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'I/A' ITEM NOTE

From:	Working Party on Own Resources
To:	Permanent Representatives Committee/Council
No. Cion doc.:	10135/21 (COM(2021) 327 final)
Subject:	Council Regulation amending Regulation (EU, Euratom) No 609/2014 in order to enhance predictability for Member States and to clarify procedures for dispute resolution when making available the traditional, VAT and GNI based own resources - *Adoption*

1. On 25 June 2021, the Commission submitted to the Council a proposal for a Council Regulation amending Regulation (EU, Euratom) No 609/2014 in order to enhance predictability for Member States and to clarify procedures for dispute resolution when making available the traditional, VAT and GNI based own resources.

The Commission proposal introduces the following elements:

- a review procedure for the resolution of disputes;
- the codification and strengthening of the procedural rules applicable to exchanges between the Commission and the Member States as regards the making available of own resources, reflecting the current practice of payment under reservation, which opens the possibility to initiate an action for unjust enrichment against the Commission;
- the amendment of the rules on interest on late payment (extension of the cap on the increase in the interest rate to all cases);

- the amendment of the annual balances adjustment and the postponement of the making available by Member States of the adjustments to year N+2;

- the codification of the procedure for advance payments;

- the possibility for the Commission to establish a centralised own resources account;

- lastly, the inclusion of Germany as a beneficiary of lump-sum corrections and the deletion of the reference to the United Kingdom correction.

2. The European Court of Auditors adopted its opinion[1] on the Commission's proposal on 22 September 2021.

3. The European Parliament adopted its opinion[2] on the Commission's proposal on 14 December 2021.

4. The Working Party on Own Resources examined the Commission’s proposal at is informal videoconferences on 30 June, 12 September, 8 October, 18 November and 13 December 2021 and at its meeting on 7 February 2022.

   On 2 March 2022, on the basis of a compromise proposal prepared by the Presidency, the Working Party on Own Resources agreed, by a qualified majority, on the text of the draft Council Regulation, subject to legal-linguistic revision.

[1] OJ C 402I, 5.10.2021, p. 1.
[2] P9_TA(2021)0494.

The most important changes introduced by the compromise, compared with the Commission's proposal, are:

- concerning interest on late payments: the reduction of the cap on the interest rate to 14% and the introduction of a grace period of five years;
- relief for Member States from making available irrecoverable amounts where the Member State can prove that an error made by the Member State after the establishment of the entitlements had no influence on the irrecoverability of the amount corresponding to those entitlements;
- the obligation for the Commission to produce a detailed cost-benefit analysis of the use of the centralised account without undue delay;
- in the context of the review procedure: (a) a maximum period of two years to close the procedure, (b) the possibility for Member States to request once per year a high level meeting with the Commission with a view to reviewing the respective positions, and (c) the assessment by the Commission in 2026 at the latest of the functioning of the new review procedure which could, where applicable, be concluded by a Commission decision.

5. As part of the agreement reached in the Working Party, the Commission announced two statements to be recorded in the summary record of the meeting of the Permanent Representatives Committee.

6. The Permanent Representatives Committee is therefore invited to recommend that the Council adopt the text of the draft Council Regulation amending Regulation (EU, Euratom) No 609/2014 in order to enhance predictability for Member States and to clarify procedures for dispute resolution when making available the traditional, VAT and GNI based own resources, as set out, after finalisation of the text by the legal/linguistic experts, in 6769/22.