EUROPEAN
COMMISSION

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2014/0332 (CNS)

Proposal for a

COUNCIL REGULATION

amending Regulation (EC, Euratom) No 1150/2000 implementing Decision 2007/436/EC, Euratom on the system of the European Communities' own resources

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The adjustment of Member States' national contributions (own resources) based on Value Added Tax (VAT) and Gross National Income (GNI), referred to in Regulation No 1150/2000 as ”VAT resources and the additional resource”, to the financing of the Union budget takes place every year on the first working day of December.

These adjustments vary from year to year. As the data calculated in 2014 demonstrate, adjustments to GNI own resources resulting in additional amounts to be made available by some Member States may be exceptionally high because of major revisions made by Member States to their GNI data for previous years.

As Member States provide the basic data to the Commission, the global set of data with the impact on own resources for all Member States is known only in October of each year.

According to the current rules in Regulation No 1150/2000, these adjustments have to be made available on the first working day of December. There is no discretion to agree on a later date.

In particular near the end of the financial year, and if the amounts at stake are very high, this may put Member States in a difficult budgetary situation and may even imply a significant risk for their economic or financial stability.

2. CONTENTS OF THE PROPOSAL

Therefore, under the following circumstances, where the global amount is exceptionally high, Member States shall have the possibility to make available the amount resulting from these adjustments (the VAT and GNI balances) at any moment between the first working day of December and the first working day of September of the following year:

(a) Excess of the individual threshold: if the amount of VAT- and GNI balances regarding any Member State exceeds two monthly twelfths to be made available as VAT resources and the additional resource by that Member State, taking into account the effect on these resources of the correction granted to the United Kingdom for budgetary imbalances, according to current budgetary figures, or

(b) Excess of the global threshold: if the total amount of adjustments regarding all Member States exceeds half of the normal twelfth to be made available as own resources based on VAT and GNI by all Member States, taking into account the effect on these resources of the correction granted to the United Kingdom for budgetary imbalances, according to current budgetary figures.

In 2014, four Member States would be entitled to postpone the making available because the individual threshold (more than two normal twelfths) is exceeded. As for other years since 2002, only in 2007 two Member States would have been entitled.

Nevertheless, as in 2014 also the global threshold is exceeded (VAT and GNI balances for all Member States amount to 9.5 billion EUR, while half of a normal twelfth is less than 5 billion EUR), all Member States may postpone the making available of these balances. In all other years since 2004, except 2007, the global threshold was not exceeded.

This amendment shall already apply to the VAT and GNI balances to be entered in the Commission’s accounts on the first working day of December 2014.

Each Member State who defers the making available of the adjustments, fully or partly, should inform the Commission in good time, and at any event before the first working day of December, of the date or dates when the corresponding amounts will be made available. This date or dates are binding. Accordingly, any delay in making available the adjustments on the date or dates communicated to the Commission should give rise to interest under the conditions of Article 11 of Regulation (EC, Euratom) No 1150/2000.

Regulation (EC, Euratom) No 1150/2000 will be retroactively repealed by Regulation 609/2014[1] .Therefore, the amendments made by this proposal would need to be taken into due consideration in the context of the proposal to amend Regulation 609/2014, which the Commission has committed to present by the end of March 2015[2].

[1] Council Regulation (EU, Euratom) No 609/2014 of 26 May 2014 on the methods and procedure for making available the traditional, VAT and GNI-based own resources and on the measures to meet cash requirements (Recast).

[2] The joint statement entered into the Council minutes of 26 May 2014 reads: "The Council and the Commission agree that, by the end of March 2015 at the latest, the Commission will submit a proposal for Article 12 of the Council Regulation on the methods and procedure for making available the traditional, VAT and GNI-based own resources and on the measures to meet cash requirements in order to allow a revision of the procedure for calculating the interest on amounts made available belatedly. Moreover, the rate(s) of interest shall respect the principle of proportionality while ensuring a smooth functioning of the system to meet the cash requirements."

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 322(2) thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament[3],

Having regard to the opinion of the European Court of Auditors[4],

Whereas:

(1) Pursuant to Article 10(4) to (8) of Regulation (EC, Euratom) No 1150/2000[5] the Commission should calculate and inform Member States of adjustments to the own resources referred to in Article 2(1)(b) and (c) of Council Decision 2007/436/EC, Euratom on the system of the European Communities' own resources[6] (VAT resources and the GNI-based own resource hereafter referred to as the additional resource), in time for them to enter these adjustments in the Commission's account referred to in Article 9(1) of Regulation (EC, Euratom) No 1150/2000 on the first working day of December.

