

EC/Monaco Agreement: taxation of savings income in the form of interest payments. Protocol

2016/0109(NLE) - 13/04/2016 - Legislative proposal

PURPOSE: to conclude, on behalf of the European Union, the Amending Protocol to the Agreement between the European Community and the Principality of Monaco providing for measures equivalent to those laid down in Council Directive 2003/48/EC.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: following the adoption of [Council Directive 2003/48/EC](#), the Savings Directive, and in order to preserve a level playing field for economic operators, **the EU signed Agreements with Switzerland, Andorra, Liechtenstein, Monaco and San Marino** providing for measures equivalent to those laid down in the Directive. The Member States also signed agreements with the dependent territories of the United Kingdom and the Netherlands.

The importance of automatic exchange of information as a means of combating cross-border tax fraud and tax evasion has also been recognised at the international level.

In this regard, **the Organisation for Economic Cooperation and Development (OECD) was mandated by the G20 to develop a single global standard for automatic exchange of financial account information** ('Global Standard'). The Global Standard was published by the OECD Council in July 2014.

Following the adoption of a proposal to update the Savings Directive, on 17 June 2011 the Commission adopted a recommendation for a mandate to **initiate negotiations with Switzerland, Liechtenstein, Andorra, Monaco and San Marino, in order to upgrade the EU's agreements with those countries** in line with international developments and to ensure that those countries continue to apply measures equivalent to those in the EU. On 14 May 2013, the Council reached an agreement on the negotiating mandate.

On the basis of a proposal presented by the Commission in June 2013, on 9 December 2014 the Council adopted [Directive 2014/107/EU](#) amending Directive 2011/16/EU and extending the mandatory automatic exchange of information between EU tax authorities to a full range of financial items in accordance with the Global Standard.

As Directive 2014/107/EU is generally broader in scope than Directive 2003/48/EC and provides that in cases of overlap of scope, the Council, on the basis of a Commission proposal adopted [Directive \(EU\) 2015/2060](#) repealing Directive 2003/48/EC.

The Commission considers it crucial to ensure that the amendment of the existing Savings Agreement with Monaco is in line with EU and international developments. This will increase tax transparency in Europe and will be the legal basis for implementing the OECD Global Standard on automatic exchange of information between Monaco and the EU.

CONTENT: the Commission proposes that the Council should adopt a decision approving, on behalf of the European Union, **the Amending Protocol to the Agreement between the European Community**

and Monaco providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments.

The Amending Protocol **implements the Global Standard between EU Member States and Monaco**. It replaces the existing articles and annexes of the existing Agreement with a new set of provisions comprising 10 articles, an Annex I that reflects the OECD Common Reporting Standard which is part of the Global Standard, an Annex II that reflects important parts of the OECD Commentaries on the Global Standard, an Annex III that reflects the additional data protection safeguards to be put in place as regards data collection and exchanges under the Agreement, and an Annex IV that lists the competent authorities of Monaco and of each Member State.

The new articles reflect the articles of the OECD Model Competent Authority agreement for the implementation of the Global Standard. They include:

- a full set of provisions on exchange of information upon request that follows the latest text of the OECD Model Tax Convention.
- a detailed set of provisions on data protection;
- an additional stage of consultation before any Member State or Monaco undertakes to suspend the Agreement as well as amendments to the Agreement;
- provisions on amendments to the Agreement, including a quick mechanism for provisional application by one of the Contracting Parties of amendments to the Global Standard, subject to the consent of the other Party.

Moreover, the Amending Protocol:

- deals with issues on the transition from the existing Agreement to the amended Agreement as regards requests for information, credits available to beneficial owners for withholding tax, final payment of withholding tax by Monaco to Member States and final exchanges of information under the voluntary disclosure mechanism;
- includes a Protocol on additional safeguards related to the exchange of information on request. The text specifies that exchanges on the basis of a group request are not ruled out.

The revised Agreement is supplemented by four Joint Declarations of the contracting parties.