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**SP(2020) 23 final**

# **Commission communication on the action taken on opinions and resolutions adopted by Parliament at the December II 2019 session**

**THE FIRST PART OF THIS COMMUNICATION INFORMS PARLIAMENT OF THE ACTION TAKEN BY THE COMMISSION ON AMENDMENTS ADOPTED BY PARLIAMENT RELATING TO PROPOSED LEGISLATION DURING THE DECEMBER II 2019 PART-SESSION.**

**IN THE SECOND PART THE COMMISSION LISTS A NUMBER OF NON-LEGISLATIVE RESOLUTIONS ADOPTED BY PARLIAMENT DURING THE SAME PART-SESSION WITH EXPLANATIONS AS TO WHY IT WILL NOT BE RESPONDING FORMALLY.**

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### **PART TWO – NON-LEGISLATIVE RESOLUTIONS**

**Part One**  
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## ORDINARY LEGISLATIVE PROCEDURE – First reading

### Follow up to the European Parliament legislative resolution on the proposal for a Council directive amending Directive 2006/112/EC as regards introducing certain requirements for payment service providers

(Requirements for payment service providers)

1. **Rapporteur:** Lídia PEREIRA (EPP / PT)
2. **Reference numbers:** 2018/0412 (CNS) / A9-0048/2019 / P9\_TA-PROV(2019)0090
3. **Date of adoption of the resolution:** 17 December 2019
4. **Legal basis:** Article 113 of the Treaty on the Functioning of the European Union
5. **Competent Parliamentary Committee:** Committee on Economic and Monetary Affairs (ECON)
6. **Commission's position:**

The Commission welcomes the spirit of the amendments proposed by the European Parliament but cannot accept all of them. Many amendments go beyond the scope of the proposed legislation.

#### **Amendments 1 and 7 on introducing new recitals (2a and 8b) focusing on the need for more cooperation and enhancing the collaboration between judicial authorities at EU and national level to better fight against value added tax (VAT) fraud**

These two amendments add new recitals stressing the need for more transnational cooperation to better fight against VAT e-commerce fraud and VAT fraud in general, as well as the need to reinforce the European Public Prosecutor's Office collaboration with national judicial authorities.

*The Commission welcomes the spirit of the amendments. However, the Commission cannot accept them since the need for further European actions in fighting e-commerce VAT fraud is already highlighted in the other recitals of the proposal. The need to reinforce the European Public Prosecutor's Office collaboration with national judicial authorities goes beyond the scope of the proposal and is not directly linked to the measures put forward by the Commission.*

#### **Amendment 2 on adding new recital (2b) emphasising the importance of evolving tax strategies in parallel with the increased digitalisation, as well as maintaining and further deepening tax cooperation**

This amendment introduces a new recital that would request Member States to invest in technology-led tax collection mechanisms, to continue their efforts towards closer cooperation and exchange of best practices, to work towards interoperability between their databases and to assess the use of the blockchain technology to improve exchange of information between tax authorities.

*The Commission welcomes the spirit of the amendment. However, the Commission cannot accept it as the measures indicated in this amendment go beyond the scope of the proposal.*

### **Amendments 3 and 12 regarding a new recital (3a) and a new article (410c) about including virtual currencies**

These amendments add a new recital and an article requesting the Commission to evaluate within three years whether virtual currencies should be included in the scope of this directive.

*The Commission welcomes the spirit of the amendments. However, the Commission cannot accept them, as the evaluation requested will already be part of the periodical evaluation carried out by the Commission on the application of Directive 2006/112.*

### **Amendments 4 and 8 on introducing a double threshold**

These amendments add, in recital 7 and in Article 243b, an alternative way for payment service providers to calculate the threshold for received payments. According to the Council compromise, the threshold shall be based on the number of payments received by a given payee. This amendment would add an alternative threshold based on the monetary value of each payment (EUR 2 500).

*The Commission cannot accept these amendments as the introduction of a double threshold for payment service providers would constitute a disproportionate administrative burden. Besides, e-commerce transactions are characterised by numerous transactions of relatively low value, meaning such addition would not be appropriate for the purpose of fighting e-commerce VAT fraud.*

### **Amendments 5 and 9 on changing the retention period for payment service providers**

These amendments seek to extend the retention period for payment service providers to three years instead of two years (as laid down in Article 243b and recital 8 in the Commission proposal).

