Mutual assistance for the recovery of claims relating to taxes, duties and other measures

2009/0007(CNS) - 10/02/2010 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 626 votes in favour to 22 against with 24 abstentions, a legislative resolution amending, under the consultation procedure, the proposal for a Council directive concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures.

The main amendments were as follows:

Organisation: Parliament specifies that each Member State shall develop appropriate control systems for its central liaison office, or for the liaison offices that it has designated as liaison departments, in the interests of transparency and cost-efficiency, and shall draw up a publicly accessible report, in the context of an annual monitoring exercise, accordingly.

Requesting information: MEPs consider it necessary to establish an automatic procedure for the automatic exchange of information instead of a request exchange procedure, as proposed by the Commission. The amended text states that the central liaison offices shall exchange any information with the central liaison offices of the other Member States which might be relevant to the latter in the recovery of the claims.

Spontaneous exchange of information: according to the proposal, the central liaison offices shall exchange information concerning refunds of taxes, other than value added tax, by the national tax authorities, if those refunds relate to persons established in another Member State and concern amounts exceeding EUR 10 000. The Parliament removed the requirement that amounts must exceed EUR 10 000.

Presence in administrative offices and participation in administrative enquiries: where officials of the applicant authority are present during administrative enquiries they may, where so agreed, exercise the powers of inspection conferred on officials of the requested authority, on condition that they exercise those powers in accordance with the laws, regulations or administrative provisions of the requested authority's Member State. The amendment accepted states that where an agreement has been concluded between the applicant authority and the requested authority concerning the inspection powers vested in officials by the requested authority, any refusal of the person under investigation to respect the inspection measures of the officials of the applicant authority shall be treated by the requested authority as a refusal committed against its own officials.

Notification conditions: an amendment aims to clarify that the original document issued by the Justice or the fiscal authorities relating to tax claims can be retained by the applicant Member State.

Execution of the request for recovery: Parliament states that the entire amount of the claim that is recovered by the requested authority shall be remitted to the applicant Member State only within 14 days of receipt of the request.

Follow-up of activities: the central liaison offices shall issue an annual report on cooperation activities carried out during the previous tax year in accordance with the Directive. That report shall detail at least the number of requests received and issued, the action taken, the reasons given where the request was refused, the time taken to deal with the request, the amount of the claim and the amounts actually recovered. The report shall be forwarded to the European Parliament and the Commission for their opinions.

Members require the Commission to work towards good cooperation between the Member States and, on an ongoing basis, to monitor any complaints of shortcomings in the exchange of information and assistance between the Member States with a view to recovery in accordance with the Directive.

Commission's analysis: the Commission shall conduct a comparative analysis on a wide range of tax recovery instruments provided for in Member States' tax codes, such as collection orders, recovery claims specified in the real estate property records, liens, enforcement procedure deadlines required by law and applied in practice with a view to facilitating the implementation of best practices for tax recovery in Member States.