fraud and to detect such fraud, the information systems supporting the Eurofisc network in the fight against VAT fraud, including the Transaction Network Analysis system and the central electronic system of payment information (“CESOP”), ***the EPPO , OLAF and Europol*** should have direct access to the central VIES.

Or. en

Amendment 14

Proposal for a regulation

Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) The EPPO should also have direct access to the central VIES in so far as necessary for the performance of its tasks, as laid down in Article 4 of Council

Regulation 2017/1939^{1a}, and in accordance with Article 43 of that Regulation.

^{1a} Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283 31.10.2017, p. 1).

Or. en

Justification

The EPPO was created to investigate the most serious and complex VAT fraud schemes (PIF Directive + EPPO Reg.). In light of this, the EPPO shall access all the data sources enabling to fulfil its mandate, especially the future central VIES. The track record of uncovering fraud since its creation should be acknowledged by the legislators and EPPO tools in the combat against fraud should be strengthened.

Amendment 15

Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) In order to ensure uniform conditions for the implementation of Regulation (EU) No 904/2010, implementing powers should be conferred on the Commission in respect of the tasks to be carried out by the Commission for technically managing the central VIES, the technical details concerning the identification and access of officials and electronic systems to the central VIES, the technical details and format of the information transmitted to the central VIES and the roles and responsibilities of Member States and the Commission when acting as controller and processor under Regulations (EU) 2016/679¹⁸ and (EU) 2018/1725¹⁹ of the European Parliament and of the Council. Those powers should be exercised in accordance with Regulation

Amendment

(16) In order to ensure uniform conditions for the implementation of Regulation (EU) No 904/2010, implementing powers should be conferred on the Commission in respect of the tasks to be carried out by the Commission for technically managing the central VIES, the technical details concerning the identification and access of officials and electronic systems to the central VIES, the technical details and format of the information transmitted to the central VIES and the roles and responsibilities of Member States and the Commission when acting as controller and processor under Regulations (EU) 2016/679¹⁸ and (EU) 2018/1725¹⁹ of the European Parliament and of the Council. Those powers should be exercised in accordance with Regulation

(EU) No 182/2011 of the European Parliament and of the Council²⁰ .

(EU) No 182/2011 of the European Parliament and of the Council²⁰ . ***Any draft implementing act is to be transmitted to the European Parliament for information, in order to enable the exercise of its rights.***

¹⁸ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

¹⁸ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

¹⁹ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

¹⁹ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

²⁰ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

²⁰ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Or. en

Justification

The principles of the Interinstitutional Agreement on Better Regulation should be recalled in this particular case where the control of the Commission's exercise of implementing powers is being carried. (Interinstitutional Agreement of 13 April 2016 on Better Law Making). Ensuring that the European Parliament may indicate to the Commission that, in its view, a draft implementing act exceeds the implementing powers provided for in the basic act, taking into account their rights relating to the review of the legality of Union acts (Regulation (EU) N° 182/2011))

Amendment 16

Proposal for a regulation Recital 17

Text proposed by the Commission

(17) VAT fraud is a common problem for all Member States. Member States alone do not have the information necessary to ensure that the VAT rules are correctly applied and to tackle VAT fraud. Since the objective of Regulation (EU) No 904/2010, the fight against VAT fraud, cannot be sufficiently achieved by the Member States because of the cross-border nature of the internal market, but can be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

Amendment

(17) VAT fraud is a common problem for all Member States. Member States alone do not have the information necessary to ensure that the VAT rules are correctly applied and to tackle VAT fraud. Since the objective of Regulation (EU) No 904/2010, the fight against VAT fraud, cannot be sufficiently achieved by the Member States because of the cross-border nature of the internal market, but can be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective. ***The level of collection, centralisation and automatic processing of data on intra-Community transactions, which allows the tax authorities of the Member State to carry out a complete mapping of the flows between companies within the Union, requires the establishment of a control process at Union level to ensure the proper functioning of the system and to avoid any deviation in the use of those data.***

Or. en

Amendment 17

Proposal for a regulation Recital 21

Text proposed by the Commission

(21) The abuse of Import One-Stop-

Amendment

(21) The abuse of Import One-Stop-

Shop ('IOSS') VAT identification numbers has been identified by stakeholders as a potential risk. To better secure the correct use and the verification process of IOSS VAT identification numbers, it is necessary to extend Article 47h of Regulation (EU) No 904/2010 granting customs authorities access to information about the IOSS registered trader, which will improve the risk management and control capabilities of those customs authorities.

