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From:	General Secretariat of the Council
To:	Delegations
No. Cion doc.:	15453/25
Subject:	Proposal for a Council Regulation amending Regulation (EU) No 904/2010 as regards the access of the European Public Prosecutor's Office (EPPO) and the European Anti-Fraud Office (OLAF) to value added tax information at Union level - General approach

Delegations will find attached the text of the general approach on the above draft Regulation, reached at the meeting of the Council (Economic and Financial Affairs) on 5 May 2026.

Proposal for a

COUNCIL REGULATION

amending Regulation (EU) No 904/2010 as regards the access of the European Public Prosecutor's Office (EPPO) and the European Anti-Fraud Office (OLAF) to value added tax information at Union level

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament¹,

Having regard to the opinion of the European Economic and Social Committee²,

Acting in accordance with a special legislative procedure,

¹ OJ C , , p. .

² OJ C , , p. .

Whereas:

- (1) Council Regulation (EU) No 904/2010³ lays down rules on the storage and exchange through electronic means of specific information in the field of value added tax (VAT) that may help to effectuate a correct assessment of VAT, monitor the correct application of VAT, particularly on intra-Community transactions, and combat VAT fraud. However, it does not provide for rules governing access by the European Public Prosecutor's Office (EPPO) to that information for the exercise of its tasks pursuant to Article 4 of Council Regulation (EU) 2017/1939⁴, nor for access by the European Anti-Fraud Office (OLAF) for the exercise of its tasks in accordance with Article 1 of Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council⁵.

³ Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (OJ L 268, 12.10.2010, p. 1).1, ELI: <http://data.europa.eu/eli/reg/2010/904/oj>.

⁴ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1, ELI: <http://data.europa.eu/eli/reg/2017/1939/oj>).

⁵ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1, ELI: <http://data.europa.eu/eli/reg/2013/883/oj>).

- (2) Pursuant to Article 24(1) of Regulation (EU) 2017/1939, the institutions, bodies, offices and agencies of the Union and the authorities of the Member States competent under applicable national law are to report to the EPPO, without undue delay, any criminal conduct, including cross-border VAT fraud, in respect of which it could exercise its competence in accordance with Article 22 and Article 25(2) and (3) of that Regulation. Cross-border VAT fraud by definition involves several Member States, and the flow of information from individual Member States to the EPPO may, in certain cases, not be sufficient to ensure a timely and comprehensive overview of cross-border VAT fraud at Union level. Therefore, in order for the EPPO to be informed of VAT fraud risks at Union level in a more timely manner and to exercise its competence in accordance with Regulation (EU) 2017/1939, it is necessary to set out in more detail the modalities under which the Member States, within the Eurofisc network referred to in Article 33 of Regulation (EU) No 904/2010, should transmit to the EPPO results of the Eurofisc joint processing and analysis in the form of Eurofisc analysis reports on suspected cross-border fraudulent schemes.
- (2a) When drawing up Eurofisc analysis reports, Eurofisc should include only the information strictly necessary to enable the EPPO to assess whether to exercise its competence. To define the criteria based on which Eurofisc analysis reports should be drawn up and the information that should be included in them, and to establish a standard form for their transmission, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council. In the preparation of the draft implementing act, the Commission should consult Eurofisc.
- (2b) Furthermore, pursuant to Article 24(9) of Regulation (EU) 2017/1939, in specific cases, the EPPO may request further relevant information available to the institutions, bodies, offices and agencies of the Union and the authorities of the Member States. Therefore, it is appropriate to set out the rules under which Eurofisc should communicate to the EPPO information on cross-border VAT fraud following an EPPO request.

- (3) Pursuant to Article 43(1) of Regulation (EU) 2017/1939, European Delegated Prosecutors are to be able to obtain any relevant information stored in national criminal investigation and law enforcement databases, as well as other relevant registers of public authorities, under the same conditions as those that apply under national law in similar cases. Pursuant to Article 43(2) of that Regulation, the EPPO is also to be able to obtain any relevant information falling within its competence that is stored in databases and registers of the institutions, bodies, offices and agencies of the Union. Cross-border VAT fraud by definition involves several Member States, and the access at Member State level to relevant information stored in national databases may in certain cases not be sufficient for the EPPO for combating VAT fraud at Union level. Therefore, without prejudice to Article 43 of Regulation (EU) 2017/1939, in order for the EPPO to have access to relevant information at Union level in a more timely manner and to perform its regulatory mandate and fight against fraud at Union level, it is important to define the rules under which the EPPO should have access to relevant VAT information at Union level from the relevant databases and registers of competent authorities as referred to in Article 1(1) of Council Regulation (EU) No 904/2010.
- (3a) For the same reason, it is important to give the EPPO centralised access, for targeted searches on a case-by-case basis, to relevant information concerning an investigation through a single-entry point, even if that information concerns several Member States. Such centralised access should be strictly limited to targeted searches linked to specific cases and should not entail fishing expeditions or random or generalised monitoring of VAT information. That centralised access to administrative databases for judicial and law enforcement purposes is of an exceptional nature and is warranted due to the fight against cross-border VAT fraud and should not be misconstrued as a precedent for more general application.

