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From:	General Secretariat of the Council
To:	Delegations
Subject:	Proposal for a Council Regulation amending Council Regulation (EU) No 389/2012 on administrative cooperation in the field of excise duties as regards the content of electronic registers <ul style="list-style-type: none">• Opinion of the European Economic and Social Committee

Delegations will find attached the abovementioned opinion. Other language versions are available on the following website:

<https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/administrative-cooperation-field-excise-duties-electronic-registers>



ECO/546

Administrative cooperation in the field of excise duties – electronic registers

OPINION

European Economic and Social Committee

**Proposal for a Council Regulation amending Council Regulation (EU) No 389/2012 on
administrative cooperation in the field of excise duties as regards the content of electronic
registers**

[COM(2021) 28 final – 2021/0015 (CNS)]

Rapporteur: **Szilárd PODRUZSIK**

Referral	Council of the European Union, 05/02/2021
Legal basis	Article 113 of the Treaty on the Functioning of the European Union
Section responsible	Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	13/04/2021
Adopted at plenary	27/04/2021
Plenary session No	560
Outcome of vote (for/against/abstentions)	230/0/6

1. Conclusions and recommendations

- 1.1 As previously pointed out¹, the EESC fully supports the constant updating of the rules allowing an adequate degree of administrative cooperation between national tax authorities. Moreover, the EESC endorses the Commission and Member States in making the best possible use of IT and technologically enhanced systems to improve tax collection and tackle fraud.
- 1.2 The Commission proposal is fully supported by the EESC, insofar as it involves technical adaptations to the current legislation on national registers regarding excise duties, which have been made necessary by the recent approval of Directive 2020/262.
- 1.3 The EESC recalls the importance of organising and running the national registers on excise duties, respecting the right to privacy with regard to the information inserted and processed within such registers. The processing of such data should not go beyond what is necessary and proportionate for the purpose of protecting the legitimate fiscal interest of Member States, in line with the proportionality principle as developed by the ECJ case-law.
- 1.4 Since it has become necessary to adapt national registers after the approval of Directive 2020/262, which provides for the definitions of "certified consignor" and "certified consignee", as well as the additional definitions of "certified consignor or certified consignee sending or receiving excise goods only occasionally", the EESC recommends that the Commission ensure a sufficient degree of harmonisation in the interpretation and implementation of such concepts in order to guarantee the homogeneity of the information inserted within national registers.
- 1.5 The EESC encourages Member States to carefully consider and monitor implementation costs during the adaptation process triggered by the Commission proposal. However, should the adaptation process highlight the need for additional spending in order to fully protect the privacy of European businesses and people, adequate extra investments in IT and cybersecurity of the registers should be promptly carried out.

2. Commission Proposal

- 2.1 The Commission proposal amends Council Regulation (EU) No 389/2012, which lays down the legal basis for administrative cooperation between Member States in the field of excise duties with regard to the content of national electronic registers.
- 2.2 The proposal has been required by section V of the recently approved Directive 2020/262. In particular, Article 35(8) of the Directive states that "for a certified consignor or certified consignee sending or receiving excise goods only occasionally, the certification referred to in points (12) and (13) of Article 3 shall be limited to a specified quantity of excise goods, a single consignee or consignor and a specified period of time".

¹ See EESC opinion on *Administrative Cooperation excise duties*, [OJ C 68, 6.3.2012, p. 45](#)