Shop ('IOSS') VAT identification numbers, *intentionally or by mistake*, has been identified by stakeholders as a potential risk. To better secure the correct use and the verification process of IOSS VAT identification numbers, it is necessary to extend Article 47h of Regulation (EU) No 904/2010 granting customs authorities access to information about the IOSS registered trader, which will improve the risk management and control capabilities of those customs authorities.

Or. en

Amendment 18

Proposal for a regulation Recital 22 a (new)

Text proposed by the Commission

Amendment

(22a) The changes related to the IOSS scheme require a realistic implementation schedule. Therefore, the extension of the scope of the IOSS scheme should apply from 1 January 2026 in order to avoid fragmented compliance and implementation that would increase the administrative burden for businesses, in particular SMEs, and for platforms facilitating business-to-customer sale, in particular small marketplaces.

Or. en

Amendment 19

Proposal for a regulation Recital 24

Text proposed by the Commission

Amendment

(24) This Regulation respects the fundamental rights and observes the

(24) This Regulation respects the fundamental rights and observes the

principles recognised by the Charter of Fundamental Rights of the European Union. In particular, this Regulation seeks to ensure full respect for the right of protection of personal data laid down in Article 8 of the Charter. In that regard, this Regulation strictly limits the amount of personal data that will be made available to the tax authorities. The processing of intra-Community transaction information pursuant to this Regulation should only occur for the purposes of this Regulation.

principles recognised by the Charter of Fundamental Rights of the European Union. In particular, this Regulation seeks to ensure full respect for the right of protection of personal data laid down in Article 8 of the Charter. In that regard, this Regulation strictly limits the amount of personal data that will be made available to the tax authorities, as ***access by tax authorities to information on the personal purchases of individuals poses a serious risk to privacy***. The processing of intra-Community transaction information pursuant to this Regulation should only occur for the purposes of this Regulation .

Or. en

Amendment 20

Proposal for a regulation Recital 24 a (new)

Text proposed by the Commission

Amendment

(24a) Respect for the principles of proportionality and the protection of fundamental rights means that the transmission of data by businesses is only to be used in the context of the fight against VAT fraud. The authorities concerned are to respect the confidentiality of commercial, industrial and professional secrets, namely the privacy of the business and its know-how and expertise related to its products and services, so as not to jeopardise the competitiveness of Union businesses.

Or. en

Amendment 21

Proposal for a regulation Recital 25

Text proposed by the Commission

(25) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion ***on [...]***

Amendment

(25) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion ***on 3 March 2023.***

Or. en

Amendment 22

Proposal for a regulation Recital 27 a (new)

Text proposed by the Commission

Amendment

(27a) Article 36 of Regulation (EU) No 904/2010 was previously amended to take into account the role of Europol and OLAF. It should also reflect the role of the EPPO. As laid down in Article 13(1) of Regulation 2017/1939, the European Delegated Prosecutors of the EPPO act on behalf the EPPO in their respective Member States and have the same powers as national prosecutors in respect of investigations, prosecutions and bringing cases to judgment. In this capacity, they may engage with the Eurofisc liaison official in their respective Member State. They should be granted the same power in their capacity as European Delegated Prosecutors, in line with Article 43 of Regulation 2017/1939. In so far as necessary for the performance of the tasks of EPPO, direct reporting from Eurofisc to EPPO should be authorised. Selected staff of the EPPO should also be allowed to request information from Eurofisc.

Or. en

Justification

Administrative and criminal toolboxes for the fight against VAT Fraud shall act on a

coordinated and integrated manner. Eurofisc data allows the EPPO to have a single bird-eye view over VAT Fraud at EU. Enabling quick reconstitution of extensive and complex VAT Fraud chains, decrease the risk of overlapping and duplication, generation of synergies between administrative and criminal arms on the fight against VAT fraud. Fast and direct access to data is essential to allow a tailored response against the real organizers and beneficiaries of VAT fraud.