(2) Under exceptional circumstances these adjustments may result in very high amounts which may exceed substantially, as regards some Member States, two monthly twelfths to be made available as VAT resources and the additional resource, and in total, for all Member States, half of aggregate monthly twelfths.

(3) For some Member States the obligation to make available such high amounts may represent a high financial burden which may cause a severe fiscal strain on the country, particularly towards the end of the year.

(4) Therefore Member States should have the possibility to postpone the making available of these amounts until the first working day of September of the following year if certain conditions are met.

(5) Any Member State which decides to apply this option should inform the Commission well in advance of the first working day of December of the date or dates of making

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3 OJ C , , p. .

4 OJ C , , p. .

5 OJ L 130, 31.5.2000,p. 1

6 OJ L 163, 23.6.2007, p. 17

available the adjustments, in order to allow an efficient management of the Union's cash requirements. Any delay in making available those adjustments on the date or dates communicated to the Commission should give rise to interest under the conditions of Article 11 of Regulation (EC, Euratom) No 1150/2000.

(6) This option should be applicable for the first time for adjustments which, pursuant to Regulation (EC, Euratom) no 1150/2000, would have to be entered in the Commission's accounts on the first working day of December 2014.

(7) Regulation (EC, Euratom) No 1150/2000 should therefore be amended accordingly.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC, Euratom) No 1150/2000 is hereby amended as follows:

A new paragraph 7a is introduced in Article 10:

'7a. By way of derogation from paragraphs 4 to 7 of this Article, a Member State may enter in the account referred to in Article 9(1) of this Regulation amounts to be credited to the Commission pursuant to these paragraphs until the first working day of September of the following year, if one of the following conditions is fulfilled:

(a) if the Member State concerned would have to enter in the account referred to in Article 9(1) of this Regulation on the first working day of December an amount exceeding two twelfths of the total for that Member State in the budget for VAT resources and the additional resource, as referred to in paragraph 3, first subparagraph of this Article, as applicable on 15 November of the same year, or

(b) if Member States in total would have to enter in the account referred to in Article 9(1) of this Regulation on the first working day of December a total amount exceeding one half of a twelfth of the total in the budget for VAT resources and the additional resource, as referred to in paragraph 3, first subparagraph of this Article and applying the exchange rates defined in that subparagraph, as applicable on 15 November of the same year.

Member States may only apply the first subparagraph if they have informed the Commission before the first working day of December of their decision, and of the date or dates of entry of the amount of the adjustments in the account referred to in Article 9(1) of this Regulation.

Any delay in entering the amount of the adjustments in the account referred to in Article 9(1) of this Regulation on the date or dates communicated to the Commission under the second subparagraph shall give rise to the payment of interest by the Member State concerned under the conditions of Article 11 of this Regulation.'

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply to amounts to be entered into the accounts referred to in Article 9(1) of Regulation (EC, Euratom) No 1150/2000 after 30 November 2014.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT

1. NAME OF THE PROPOSAL:

2. BUDGET LINES:

Chapter and Article:

Amount budgeted for the year concerned:

3. FINANCIAL IMPACT

☐ Proposal has no financial implications

☐ Proposal has no financial impact on expenditure but has a financial impact on revenue – the effect is as follows:

(EUR million to one decimal place)

Budget line	Revenue[7]	12 month period, starting dd/mm/yyyy	[Year n]
Article	*Impact on own resources*		
Article	*Impact on own resources*		

	Situation following action				
	[n+1]	[n+2]	[n+3]	[n+4]	[n+5]
Article					
Article					

4. ANTI-FRAUD MEASURES

5. OTHER REMARKS

The amendments provide for the possibility for Member States to make available adjustments of VAT resources and the additional resource (chapters 31 and 32) in installments, provided their overall amount is exceptionally high (excess of individual or a global threshold).

If Member States make use of this possibility this may lead in 2014 to own resources made available only in 2015.

[7] In the case of traditional own resources (agricultural duties, sugar levies, customs duties), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25 % for collection costs.

It is difficult to predict in advance to what extent Member States would chose to defer payments.

Thresholds are very unlikely to be exceeded each year. However, it cannot be predicted whether this will occur.