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## TEXTS ADOPTED

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### **P9\_TA(2019)0091**

#### **Measures to strengthen administrative cooperation in order to combat VAT fraud \***

**European Parliament legislative resolution of 17 December 2019 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))**

**(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 (C8-0016/2019),
  - having regard to Rule 82 of its Rules of Procedure,
  - having regard to the report of the Committee on Economic and Monetary Affairs (A9-0047/2019),
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*

***(2a) According to the 2019 Final Report in the context of the ‘Study and Reports on the VAT Gap in the EU-28 Member States’<sup>3a</sup> prepared for the Commission, the VAT gap, that is to say, the difference between the expected VAT revenue and the amount actually collected, in the Union amounted to EUR 137,5 billion in 2017, representing a loss of 11,2 % of the total expected VAT revenue and EUR 267 of lost revenue per person in the Union. There are, however, big differences between Member States, with VAT gaps ranging from 0,6 % up to 35,5 %. That highlights the need for more transnational cooperation in order to better combat VAT e-commerce fraud in particular, as well as VAT fraud more generally (including carousel fraud).***

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<sup>3a</sup> Available on

[https://ec.europa.eu/taxation\\_customs/sites/taxation/files/vat-gap-full-report-2019\\_en.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/vat-gap-full-report-2019_en.pdf).

## Amendment 2

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

*Text proposed by the Commission*

*Amendment*

***(2b) 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, it is necessary to adopt an ambitious mandate for the European Public Prosecutor’s Office (EPPO) in collaboration with***

*national judicial authorities in order to ensure the efficient prosecution of fraudsters before the national courts. Organised cross-border VAT fraud should be duly prosecuted and the fraudsters should be penalised.*

### **Amendment 3**

#### **Proposal for a regulation Recital 2 c (new)**

*Text proposed by the Commission*

*Amendment*

*(2c) 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 Member States' heads of tax administrations that seeks 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. Blockchain technology could also be used in order to better protect personal data and improve the online exchange of information between tax authorities.*

### **Amendment 4**

#### **Proposal for a regulation Recital 8**

*Text proposed by the Commission*

(8) A central electronic information system ‘CESOP’ where Member States transmit payment information they store at national level, would achieve the objective of fighting e-commerce VAT fraud more effectively. This system should aggregate, in relation to individual payees, all VAT relevant information regarding payment transactions transmitted by Member States and should allow for a full overview of payments received by payees from payers located in the Member States. Furthermore, this information system should recognise multiple records from the same payment transactions, clean the information received from the Member States (e.g. remove duplicates, correct error in data, etc.) and permit Eurofisc liaison officials of Member States to cross-check payment data with the VAT information they dispose of and make enquiries for the purpose of an investigation into suspected VAT fraud or to detect VAT fraud.

*Amendment*

(8) A central electronic information system ‘CESOP’ where Member States transmit payment information they store at national level, would achieve the objective of fighting e-commerce VAT fraud more effectively. This system should aggregate, in relation to individual payees, all VAT relevant information regarding payment transactions transmitted by Member States and should allow for a full overview of payments received by payees from payers located in the Member States. Furthermore, this information system should recognise multiple records from the same payment transactions, clean the information received from the Member States (e.g. remove duplicates, correct error in data, etc.) and permit Eurofisc liaison officials of Member States to cross-check payment data with the VAT information they dispose of and make enquiries for the purpose of an investigation into suspected VAT fraud or to detect VAT fraud. ***All Member States should participate in all Eurofisc working groups and appoint liaison officials accordingly.***

**Amendment 5**

**Proposal for a regulation**

**Recital 11**

*Text proposed by the Commission*

(11) The exchange of payment data between tax authorities is crucial to combat fraud effectively. Only the Eurofisc liaison officials should process the payment information and only with the objective of fighting VAT fraud. That information should not be used for other purposes than the ones established by this Regulation, such as for commercial purposes.

*Amendment*

(11) The exchange of payment data between tax authorities is crucial to combat fraud effectively. Only the Eurofisc liaison officials should process the payment information and only with the objective of fighting VAT fraud. That information should not be used for other purposes than the ones established by this Regulation, such as for commercial purposes, ***and should also be applied in the implementation of Directive (EU) 2015/849 of the European Parliament and of the Council<sup>6a</sup>.***

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*<sup>6a</sup> Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).*

## Amendment 6

### Proposal for a regulation Recital 11 a (new)

*Text proposed by the Commission*

*Amendment*

*(11a) 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 the quantification and analysis of VAT fraud.*

## Amendment 7

### Proposal for a regulation Recital 13

*Text proposed by the Commission*

*Amendment*

(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

(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.