Amendment 23

Proposal for a regulation

Article 1 – title

Text proposed by the Commission

Amendments to Regulation (EU) No 904/2010 applicable from 1 January **2025**

Amendment

Amendments to Regulation (EU) No 904/2010 applicable from 1 January **2026**

Or. en

Amendment 24

Proposal for a regulation

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

Regulation (EU) No 904/2010

Article 2 – paragraph 1 – point v a (new) and point v b (new)

Text proposed by the Commission

Amendment

(1a) in Article 2(1), the following points are added:

‘(va) “European Delegated Prosecutors” means the staff of the EPPO referred to in Article 13 of Council Regulation 2017/1939^{1a};

(vb) “staff of the EPPO” means staff of the EPPO as defined in Article 2 point 4 of Regulation 2017/1939.’

Or. en

Amendment 25

Proposal for a regulation

Article 1 – paragraph 1 – point 3 a (new)

Regulation (EU) No 904/2010
Article 17 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(3a) in Article 17, the following paragraph is inserted:

1a. The information referred to in paragraph 1 collected through e-invoicing and e-reporting shall not be stored outside the territory of the Union.

Or. en

Amendment 26

Proposal for a regulation

Article 1 – paragraph 1 – point 3 b (new)

Regulation (EU) No 904/2010

Article 33 – paragraph 1

Present text

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 between Member States and **for** the coordination of any follow-up actions ('Eurofisc').

(3b) in Article 33, paragraph 1 is replaced by the following:

'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 between Member States and the coordination of any follow-up actions, **as well as for the cooperation between Member States and EPPO, Europol and OLAF** (Eurofisc).'

Or. en

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32010R0904>

Justification

To entrench Eurofisc-IBOA cooperation (which we already have in Article 36)

Amendment 27

Proposal for a regulation

Article 1 – paragraph 1 – point 3 c (new)

Regulation (EU) No 904/2010

Article 33 – paragraph 2 – point d a (new)

Text proposed by the Commission

Amendment

(3c) in Article 33(2), the following point is added:

‘(da) cooperate with the EPPO, Europol and OLAF, within their respective mandate and competences.’

Or. en

Amendment 28

Proposal for a regulation

Article 1 – paragraph 1 – point 3 d (new)

Regulation (EU) No 904/2010

Article 36 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

(3d) in Article 36, the following paragraph is added:

‘(5a) In so far as necessary for the performance of their tasks, European Delegated Prosecutors may request relevant information from any Eurofisc working field coordinator located in the same Member State as the European Delegated Prosecutor. In so far as necessary for the performance of their tasks, staff of the EPPO which has been designated by the EPPO for that purpose may request information from any Eurofisc working field coordinator located in one of the Member States that participate in enhanced cooperation on the establishment of the EPPO. To that end, Eurofisc may conclude a working arrangement with EPPO setting out the details of the cooperation between

Eurofisc and the EPPO.’

Or. en

Justification

Eurofisc may only be a network and not have legal personality in general. If the Regulation stipulates so, however, Eurofisc has at least legal personality for that purpose (by delegation, see Article 3 of the Regulation).

Amendment 29

Proposal for a regulation

Article 1 – paragraph 1 – point 10

Regulation (EU) No 904/2010

Article 47lb – paragraph 2

Text proposed by the Commission

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 58(2).’.

Amendment

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 58(2).’ ***The draft-implementing act shall be transmitted to the European Parliament for information, in order to enable the exercise of its rights.***

Or. en

Justification

Compliance with the procedure implemented within European Parliament in specific areas

Amendment 30

Proposal for a regulation

Article 2 – title

Text proposed by the Commission

Amendments to Regulation (EU) No 904/2010 applicable from 1 January **2026**

Amendment

Amendments to Regulation (EU) No 904/2010 applicable from 1 January **2027**

Or. en

Justification

The deadline is too short and unrealistic.

Amendment 31

Proposal for a regulation

Article 3 – title

Text proposed by the Commission

Amendment

Amendments to Regulation (EU) No 904/2010 applicable from 1 January **2028**

Amendments to Regulation (EU) No 904/2010 applicable from 1 January **2029**

Or. en

Justification

It is matter of giving time to SMEs and micro-enterprises to adapt to the new system.

Amendment 32

Proposal for a regulation

Article 3 – paragraph 1 – point 3

Regulation (EU) No 904/2010

Article 24g – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

The Commission shall specify by means of an implementing act the details and the format of the information listed in this paragraph. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 58(2).

The Commission shall specify by means of an implementing act the details and the format of the information listed in this paragraph. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 58(2). ***The draft-implementing act shall be transmitted to the European Parliament for information, in order to enable the exercise of its rights.***

Or. en

Justification

Compliance with the procedure implemented within the European Parliament in specific areas.