- (3b) To fulfil its tasks, the EPPO works closely with relevant national authorities which actively assist and support the investigations and prosecutions of the EPPO in accordance with Article 5(6) of Regulation (EU) 2017/1939. The EPPO also provides feedback and where relevant consults competent national authorities in accordance with the applicable provisions of that Regulation, including under Article 5(6), Article 25 paragraphs 1 to 3, Article 27(7) and Article 34 paragraphs 1 to 4.
- (4) The Member States not participating in the EPPO are obliged, under the principle of sincere cooperation enshrined in Article 4(3) of the Treaty on European Union, to support the activities of the EPPO and to refrain from any action that could jeopardise the attainment of its objectives. Eurofisc is composed of both Member States participating and not participating in the EPPO. Cross-border VAT fraud may span across every Member State and EPPO needs to have a complete view of the fraudulent networks. Therefore, it is important for the EPPO to obtain relevant VAT information exchanged by Member States within Eurofisc and from databases and registers of competent authorities as referred to in Article 1(1) of Council Regulation (EU) No 904/2010 without prejudice to the EPPO's competences under Regulation (EU) 2017/1939. This Regulation does not affect the scope of the competences of the EPPO, as defined in Regulation (EU) 2017/1939.
- (5) The European Court of Auditors has recommended that the Commission and the Member States remove legal obstacles preventing the exchange of information between administrative, judicial and law enforcement authorities at national and Union level and in particular that OLAF be given access to the VAT information exchange system (VIES) and Eurofisc data⁶. In that respect it is important that central access to the relevant databases and registers of competent authorities referred to in Council Regulation (EU) No 904/2010 has a clear legal basis.

⁶ European Court of Auditors Special Report No 24/2015, Tackling intra-Community VAT fraud: More action needed (https://www.eca.europa.eu/en/publications/SR15_24).

- (6) In order for OLAF to be informed on suspected customs-related VAT fraud affecting the financial interests of the Union and to perform its regulatory mandate, it is necessary to set out the detailed rules under which the Member States, within the Eurofisc network referred to in Article 33 of Regulation (EU) No 904/2010, should report to OLAF results of the Eurofisc joint processing and analysis in the form of Eurofisc analysis reports on suspected cross-border fraudulent schemes. Moreover, Eurofisc should communicate to OLAF information on customs-related cross-border VAT fraud potentially affecting the financial interests of the Union following an OLAF request.
- (6a) When drawing up Eurofisc analysis reports, Eurofisc should include only the information strictly necessary to enable OLAF to assess whether to exercise its competence. To define the criteria based on which Eurofisc analysis reports should be drawn up and the information that should be included in them, and to establish a standard form for their transmission, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council. While preparing the draft implementing act, the Commission should consult Eurofisc.

(7) When there is a sufficient suspicion that there has been fraud in accordance with Article 5 of Regulation (EU, Euratom) No 883/2013, OLAF is to have the right of access to any relevant information in databases held by the institutions, bodies, offices or agencies while respecting the principles of necessity and proportionality. That right of access is to be exercised under the conditions set out in Regulation (EU, Euratom) No 883/2013. Therefore, in order for OLAF to access relevant VAT information at Union level that could be relevant for customs-related administrative investigations to exercise its competence, it is important to define the rules under which OLAF should access relevant VAT information at Union level from relevant databases and registers of competent authorities referred to in Article 1(1) of Regulation (EU) No 904/2010.

- (7a) For the same reason, it is important to give OLAF centralised access, for targeted searches on a case-by-case basis, to relevant information concerning an investigation through a single-entry point, even if that information concerns several Member States. Such centralised access should be strictly limited to targeted searches linked to specific cases and should not entail fishing expeditions or random or generalised monitoring of VAT information. That centralised access to administrative databases for the purposes of carrying out customs-related administrative investigations is of an exceptional nature and is warranted to fulfil its mandate and should not be misconstrued as a precedent for more general application.
- (7b) To fulfil its tasks, OLAF works closely with relevant national authorities in accordance with Article 1(2) of Regulation (EU, Euratom) No 883/2013. OLAF also provides feedback and where relevant consults competent national authorities in accordance with the applicable provisions of that Regulation, including under Article 12(1) and Article 12(5).

