Amending EU/Norway Agreement on administrative cooperation, combating fraud and recovery of claims in the field of value added tax

2023/0419(NLE) - 24/11/2023 - Legislative proposal

PURPOSE: to conclude, on behalf of the Union, the amendment of the Agreement between the European Union and the Kingdom of Norway on administrative cooperation, combating fraud and recovery of claims in the field of value added tax.

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: the cooperation framework under the Agreement between the European Union and the Kingdom of Norway on administrative cooperation, combating fraud and recovery of claims in the field of value added tax has already shown very positive outcome.

The Agreement entered into force in September 2018. Since then, new tools for administrative cooperation were introduced into EU legislation, namely by the amending Council Regulation (EU) 2018 /1541. The new tools include:

- enhancing the Eurofisc network through reinforced governance, the so-called follow-up actions (joint processing and analysis of data) and administrative enquiries carried out jointly (joint audits);

- working with other law enforcement EU bodies (Europol, OLAF);

- sharing key information on imports and on vehicles.

The possibility to use other means to exchange information than the standard forms was also introduced.

During the second meeting on 25 November 2021 of the EU-Norway Joint Committee, Norway officially submitted a request to supplement and amend the Agreement in order to:

- take into account the newly introduced administrative cooperation tools (the use of other means to exchange information than the standard forms, the administrative enquiries carried out jointly and the follow-up actions in the framework of Eurofisc);

- update the reference to the repealed Directive 95/46/EC by Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and in particular, introducing a reference to the provisions of the European Economic Area (EEA) agreement equivalent to Regulation (EU) 2016/679.

The amendment of the Agreement, by including the above-mentioned new tools, would allow for better cooperation and enhance the fight against fraud, thus bringing added value for both parties to the Agreement (Norway and Member States).

CONTENT: the Commission proposes that the Council should decide to approve, on behalf of the Union, the amendment of the Agreement between the European Union and the Kingdom of Norway on administrative cooperation, combating fraud and recovery of claims in the field of value added tax.

The foreseen amendments will provide Member States, to the extent possible and so far as necessary, with new cooperation tools with Norway, similar to the ones introduced in the Regulation 904/2010 with Regulation (EU) 2018/1541 just after the signature and conclusion of the EU-Norway Agreement.

In particular, the amendments cover:

1. Administrative enquiries carried out jointly (so called **Joint Audits**): the possibilities of administrative enquiries carried out jointly would be introduced. Officials authorised by the competent authorities of one State would be allow to be present during administrative enquiries carried out by officials of another State and to participate in administrative enquiries carried out jointly.

2. Eurofisc - Follow-up actions: the amendment would allow the follow-up actions – as already possible amongst Member States pursuant to Regulation (EU) 904/2010 – within the framework of Eurofisc with the participation of Norway. Within the framework of Eurofisc, the Member States and Norway would be able to coordinate participating states` administrative enquiries of fraud identified by the Eurofisc liaison officials.

3. Update of the legal reference to Directive 95/46/EC: the amendment would update the reference to the repealed Directive 95/46/EC with a reference to the national rules adopted pursuant to point 5e of Annex XI to the EEA Agreement and Regulation (EU) 2016/679 on the protection of personal data. Furthermore, it was clarified that the Joint Committee is not consulted for disputes in the field of personal data protection rules referred to under point 5e of Annex XI to the EEA Agreement.