Strengthening administrative cooperation in the field of value added tax

2017/0248(CNS) - 03/07/2018 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted, by 568 votes to 56, with 56 abstentions, following the consultation procedure, a legislative resolution on the amended proposal for a Council regulation amending Regulation (EU) No 904/2010 as regards measures to strengthen administrative cooperation in the field of value-added tax.

The European Parliament approved the Commission proposal subject to amendments.

Members recalled that an administrative enquiry is often necessary to combat VAT fraud, in particular when the taxable person is not established in the Member State where the tax is due. Since Member States share responsibility for protecting the VAT revenue of all Member States, the Member State in which the taxable person is established should be obliged to carry out the investigation and the requesting Member State(s) shall be obliged to assist the Member State of establishment by actively taking part in the enquiry.

Enquiries: the amended text stated that where the competent authority of a Member State considers that an administrative enquiry is required, it shall submit a **duly justified request**. The requested authority shall not refuse to undertake the enquiry concerned, and if the information is already available, the requested authority shall supply it to the requesting authority prior to receipt of any request.
Member States shall ensure that arrangements are put in place between the requesting authority and the requested authority whereby officials authorised by the requesting authority shall take part in the administrative enquiry carried out in the territory of the requested authority with a view to collecting the information.
Such administrative enquiry shall be carried out jointly by the officials of the requesting and requested authorities in a cooperative and **productive spirit**. The officials of the requesting authority shall have access to the same information, documents and premises and shall, insofar as permitted under the law of the requested Member State, be able to directly question individuals in order to detect and counter cross-border VAT fraud which is currently eroding national tax bases.

All Member States shall implement a set of **operational targets** for reducing the percentage of late replies and improving the quality of requests for information and shall inform the Commission about those targets.

Eurofisc and exchange of information: the Commission shall provide Eurofisc with the necessary technical and logistical support. Eurofisc working field coordinators may, on their own initiative or on request, forward relevant information on the most serious cross-border VAT offences to Europol and the European Anti-Fraud Office (‘OLAF’), as agreed by the working field participant

Stressing that it is vital for there to be a two-way information exchange between Eurofisc and Europol, the amended text stated that Eurofisc working field coordinators may ask Europol and OLAF for relevant information. Eurofisc working field coordinators shall make the information received from Europol and OLAF available to the other participating Eurofisc liaison officials; this information shall be exchanged by electronic means.

Data protection: in order to safeguard the interests of the fundamental rights and freedoms, it appropriate to consider limitations on certain rights and obligations in this respect. Such limitations are **necessary and proportionate** in view of the potential loss of revenue for Member States and the crucial importance of making information available in order to combating fraud effectively. Such limitations, however, should not go beyond what is strictly necessary to achieve that objective and must meet the high standards required by the Charter of Fundamental Rights of the European Union. In addition, any future implementing acts to this Regulation should comply with the data protection requirements.

Statistics: Member States and the Commission shall establish a common system of collecting statistics on intra-Community VAT fraud and shall publish national estimates of VAT losses resulting from that fraud, as well as estimates for the Union as a whole. The Commission shall adopt by means of implementing acts the practical arrangements for such statistical system. Those implementing acts shall be adopted in accordance with the examination procedure.

Relations with third countries: when a Member State provides wider information to a third country than that provided for under this Regulation, that Member State may not refuse to provide that information to any other Member State requesting cooperation or having an interest to receive it.