

# Excise duties: administrative cooperation

2011/0330(CNS) - 27/01/2012 - Document attached to the procedure

## **Opinion of the European Data Protection Supervisor on the proposal for a Council regulation on administrative cooperation in the field of excise duties.**

Before the adoption of the proposal, the EDPS was given the opportunity by the Commission to provide informal comments. The EDPS is pleased with the process, which has helped to improve the text from a data protection point of view at an early stage. Some of those comments have been taken into account in the proposal. The EDPS welcomes the reference to the present consultation in the preamble of the proposal. The EDPS would nevertheless like to highlight some elements which could still be ameliorated in the text from a data protection perspective.

The EDPS welcomes the **specific reference in the proposal to the applicability of Directive 95/46/EC** and Regulation (EC) No 45/2001 to the personal data processing activities covered by the regulation. He proposes a precision of this reference.

The EDPS recommends the following points with a view to ameliorate the text from a data protection perspective:

- the categories of data to be exchanged between competent authorities should be laid down in the proposal,
- the EDPS expects to be consulted on implementing measures related to the protection of personal data,
- safeguards about the permitted use of information related to suspected cases of fraud should be inserted in the text of the Regulation,
- the necessity and the proportionality of the restrictions to the rights of information and access have to be clearly demonstrated by the legislator. In addition, specific situations where such restrictions are needed must be specified in the text of the proposal — or in a recital,
- the maximum retention period for information concerning intra-Community movements should be specified in the Regulation,
- the retention period should be justified in its preamble,
- international transfers of data on suspicious transactions should comply with Articles 8 and 26 of Directive 95/46/EC and their scope, the identity of the sender and the purpose should be specified.