Amendment 33

Proposal for a regulation

Article 3 – paragraph 1 – point 3

Regulation (EU) No 904/2010

Article 24g – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. For the cooperation and exchange referred in paragraph 2, the Commission shall develop a secure and reliable software to connect businesses and national administrations with central VIES.

Or. en

Justification

The costs of developing new software's and their permanent updated will fall on businesses. The protection of competitiveness environment of European SMEs is key for the European Parliament. A software developed by the European Commission would be a way forward to decrease those costs, lay the grounds for more harmonization in the field of VAT and prepare the future of a common digital reporting and real time economy.

Amendment 34

Proposal for a regulation

Article 3 – paragraph 1 – point 3

Regulation (EU) No 904/2010

Article 24h – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

The Commission shall by means of an implementing act establish the criteria determining which changes are not pertinent, essential or useful enough to be transmitted in the central VIES. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 58(2).

The Commission shall by means of an implementing act establish the criteria determining which changes are not pertinent, essential or useful enough to be transmitted in the central VIES. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 58(2). ***The draft-implementing act shall be transmitted to the European Parliament for information, in order to enable the exercise of its***

rights.

Or. en

Justification

Compliance with the procedure implemented within the European Parliament in specific areas.

Amendment 35

Proposal for a regulation

Article 3 – paragraph 1 – point 3

Regulation (EU) No 904/2010

Article 24h – paragraph 6

Text proposed by the Commission

6. The information referred to in Article 24g(2) shall be available ***in central VIES*** for 5 years from the end of the year in which the information was transmitted to it.

Amendment

6. The information referred to in Article 24g(2) shall be available ***within the companies concerned*** for 5 years from the end of the year in which the information was transmitted to it.

Or. en

Justification

It is safer (compliance with the principle of proportionality which includes business secrecy) to keep the data within the company than by the tax authorities. Keeping commercially sensitive data, detailing all cross-border transactions within the EU, in one place poses a high risk of a potential data breach. Ensuring the highest level of data security is essential to protect data from attack by malicious actors.

Amendment 36

Proposal for a regulation

Article 3 – paragraph 1 – point 3

Regulation (EU) No 904/2010

Article 24k – paragraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(ba) European Delegated Prosecutors and staff of the EPPO which has been

designated by the EPPO for that purpose;

Or. en

Justification

Art 13(1) and Art. 43 of the Council Regulation (EU)2017/1939 of 12.10.2017

Amendment 37

Proposal for a regulation

Article 3 – paragraph 1 – point 3

Regulation (EU) No 904/2010

Article 24k – paragraph 2 – point b b (new)

Text proposed by the Commission

Amendment

(bb) Europol officials when the investigation is aimed at preventing and combatting any form of serious organised and international crime and cybercrime;

Or. en

Justification

Cyber criminals profit from digitization to commit cyber crimes. EUROPOL's access to the VIES is essential to enable it to better fulfil its tasks of supporting Member States' investigations

Amendment 38

Proposal for a regulation

Article 3 – paragraph 1 – point 3

Regulation (EU) No 904/2010

Article 24k – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) the electronic systems carrying out swift exchange, processing and analysis of targeted information on cross-border fraud by Eurofisc.

(d) the electronic systems carrying out swift exchange, processing and analysis of targeted information on cross-border fraud by Eurofisc ***and EPPO.***

Or. en

Justification

A direct connection between the Case Management System -CMS- (or any other analytical/working environment) might allow the European Data Protector Supervisor - EDPS- to automatically enrich data subjects (companies involved) with data stemming from the Central Vies.

Amendment 39

Proposal for a regulation

Article 3 – paragraph 1 – point 3

Regulation (EU) No 904/2010

Article 24k – paragraph 3 – subparagraph 2

Text proposed by the Commission

That implementing act shall be adopted in accordance with the examination procedure referred to in Article 58(2).

Amendment

That implementing act shall be adopted in accordance with the examination procedure referred to in Article 58(2). ***The draft-implementing act shall be transmitted to the European Parliament for information, in order to enable the exercise of its rights.***

Or. en

Justification

Compliance with the procedure implemented within the European Parliament in specific areas.

Amendment 40

Proposal for a regulation

Article 3 – paragraph 1 – point 3

Regulation (EU) No 904/2010

Article 24m – paragraph 2

Text proposed by the Commission

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 58(2).

