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## DRAFT STATEMENT OF THE COUNCIL'S REASONS

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Subject: Position of the Council at first reading with a view to the adoption of a Regulation of the European Parliament and of the Council establishing the 'Fiscalis' programme for cooperation in the field of taxation  
- Draft Statement of the Council's reasons

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### I. INTRODUCTION

1. On 8 June 2018 the Commission submitted to the Council and the European Parliament the proposal for a Regulation of the European Parliament and of the Council establishing the 'Fiscalis' programme for cooperation in the field of taxation<sup>1</sup> ("the Programme") which is based on Articles 114 and 197 of the Treaty on the Functioning of the European Union (TFEU). The proposal is part of the sectoral proposals complementing the package of horizontal proposals on the Multiannual Financial Framework for the years 2021 to 2027 ("the MFF").

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<sup>1</sup> 9932/18 + ADD 1-3.

2. The European Economic and Social Committee delivered its opinion on 17 October 2018.<sup>2</sup> In the European Parliament, the report was voted in the Committee on Economic and Monetary Affairs (ECON) on 4 December 2018 and confirmed in plenary in January 2019. On 17 April 2019, the European Parliament adopted its legislative resolution on the proposal<sup>3</sup>, thus concluding its first reading. That vote paved the way forward for an early second reading agreement between the co-legislators.
3. The proposal was examined in the Working Party on Tax Questions (Fiscalis). On 28 November 2018, the Permanent Representatives Committee agreed on a partial mandate<sup>4</sup> to enter into informal negotiations with the European Parliament, with some provisions remaining in brackets due to their link to the overall MFF discussions or their horizontal nature.
4. Two trilogues were held on 23 January and 21 March 2019 and substantial issues were resolved with compromises from both sides. Following the trilogue held on 21 March 2019, the Presidency reached a common understanding with the representatives of the European Parliament which was confirmed by the Permanent Representatives Committee on 27 March 2019.<sup>5</sup> Some elements were left outside of the scope of the negotiations with the European Parliament, as they required the completion of negotiations on the MFF for the Council to be able to establish its position.

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<sup>2</sup> OJ C 62 of 15.2.2019, p. 118.

<sup>3</sup> 8575/19.

<sup>4</sup> 14208/18 and 14209/18.

<sup>5</sup> 8000/19.

5. The partial mandate for negotiations was updated to take into account the conclusions of the European Council on the 2021-2027 MFF and the Recovery package adopted on 21 July 2020<sup>6</sup>, resulting in a full mandate for negotiations endorsed by the Permanent Representatives Committee on 8 January 2021<sup>7</sup>.
6. By the end of the further informal inter-institutional negotiations, which took place from January to March 2021, a provisional agreement on the proposal was reached between the co-legislators. A statement by the Council will be recorded in the Council minutes. It was agreed that no final political trilogue was needed. Instead, finalisation of results reached through informal negotiations was done in writing by the co-legislators.
7. On 24 March 2021, the provisional agreement was presented in writing to the members of the Working Party on Tax Questions (Fiscalis), which had no objections to the text of the agreement.
8. The Permanent Representatives Committee confirmed the final compromise text on 31 March 2021 and agreed to record the statement by the Council in the Council minutes upon the adoption of the Regulation.<sup>8</sup>
9. That text was submitted to the confirmation vote by the European Parliament's Committee on Economic and Monetary Affairs (ECON) on 22 April 2021. On 23 April, the Chair of ECON signed a letter to the Chair of the Permanent Representatives Committee (Part 2) stating that, should the Council transmit formally to the European Parliament its position in the form as it stands in the annex to that letter, she would recommend to the European Parliament's plenary that the Council's position be accepted without amendment, subject to legal-linguistic verification, at European Parliament's second reading.

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<sup>6</sup> 10/20.

<sup>7</sup> 14197/20.

<sup>8</sup> 7204/21.

## **II. OBJECTIVE**

10. The general objectives of the Programme are to support tax authorities and taxation in order to enhance the functioning of the internal market, to foster the competitiveness of the Union and fair competition in the Union, to protect the financial and economic interests of the Union and its Member States, including protecting those interests from tax fraud, tax evasion and tax avoidance, and to improve tax collection.
11. The specific objectives of the Programme are to support tax policy and the implementation of Union law relating to taxation, to foster cooperation between tax authorities, including exchange of tax information, and to support administrative capacity building including as regards human competency and the development and operation of European electronic systems.
12. The Fiscalis programme for cooperation in the field of taxation will replace the Fiscalis 2020 Programme to ensure its continuation beyond 2020.

## **III. ANALYSIS OF THE COUNCIL'S POSITION AT FIRST READING**

13. The European Parliament and the Council conducted negotiations with a view to concluding an agreement at the stage of the Council's position at first reading ("early second-reading agreement").
14. The text of the Council's position at first reading reflects the fair and balanced compromise reached in the negotiations between the European Parliament and the Council, facilitated by the Commission.

15. The main elements of the compromise reached with the European Parliament are outlined below:

- the duration of the Programme from 1 January 2021 to 31 December 2027 and retroactive application of Regulation have been agreed;
- the general and the specific objectives of the Programme have been elaborated;
- the actions eligible for funding have been further specified, in particular, a non-exhaustive list of priority topics for actions is provided;
- the selection process of external experts has been clarified;
- the Programme shall be implemented through multiannual work programmes adopted by the Commission by means of implementing acts;
- the Commission is empowered to adopt delegated acts to amend the indicators as well as to supplement the Regulation with provisions on the establishment of a monitoring and evaluation framework;
- the criteria and modalities of evaluation have been reinforced;
- a clause regarding the reporting obligation and extension in respect of the delegation of power has been introduced.

#### IV. CONCLUSION

16. The Council's position at first reading on the Regulation of the European Parliament and of the Council establishing the Fiscalis programme for cooperation in the field of taxation fully reflects the compromise reached in the negotiations between the Council and the European Parliament, facilitated by the Commission. The Council position at first reading represents a good balance and, once adopted, the new Regulation will fulfil its objectives. This compromise is confirmed by the letter that the Chair of the ECON Committee addressed to the Chair of the Permanent Representatives Committee on 23 April 2021.
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