- (8) Information on intra-Community transactions, cross-border payments and VAT exempt importations is important for the fight against fraud. That information is collected by national competent authorities. With regard to the protection of personal data, the Commission is facilitating the exchange of that information as data processor and the competent authorities in the Member States act as data controllers, under Regulation (EU) 2018/1725 of the European Parliament and of the Council⁷ and Regulation (EU) 2016/679 of the European Parliament and of the Council⁸ respectively. The EPPO and OLAF's centralised access to VAT information at Union level should be granted without prejudice to the roles and responsibilities of the competent authorities in the Member States as referred to in Article 1(1) of Regulation (EU) No 904/2010 in respect of the protection of personal data under Regulation (EU) 2016/679. The EPPO and OLAF are bound by the rules for the protection of personal data under Regulation (EU) 2018/1725, including the principles of proportionality, accountability, the implementation of appropriate technical and organisational measures and the supervision by the European Data Protection Supervisor. The information subject to targeted searches by the EPPO and OLAF through centralised access are information on VAT identification numbers, intra-Community transactions, VAT exempt importations related to the Import One-Stop Shop (IOSS) and customs procedure 42/63 importations and payment information stored in the CESOP system. The information stored within the Eurofisc Transaction Network Analysis (TNA) system is not subject to targeted searches by the EPPO or OLAF.

⁷ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39, ELI: <http://data.europa.eu/eli/reg/2018/1725/oj>).

⁸ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1, ELI: <http://data.europa.eu/eli/reg/2016/679/oj>).

- (9) In order to protect the access to personal data, only the European Prosecutors, the European Delegated Prosecutors, as well as selected staff of the EPPO and OLAF, previously authorised respectively by the EPPO and OLAF, should access VAT information to execute their tasks. The competent authorities of the Member States should have access to audit logs of EPPO's and OLAF's access for information purposes, including attributing every access to concrete investigation case files and users. The relevant parts of the audit log are to be made available also to the EPPO and OLAF for the purposes of internal control mechanisms as regards the correct access to and use of data, in accordance with the applicable data protection legislation, whose compliance is monitored by the designated data protection officers as referred to in Article 77(1) of the EPPO Regulation and in Article 10(4) of the OLAF Regulation. To ensure uniform conditions for that access, implementing powers should be conferred on the Commission in respect of the technical details concerning the centralised access, the technical data protection measures, the requirements of the audit log and practical arrangements for accessing it. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁹.
- (10) This Regulation respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, particularly the right of protection of personal data.

⁹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).13, ELI: <http://data.europa.eu/eli/reg/2011/182/oj>

- (11) As the systems, infrastructure and technical means facilitating the exchange of VAT information at Union level need to be adapted to allow secure access of the EPPO and OLAF, it is necessary to defer the application of the relevant provisions in order to allow the Commission, the EPPO and OLAF to carry out the necessary adaptations. This should consider the dates when the central VIES will become operational and the legacy VIES will be phased out. The EPPO and OLAF should be responsible for the costs of establishing and maintaining the relevant infrastructure and technical means for secure access to VAT information. When examining and evaluating the functioning of the arrangements for administrative cooperation provided for in Regulation (EU) No 904/2010, the Member States and the Commission should pay particular attention to the practical application and impact of the EPPO's and OLAF's centralised access to VAT information, including the effectiveness of the relevant systems, infrastructure and technical means.
- (12) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on 7 January 2026.
- (13) Regulation (EU) No 904/2010 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 904/2010

Regulation (EU) No 904/2010 is amended as follows:

- (1) In Article 21, the following paragraph 2c is inserted:
- ‘2c. Every Member State shall grant to the European Public Prosecutor’s Office (the EPPO) and the European Anti-Fraud Office (OLAF) access to the information referred to, and in compliance with the limits and rules set out in, Article 49a and 49b.’;

(2) Article 24d is replaced by the following:

‘Article 24d

1. Access to CESOP shall only be granted to Eurofisc liaison officials, as referred to in Article 36(1), who hold a personal user identification for CESOP and where that access is in connection with an investigation into suspected VAT fraud or is to detect VAT fraud.
2. By way of derogation from paragraph (1), the EPPO and OLAF shall have access to CESOP information in compliance with the limits and rules set in Articles 49a and 49b.’;

(3) In Article 24k, the following paragraph 1a is inserted:

‘1a. The EPPO and OLAF shall have access to the central VIES information in compliance with the limits and rules set in Articles 49a and 49b’;

(4) In Article 36, the following paragraphs are inserted:

‘2a. Eurofisc shall communicate to the EPPO, in accordance with Article 24(1) of Council Regulation (EU) 2017/1939* as regards the Member States participating in the EPPO and in accordance with this Article as regards the other Member States, specific Eurofisc analysis reports that identify cases of suspected cross-border fraudulent schemes as defined in Article 3(2)(d) of Directive (EU) 2017/1371 based on information from Member States exchanged pursuant to this Regulation and following its analysis as referred to in Article 33, in respect of which the EPPO could exercise its competence. The specific Eurofisc analysis reports shall be drawn up based on the criteria and using the standard form referred to in paragraph 2e of this Article. They shall be communicated to the EPPO without undue delay after they are drawn up.