*The Commission welcomes the spirit of the amendments. However, the suggested drafting lacks precision. A more precise and clear drafting has been adopted in the Council compromise and as such, the Commission does not think that an amendment is needed.*

### **Amendment 6 on inserting a new recital (8a) stating when reporting obligations shall arise for payment service providers**

This amendment adds a new recital implying that the record and reporting obligations for payment service providers should arise not only where a payment service acts on behalf of the payer but also when the payment service provider acts on behalf of the payee.

*The Commission welcomes the spirit of this amendment. However, the administrative burdens for payment service providers would significantly increase if both the payer's and payee's payment service provider had to keep records and report both intra-EU and extra-EU payments.*

*It would be more proportionate if the record keeping and reporting obligation arise only for the payee's payment service providers for intra-EU payments, and only for the payer's payment service providers for extra-EU payments as laid down in the Council compromise. Under the Council compromise, all payment service providers established in the EU, which provide payment services in a Member State, will have to keep records of the payments they execute. However, when a payment is made between a payer and a payee that are both located in the EU, only the payment service provider of the payee will have to report the transaction. On the contrary, when the payee is located outside the EU, then it is the payment service provider of the payer that will have to report the transaction. Therefore, the Commission cannot accept the amendment proposed by the European Parliament.*

### **Amendment 10 on ways for payment service providers to identify the location of the payer**

This amendment includes in Article 243c a new point (point a) adding the possibility for payment service providers to localise the payer based on “any other identifier which unambiguously identifies the payer and his location”. The Commission proposal made only reference to the IBAN and BIC.

*The Commission welcomes this amendment, which provides relevant clarifications. The concept of “identifier” used in this amendment refers specifically to identifiers used by payment service providers to identify their client (such as card numbers for credit cards, or account number for e-money providers) but does not include non-payment related identifiers such as an ID card. The Commission can agree to this amendment.*

### **Amendment 11 on clarifying the reporting obligations for payment service providers**

This amendment adds a new condition to Article 243d(h) implying that payment service providers would only be obliged to keep records of payment refunds **if** this information is **available** to them. In the Commission proposal there is not “if available”.

*The Commission welcomes the spirit of the amendment. However, the suggested wording does not clearly cover the issue and, as such, a more precise wording has been adopted in the Council compromise. Therefore, the Commission cannot accept the amendment proposed by the European Parliament.*

### **Amendments 13 and 14 on a later entry into force**

These amendments seek the new rules to enter into force in January 2024 instead of January 2022 as in the Commission proposal.

*Although the Commission would be in favour of a more ambitious entry into force in 2023, it can accept this amendment which takes into consideration Member States’ capacity to properly implement the law.*

## ORDINARY LEGISLATIVE PROCEDURE – First reading

### Follow up to the 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

(Measures to strengthen administrative cooperation in order to combat VAT fraud)

1. **Rapporteur:** Lídia PEREIRA (EPP / PT)
2. **Reference numbers:** 2018/0413 (CNS) / A9-0047/2019 / P9\_TA-PROV(2019)0091
3. **Date of adoption of the resolution:** 17 December 2019
4. **Legal basis:** Article 113 of the Treaty on the Functioning of the European Union
5. **Competent Parliamentary Committee:** Committee on Economic and Monetary Affairs (ECON)
6. **Commission's position:**

The Commission welcomes the spirit of the amendments proposed by the European Parliament but cannot accept all of them. Many amendments go beyond the scope of the proposed legislation.

#### **Amendment 1 introducing a new recital 2a regarding the need for a more effective transnational cooperation to better fight against value added tax (VAT) e-commerce fraud and VAT fraud in general following the result of the 2019 study on the VAT GAP**

*The Commission welcomes the spirit of the amendments. However, the Commission cannot accept them since the need for further European actions in fighting e-commerce VAT fraud is already highlighted in the other recitals of the proposal.*

#### **Amendment 2 introducing a new recital 2b highlighting the links between VAT fraud and organised crime**

This amendment would highlight the links between VAT fraud and organised crime, and request to reinforce the European Public Prosecutor's Office collaboration with national judicial authorities.

*The Commission cannot accept this amendment as the measures prescribed by the amendment go beyond the scope of the proposal.*

#### **Amendment 3 introducing a new recital 2c requesting Member States to invest in technology-led tax collection mechanisms**

This new recital would request Member States to invest in technology-led tax collection mechanisms, to continue their efforts towards closer cooperation and exchange of best practices, to work towards interoperability between their databases and to assess the use of the blockchain technology to improve exchange of information between tax authorities.