Amendment

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 58(2). ***The draft-implementing act shall be transmitted to the European Parliament for information, in order to enable the***

exercise of its rights.

Or. en

Justification

Compliance with the procedure implemented within the European Parliament in specific areas

Amendment 41

Proposal for a regulation

Article 4 – paragraph 1 – point 3 – point a

Regulation (EU) No 904/2010

Article 21 – paragraph 3

Text proposed by the Commission

3. The Commission shall determine by means of implementing acts the practical arrangements as regards the conditions provided for in paragraph 2a, point (d), of this Article in order to enable the Member State providing the information to identify the Eurofisc liaison official accessing the information. 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 practical arrangements as regards the conditions provided for in paragraph 2a, point (d), of this Article in order to enable the Member State providing the information to identify the Eurofisc liaison official accessing the information. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 58(2). ***The draft-implementing act shall be transmitted to the European Parliament for information, in order to enable the exercise of its rights.***

Or. en

Justification

Compliance with the procedure within the European Parliament in specific areas

Amendment 42

Proposal for a regulation

Article 5 – paragraph 2

Text proposed by the Commission

Amendment

Article 1, shall apply from 1 January **2025**.

Article 1 shall apply from 1 January **2026**.

Or. en

Justification

The deadline is too tight

Amendment 43

Proposal for a regulation Article 5 – paragraph 3

Text proposed by the Commission

Amendment

Article 2 shall apply from 1 January **2026**.

Article 2 shall apply from 1 January **2027**.

Or. en

Justification

The deadline is too tight

Amendment 44

Proposal for a regulation Article 5 – paragraph 4

Text proposed by the Commission

Amendment

Article 3 shall apply from 1 January **2028**.

Article 3 shall apply from 1 January **2029**.

Or. en

Justification

The deadline is too tight.

EXPLANATORY STATEMENT

Changes to the VAT Directive (2006/112/EC) consequently lead to amendments to Regulation 904/2010 on administrative cooperation and combating fraud in the field of VAT. These amendments will achieve the objective of the DRRs to facilitate access by the tax authorities of the 27 EU Member States to information on cross-border transactions and the automatic cross-checking of information on supplies and acquisitions. The new upgraded EU VAT Information Exchange System (c) adapted to the specificities of the DRRs will be designed, maintained, hosted and technically managed by the European Commission.

In his report, your rapporteur believes necessary to reinforce data protection both for the safeguard of citizens' privacy and for the safety of companies' business secrecy, with data storage within the companies themselves. The rapporteur fully supports the demands made by the EPPO in its opinion 7/2023 of 3 March 2023 of the European Data Protection Supervisor, concerning the package of legislative proposals on VAT in the digital age.

Your rapporteur insists on close cooperation between all actors involved in the fight against VAT fraud, in particular EPPO, EUROFISC, EUROPOL and EUROJUST. They play a central role on the protection of public money and on the fight against fraud. Therefore they must have access to all sources of data enabling them to fulfil their mandate, in particular the new upgraded VIES system.

Your rapporteur has been careful to ensure that this new system works in the real life of businesses and tax administrations. In order to allow a reliable performance of real-time checks of VAT numbers and achieve a fully effective central VIES, he requests the Commission to improve the performance of the VIES VAT number validation functionality.

In the interests of simplification and limiting compliance costs for both businesses, in particularly the SMEs, and tax administrations, your rapporteur requests the European Commission to develop a secure and reliable software for connecting them to the national administrations and the central VIES system.

In order to advance the digitalisation of the internal market and the simplification of the EU VAT system, your rapporteur calls for the databases provided by the European Commission (e.g. Access2markets) to be updated, to provide real-time information on EU VAT rates and to respond in real time to tax enquiries. All this information should be easily accessible to businesses.

Concerned about the respect of inter-institutional cooperation, your rapporteur stresses the need for the draft-implementing act to be transmitted to the European Parliament for information each time the European Commission wants to adopt an implementing act.

Finally, your rapporteur takes the vision that the implementation periods should be reassessed and more time should be given to businesses and national administrations, to prepare and coordinate the entry into force of DRRs, the VAT treatment of the platform economy or the single VAT registration and IOSS update.

With regard to IOSS, the Rapporteur believes that the Commission should request a study by independent experts to carry out a thorough an assessment of the advantages and

disadvantages of making IOSS mandatory.