

# Mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures (repeal. Directive 76/308/EEC).

## Codification

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This report from the Commission relates to the use of the provisions on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures in 2005-2008.

EC Member States provide mutual assistance to each other for the recovery of claims relating to certain levies, duties, taxes and other measures. The legislation concerned was originally laid down in Council Directive 76/308/EEC. This Directive has been replaced by Directive 2008/55/EC in May 2008. Under this legislation the Commission is required to produce a regular report on the use of the mutual assistance arrangements. The first report was published in February 2006. It provided an overview of the mutual recovery assistance provided in 2003 and 2004. The present report relates to recovery assistance granted in 2005-2008. It also deals with the current Commission initiatives in this field.

The report states that statistics on mutual assistance for recovery relating to 2005 - 2008 show that the recovered amounts have increased considerably. The evolution of the amounts that are effectively recovered also shows an increasing tendency. Compared to the amounts recovered in 2003 (100 %), the recovered amounts have risen to over 600 % in 2006 and 2008. However, the number of requests and the amounts for which recovery assistance is requested, are also growing. Consequently, there remains a large gap between the amounts for which assistance is requested and amounts actually recovered through mutual assistance.

Faced with the **increase in requests and the increase of the amounts for which recovery assistance is requested**, special efforts are needed to improve the efficiency of this assistance. These efforts have to be made on national level and on Community level: (i) the individual Member States have to strengthen the recovery instruments available in their domestic legislation; and (ii) the European Community has to reinforce and facilitate the mutual recovery assistance between the Member States.

**New Community initiatives** have been taken to strengthen the mutual recovery assistance, for instance:

- **New Council Directive:** the original Directive on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures – Directive 76/308/EEC – has been amended several times. In the interests of clarity and rationality the said Directive has been codified. The new Council Directive 2008/55/EC was adopted on 26 May 2008 and entered into force on 30 June 2008.
- **New Commission Regulation** facilitating the exchange of assistance requests: on 28 November 2008, the Commission adopted Regulation (EC) No 1179/2008, which replaced Commission Directive 2002/94/EC as of 1 January 2009. This new legislation, which lays down detailed rules to implement the Council Directive, facilitates mutual assistance in practice, in particular communication between the competent authorities of different Member States. This is indeed indispensable, given the continuous increase of requests. According to the new rules the electronic communication of requests and replies is in principle applied to all types of mutual assistance requests. New standard request forms also contribute to a faster communication between the applicant and the requested authority. It should however be kept in mind that the total sum of the

amounts mentioned in the recovery requests does not necessarily correspond to the amounts really due; e.g. the same claim may be the subject of several requests to different Member States; or requests may be withdrawn at a later stage, because the claims are paid voluntarily or contested successfully. At present, the statistics available do not allow to take account of all these situations. An electronic version of these new request forms, allowing an automatic translation, is now being developed. A test phase for the use of these electronic request forms started on 1 June 2008. It involves authorities from 6 Member States. It is expected that all Member States will be able to use the new electronic forms in the course of 2010.

- **Proposal for new Council legislation:** on 2 February 2009, the Commission presented a [proposal to replace Council Directive 2008/55/EC](#) by new provisions, to reinforce the recovery assistance. The main objectives and elements of this proposal relate to: (i) an extension of the scope to levies that are not yet covered by the present EC legislation; (ii) the preferential use of EC legislation for all mutual recovery assistance requests between EC Member States; (iii) the reinforcement of possibilities to request mutual assistance and to speed up the treatment of mutual assistance requests.

The report concludes that the increase in the number of assistance requests demonstrates that Member States feel the need to work closely together in the fight against tax fraud.

Nevertheless, although the recovered amounts have increased over the period 2005-2008, a further reinforcement of the existing legislation in this field is needed, in order to cope with the increasing number of requests for assistance and to improve the efficiency of the recovery assistance.

The Commission urges the Member States to strengthen the recovery instruments available in their domestic legislation. Lastly, it calls on the Council and the Parliament to adopt quickly the proposal that it presented on 2 February 2009 to reinforce mutual recovery assistance.