*The Commission welcomes the spirit of the amendment. However, the measures indicated in this amendment go beyond the scope of the proposal.*



#### **Amendment 4 on Member States' participation in Eurofisc working groups**

This would change recital 8 to impose that all Member States shall participate in all Eurofisc working groups and appoint liaison officials accordingly.

*The Commission cannot accept the amendment as it goes beyond the scope of the proposal. Besides, Member States' participation in working fields is optional according to Article 34 of Regulation (EU) 904/2010.*

#### **Amendment 5 on exchange of payment information with financial investigation units for anti-money laundering**

This amendment would provide changes to recital 11 to allow payment information to be exchanged with the competent financial investigation units for anti-money laundering purposes.

*The Commission cannot accept the amendment as it goes beyond the legal basis of the Commission proposal, which only covers VAT cooperation.*

#### **Amendment 6 introducing a new recital 11a on a common statistical approach to quantify and analyse VAT fraud**

This new recital would request the Commission and the Member States to develop a common statistical approach to quantify and analyse VAT fraud.

*The Commission cannot accept the amendment as it goes beyond the scope of the proposal.*

#### **Amendment 7 amending recital 13 to change the retention period for payment service providers**

This amendment would change the retention period for payment service providers to three years instead of two years as laid down in the Commission proposal.

*The Commission welcomes the spirit of the amendments. However, the suggested drafting lacks precision and as such, a more accurate drafting has been adopted in the Council compromise. Therefore, the Commission is not in a position to accept this amendment.*

#### **Amendments 8 and 13 on the possibility for the Commission to conduct visits in the Member States in order to evaluate the effectiveness of administrative cooperation**

These amendments would provide changes to recital 14 and Article 24d to add the possibility for the Commission to conduct visits in the Member States in order to evaluate the effectiveness of the cooperation between Member States when fighting VAT fraud.

*The Commission cannot accept these amendments, as they go beyond the scope of the proposal. Furthermore, Article 37 of the proposed regulation already provides that Eurofisc will assess the effectiveness of the Central Electronic System of Payment Information (CESOP) in its annual report.*

#### **Amendment 9 introducing a new recital 14a requesting the Member States to invest more resources in Eurofisc**

This amendment would engage the Member States in investing more resources in Eurofisc to improve cooperation between them and fight efficiently against VAT fraud.

*The Commission cannot accept the amendment as it goes beyond the scope of the proposal.*

### **Amendment 10 on stressing the obligation to consult the European Data Protection Supervisor during the implementation of the current proposal**

This amendment would change recital 18 in order to stress the obligation to consult the European Data Protection Supervisor (EDPS) during the implementation of the current proposal.

*The Commission cannot accept the amendment as Article 42(1) of Regulation (EU) 2018/1725 already foresees the consultation of the EDPS on the implementing act (as highlighted by the EDPS in its opinion 1/2019).*

### **Amendment 11 introducing a new Article 12a on improving the exchange of information between tax authorities**

The amendment would impose to the Member States to improve the exchange of information between tax authorities by reducing late replies.

*The Commission cannot accept this amendment as it goes beyond the scope of the proposal and is not directly linked to the measures proposed to fight e-commerce VAT fraud.*

### **Amendment 12 on the retention period of payment data in CESOP**

This amendment would modify Article 24c to change the CESOP retention period to five years, instead of 2 years as proposed by the Commission.

*The Commission welcomes the amendment which provides a good balance between the needs to fight VAT fraud and the need to protect personal data, as well as relevant clarifications. The Commission can as such agree to this amendment.*

### **Amendment 14 on participation in Eurofisc working field**

This amendment would change Article 36(2) to change the wording from “participating in a particular Eurofisc working field” into “participating in the relevant Eurofisc working field”.

*The Commission cannot accept the amendment as Article 36 does not fall in the scope of the Commission proposal. This change has no direct link with the measures put forward by the Commission in its proposal.*

### **Amendment 15 on adding new information to the annual report of Eurofisc**

This amendment would provide changes to Article 37 in order to add new information to the annual report of Eurofisc. In particular:

- the number of officials present during administrative enquiries carried out in the territory of another Member State;
- the number of simultaneous controls organised by the Member States;
- the number of joint audits each Member State has participated in;
- the actions taken to inform auditors of the available instruments under this regulation;
- the number of qualified human resources participating in administrative enquiries and simultaneous controls;
- the number of staff who can directly exchange information on the basis of this regulation and how information is being collected and exchanged.