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 8**

### **Proposal for a regulation**

#### **Recital 14**

*Text proposed by the Commission*

(14) Each Member States' Eurofisc liaison officials should be able to access and analyse the information in relation to the payment transactions for the purpose of fighting VAT fraud. Duly accredited persons of the Commission should access the information **only** for the purpose of developing and maintaining the central electronic information system. Both groups of users should be bound by the confidentiality rules laid down in this Regulation.

*Amendment*

(14) Each Member States' Eurofisc liaison officials should be able to access and analyse the information in relation to the payment transactions for the purpose of fighting VAT fraud. Duly accredited persons of the Commission should access the information for the purpose of developing and maintaining the central electronic information system **and to ensure the proper implementation of this Regulation**. Both groups of users should be bound by the confidentiality rules laid down in 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 9**

### **Proposal for a regulation**

#### **Recital 14 a (new)**

*Text proposed by the Commission*

*Amendment*

**(14a) 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 10

### 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 11

### Proposal for a regulation Article 1 – paragraph 1 – point 1 a (new) Regulation (EU) No 904/2010 Chapter II – Section 2 – Article 12a (new)

*Text proposed by the Commission*

*Amendment*

**(1a) in Section 2 of CHAPTER II, the following Article is added:**

**‘Article 12a**

**All Member States are requested to take measures in order to reduce the percentage of late replies and improve the quality of requests for information. Member States shall inform the Commission about those measures.’**

## Amendment 12

### 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 13**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 2 – point d**

Regulation (EU) No 904/2010

Article 24d– subparagraph 2 (new)

*Text proposed by the Commission*

**Amendment 14**

**Proposal for a regulation**

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

Regulation (EU) No 904/2010

Article 36 – paragraph 2 – introductory part

*Present text*

‘2. The liaison officials of the Member States participating in **a particular** Eurofisc working field (hereinafter ‘participating Eurofisc liaison officials’) shall designate a coordinator (hereinafter ‘Eurofisc working field coordinator’), among the participating Eurofisc liaison officials, for a limited period of time. Eurofisc working field coordinators shall:’

*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.

*Amendment*

***In addition, it should be possible for the Commission to conduct visits in Member States in order to evaluate how cooperation arrangements on cross-border VAT fraud between Member States work.***

*Amendment*

***(2a) in Article 36(2), the introductory part is replaced by the following:***

‘2. The liaison officials of the Member States participating in **the relevant** Eurofisc working field (hereinafter ‘participating Eurofisc liaison officials’) shall designate a coordinator (hereinafter ‘Eurofisc working field coordinator’), among the participating Eurofisc liaison officials, for a limited period of time. Eurofisc working field coordinators shall:’

## Amendment 15

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 3

Regulation (EU) No 904/2010

Article 37 – subparagraph 1a (new)

#### *Text proposed by the Commission*

The annual report shall at ***a minimum*** indicate in detail in relation to each Member State the number of controls carried out ***and*** the additional VAT assessed and collected as a result of the information processed pursuant to Article 24d.

#### *Amendment*

The annual report shall at ***least*** indicate in detail in relation to each Member State:

- the number of controls carried out;
- ***the number of officials authorised to be present in the offices of the administrative authorities of another Member State and the number of officials present during the administrative enquiries carried out in the territory of the requested Member State;***
- ***the number of simultaneous controls organised with one or several Member States and the number of participating officials in pre-selection meetings for simultaneous controls;***
- ***the number of Joint Audit Teams each Member State has participated in;***
- ***steps taken in order to inform auditors about the instruments under this Regulation;***
- ***the number of qualified human resources personnel to ensure presence in administrative offices, participation in administrative enquiries and simultaneous controls (as referred to in Articles 28 to 30);***
- ***the number of staff present in the single central liaison office and in other designated liaison departments, and also any other competent officials, who can directly exchange information on the basis of this Regulation (as referred to in Article 4) and how information is being collected and exchanged between these***

*bodies; and*

- the additional VAT assessed and collected as a result of the information processed pursuant to Article 24d.

## **Amendment 16**

### **Proposal for a regulation**

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

Regulation (EU) No 904/2010

Chapter XIII – Article 49a (new)

*Text proposed by the Commission*

*Amendment*

**(3a) in CHAPTER XIII, the following Article is added:**

**‘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 17**

### **Proposal for a regulation**

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

Regulation (EU) No 904/2010

Article 50 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

**(3b) 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 shall not refuse to provide that information to any other Member State requesting cooperation or having an**

*interest in receiving the information.'*