Special report 13/2011 (2011 discharge): Does the control of customs procedure 42 prevent and detect VAT evasion?

2012/2010(DEC) - 18/12/2012 - Committee report tabled for plenary, single reading

The Committee on Budgetary Control unanimously adopted the report by Bart STAES (Greens/EFA, BE) concerning Special Report No 13/2011 of the Court of Auditors entitled 'Does the control of customs procedure 42 prevent and detect VAT evasion?'

Members believe that, in the current economic climate, the emphasis should move to revenue collection systems stressing that **VAT fraud estimates amount to annual figures of around EUR 1 400 million,** leading to exorbitant losses for the Union budget and the economies of Member States.

Members also regret, the estimated average **VAT gap in the Union is 12 %,** attributable mainly to fraud, non-transparent rules, incoherent control systems and non or partial implementation of Union law in Member States

In this context, Members are profoundly concerned about the Court of Auditors' findings, in particular that the application of customs procedure 42 alone accounted for **extrapolated losses of approximately EUR 2 200 million in the seven Member States audited by the Court of Auditors in 2009**, representing 29 % of the VAT theoretically applicable on the taxable amount of all the imports made under customs procedure 42 in 2009 in those Member States.

The committee is particularly concerned that the Court of Auditors found that **the Union's regulatory framework does not ensure the uniform and sound management of this VAT exemption** by Member States' customs authorities, leaving the system vulnerable to misuse by organised crime.

It condemns the poor-quality audits, which have led to unjustified losses to the Union budget, noting that the Commission did not take appropriate measures to remedy this over the last 10 years.

Overall, Members note with regret that since its introduction, the VAT collection model has remained unchanged; that it is outdated, and that it should be reformed in order to respond to both existing and new trends in fraud. Accordingly, they ask the Commission to inform the committee by September 2013 which temporary and permanent measures are taken to improve the situation. They call, in particular, for:

- simplification of the law on VAT;
- a standard form for the notification of the implementation of VAT to tax authorities;
- uniform and proper management of cases of exemption from VAT by the customs authorities of Member States.

More coordination between Member States: Members stress the importance of more intensive cooperation between Member States, better monitoring of exchanges of information and more direct contacts between local tax and customs offices, including by means of the online VAT Information Exchange System (VIES), so as to ensure that Member States provide efficient assistance to each other. Technical cooperation measures are proposed and Members recommend that customs authorities should be given **online access to the VAT identification numbers contained in VIES**, in order to enable the latter to fulfil their obligations to verify the VAT numbers collected in customs declarations.

The Commission is called upon to create a system that would combine assistance in the customs area and administrative cooperation in the area of VAT to ensure effective information flows, so that the relevant authorities in one field are routinely informed about action in the other field.

Members stress that documented, electronic, non-cash transactions make participating in the black economy more difficult, and encourage Member States to lower their thresholds for compulsory non-cash payments.

Strengthen European tools: the committee deplores the postponement of the entry into force of the Modernised Customs Code and **considers the proposed new date of 31 December 2020 to be unacceptable.** However, it endorses the proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax as regards tax evasion linked to import and other cross-border transaction, which aims to introduce joint liability of traders in intra-Union transactions, holding importers jointly and severally liable in cases where false, late or incomplete reporting of the transaction to the VAT authority has resulted in VAT loss and subjecting them to appropriate penalties.

Lastly, Members endorse the Court of Auditors' recommendations (please see the summary of the Court of Auditors' report) and they call on the Commission to report on a six-monthly basis on how and when it will implement those recommendations.