*The Commission cannot accept this amendment as it goes beyond the scope of the proposed regulation. This amendment refers to measures adopted in the previous modification of Regulation 904/2010 and has no direct link with the measures put forward by the Commission in this proposal.*

**Amendment 16 introducing a new Article 49a on a common system of collecting statistics on intra-EU VAT fraud**

This amendment would require the Member States and the Commission to establish a common system of collecting statistics on intra-EU VAT fraud and publish national and EU estimates of the VAT fraud gap.

*The Commission cannot accept this amendment as it goes beyond the scope of the proposed regulation. This amendment has no direct link with the measures put forward by the Commission in this proposal.*

**Amendment 17 introducing a new paragraph 1a in Article 50**

This amendment would oblige Member States that exchange information with third countries to share the same information with any other Member State.

*The Commission cannot accept this amendment as it goes beyond the scope of the proposed regulation. This amendment has no direct link with the measures put forward by the Commission in this proposal.*

## **Part Two**

# **Non-legislative resolutions**

**THE COMMISSION DOES NOT INTEND TO RESPOND FORMALLY TO THE  
FOLLOWING NON-LEGISLATIVE RESOLUTIONS, ADOPTED BY THE EUROPEAN  
PARLIAMENT DURING THE DECEMBER II 2019 PART-SESSION**

Resolution on the Commemoration of the 30th anniversary of the Romanian revolution of December 1989 (2019/2989 (RSP))

EP: B9-0241/2019

Date: 19 December 2019

Commissioner responsible: Věra JOUROVÁ  
Secretary General

**Reason:** The Commission will not be responding formally to the requests addressed in the resolution as it already comprehensively expressed its position in plenary by Commissioner Vălean. In addition to this, a key element of the resolution is about investigating and bringing to justice those in charge of the December 1989 repression. There is an ongoing court case in Romania on the issue and it is therefore not for the Commission to comment on pending court cases.

Resolution on the situation of the Uyghur in China ("China Cables") (2019/2945 (RSP))

EP: B9-0246/2019

Date: 19 December 2019

Commissioner responsible: Josep BORRELL  
European External Action Service

**Reason:** The Commission will not be responding formally to the requests addressed in the resolution as they were comprehensively addressed in plenary by the High Representative / Vice-President Josep Borrell

Resolution on the situation of human rights and democracy in Nicaragua (2019/2978 (RSP))

EP: B9-0251/2019

Date: 19 December 2019

Commissioner responsible: Josep BORRELL  
European External Action Service

**Reason:** The Commission will not be responding formally to the requests addressed in the resolution as they were comprehensively addressed in plenary by the High Representative / Vice-President Josep Borrell

Resolution on the Russian «Foreign Agents» law (2019/2982 (RSP))

EP: B9-0258/2019

Date: 19 December 2019

Commissioner responsible: Josep BORRELL  
European External Action Service

**Reason:** The Commission will not be responding formally to the requests addressed in the resolution as they were comprehensively addressed in plenary by the High Representative / Vice-President Josep Borrell

Resolution on Afghanistan, notably the allegations of sexual abuse of boys in the Logar Province (2019/2981 (RSP))

EP: B9-0242/2019

Date: 19 December 2019

Commissioner responsible: Josep BORRELL

European External Action Service

**Reason:** The Commission will not be responding formally to the requests addressed in the resolution as they were comprehensively addressed in plenary by the High Representative / Vice-President Josep Borrell

Resolution on the violations of human rights including religious freedoms in Burkina Faso (2019/2980 (RSP))

EP: B9-0261/2019

Date: 19 December 2019

Commissioner responsible: Josep BORRELL

European External Action Service

**Reason:** The Commission will not be responding formally to the requests addressed in the resolution as they were comprehensively addressed in plenary by the former Commissioner King during the debate in the preceding plenary meeting on 21 October

Resolution on the violent crackdown on the recent protests in Iran (2019/2993 (RSP))

EP: B9-0271/2019

Date: 19 December 2019

Commissioner responsible: Josep BORRELL

European External Action Service

**Reason:** The Commission will not be responding formally to the requests addressed in the resolution as they were comprehensively addressed in plenary by the High Representative / Vice-President Josep Borrell