- 2.3 Considering such a provision, the Commission proposal singles out the information to be inserted in the registers maintained by the Member States concerning the certified consignors and consignees which move goods only occasionally.
- 2.4 Article 19 of Council Regulation (EU) No 389/2012 sets forth a general obligation for Member States to maintain electronic registers of authorisations for economic operators and warehouses that are engaged in moving excise goods under duty suspension arrangements, as well as authorisations of economic operators moving goods that have already been released for consumption being the certified consignors and the certified consignees.
- 2.5 In order to achieve proper functioning of the computerised system by ensuring storage of complete, up-to-date and accurate data, the aim of the Commission proposal is to extend the scope of Article 19 of Council Regulation EU (No) 389/2012, setting out the information to be introduced within the national registers of economic operators moving excise goods only occasionally.
- 2.6 More specifically, this information concerns, for both the certified consignors and consignees, the quantity of goods, the identity of the economic operator at the end of the movement of the goods and the duration of the temporary certification.
- 2.7 The proposed amendment does not intend to define a new excise licensee circle, but rather links shipments in free movement in a Member State primarily to the already defined notions of "tax warehouse", "registered consignee" and "registered consignor", associating them with the new "certified consignor" and/or "certified consignee" statuses. Thus, the amendment extends and refines the information already registered within the official database.
- 2.8 The proposal is based on Article 113 TFEU, according to which "the Council shall, acting unanimously in accordance with a special legislative procedure and after consulting the European Parliament and the Economic and Social Committee, adopt provisions for the harmonisation of legislation concerning turnover taxes, excise duties and other forms of indirect taxation to the extent that such harmonisation is necessary to ensure the establishment and the functioning of the internal market and to avoid distortion of competition".
- 2.9 The proposal does not impact the EU budget and shall apply from 13 February 2023.

3. **General and specific comments**

- 3.1 As pointed out in previous opinions², the EESC fully supports the constant updating of the rules allowing an adequate degree of administrative cooperation between national authorities aimed at ensuring the full collection of tax and an effective fight against fraud with regard to excise duties.

²

See EESC opinion on *Administrative Cooperation excise duties*, [OJ C 68, 6.3.2012, p. 45](#)

- 3.2 Moreover, the EESC supports the European Commission and the Member States in making the best possible use of IT and technologically enhanced systems to improve tax collection and to tackle fraud.
- 3.3 The proposal under assessment is therefore fully supported by the EESC, insofar as it involves technical adaptations to the current legislation on national registers regarding excise duties, which have been made necessary by the recent approval and implementation of Directive 2020/262.
- 3.4 The EESC considers it advantageous to have a comprehensive database, which makes the information covered by the proposal verifiable in the SEED system. The monitoring of taxed shipments and the proper fulfilment of any tax burden in terms of excise duties will thereby become unified, more efficient and more transparent.
- 3.5 The proposal seems to comply with the subsidiarity principle, given that the content and functioning of national registers concerning the information on registered consignors and consignees operating on an occasional basis should be harmonised by means of European rules. Such rules can better accomplish the regulatory objective pursued by the Commission, if compared with several national approaches. In this respect, the choice of a regulation to be approved under Article 113 TFEU seems to be appropriate.
- 3.6 The proposal is also in line with the proportionality principles as developed by the case-law of the ECJ and enshrined within the Treaty. The content of the proposal, indeed, does not exceed what is necessary to achieve the regulatory objective pursued by the Commission, without unduly impacting the interest of private businesses.
- 3.7 In other words, the proposal leads to an acceptable increase in administrative burdens for national tax authorities, which is justified by the final result of making the control system carried out via the registers more comprehensive, as well as more efficient and transparent.
- 3.8 The EESC recalls the importance of organising and running the national registers, respecting the fundamental rights and particularly the right to privacy with regard to the information inserted and processed within such registers. The processing of such data should not go beyond what is necessary and proportionate for the purpose of protecting the legitimate fiscal interest of the Member States, in line with the proportionality principle.
- 3.9 Since the adaptation of the registers has become necessary after the approval of Directive 2020/262, which provides for the definitions of "certified consignor" and "certified consignee" (Article 3) and for the additional definitions of "certified consignor or certified consignee sending or receiving excise goods only occasionally" (Article 35), the EESC recommends that the Commission ensure a sufficient degree of harmonisation in the interpretation and implementation of such concepts in order to guarantee the homogeneity of the information inserted within the registers operating at the national level.
- 3.10 The EESC notes that the proposal will not impact the EU budget but, at the same time, encourages Member States to carefully consider and monitor implementation costs during the

adaptation process. Having said that, if deemed necessary, adequate additional investments in IT should be carried out should the adaptation process highlight the need for additional spending in order to fully protect the privacy of European businesses and people.

Brussels, 27 April 2021

Christa SCHWENG

The president of the European Economic and Social Committee