- 2b. In the course of an investigation or a prosecution by, and at the request of the EPPO, in accordance with Article 24(9) of Council Regulation (EU) 2017/1939 as regards the Member States participating in the EPPO and in accordance with this Article as regards the other Member States, Eurofisc shall communicate to the EPPO any available relevant information from Member States on cross-border VAT fraud exchanged pursuant to this Regulation.
- 2c. In accordance with Article 8, (2) and (3), of Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council** Eurofisc shall communicate to OLAF specific Eurofisc analysis reports that identify cases of suspected customs-related VAT fraud affecting the financial interests of the Union based on information from Member States exchanged pursuant to this Regulation and following its analysis referred to in Article 33, to enable OLAF to consider appropriate action in accordance with its mandate. The specific Eurofisc analysis reports shall be drawn up based on the criteria and using the standard form referred to in paragraph 2e of this Article. They shall be communicated to OLAF without undue delay, after they are drawn up.
- 2d. In accordance with Article 8 (2) and (3) of Regulation (EU, Euratom) No 883/2013 and at the request of OLAF, Eurofisc shall communicate to OLAF any available information from Member States on suspected customs-related VAT fraud affecting the financial interests of the Union exchanged pursuant to this Regulation to enable OLAF to consider appropriate action in accordance with its mandate.

- 2e. The Commission shall determine, by means of an implementing act, the criteria based on which the Eurofisc analysis reports shall be drawn up, the information to be included in order to enable EPPO or OLAF to assess their competence, and shall establish the standard form referred to in paragraph 2a and the standard form referred to in paragraph 2c. The implementing act shall be adopted in accordance with the examination procedure referred to in Article 58(2) of this Regulation. In the preparation of the draft implementing act, the Commission shall consult Eurofisc.

* Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1, ELI: <http://data.europa.eu/eli/reg/2017/1939/oj>).

** Regulation (EU, EURATOM) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248 18.9.2013, p. 1, ELI: <http://data.europa.eu/eli/reg/2013/883/oj>).';

(4a) in Article 49, paragraph 1 is replaced by the following:

- '1. The Member States and the Commission shall examine and evaluate how the arrangements for administrative cooperation provided for in this Regulation are working. The evaluation shall include the practical application of Article 36, paragraphs (2a) to (2d), and of Articles 49a and 49b. The Commission shall pool the Member States' experience with the aim of improving the operation of those arrangements.';

(5) in Chapter XIII, the following Articles are added:

Article 49a

1. For the purposes defined in paragraph 2(b) of this Article and without prejudice to Article 43 of Regulation (EU) 2017/1939, the competent authorities of the Member States shall grant to the EPPO centralised access, for targeted searches, to the following information:
 - (a) From 1 September 2026 until 30 June 2032, the information referred to in Article 17(1), points (a), (b) and (c), of this Regulation;
 - (b) From 1 September 2026, the information referred to in Article 17(1), points (e) and (f), of this Regulation;
 - (c) From 1 September 2026, the information transmitted in accordance with Article 24b(3) of this Regulation;
 - (d) From 1 July 2030, the information referred to in Article 24g(2) of this Regulation.
2. The centralised access referred to in paragraph 1 shall be granted where all of the following conditions are met:
 - (a) the access is only granted to European Prosecutors, European Delegated Prosecutors, and identified staff authorised by the EPPO's Central Office who hold a personal user identification for the electronic systems allowing centralised access to the information referred to in paragraph 1 of this Article;
 - (b) the access is only granted for the purpose of exercising the competence referred to in Article 22 of Regulation (EU) 2017/1939;

- (c) the access is only granted where audit logs of the access are available to the competent authorities of the Member States for information and to the EPPO for internal control purposes.
3. That centralised access shall be access through a single-entry point to all the information concerning an investigation, even if that information concerns several Member States.
 4. The Commission shall determine, by means of implementing acts, the following:
 - (a) the technical details concerning the centralised access to the information referred to in paragraph 1 of this Article, including the categories of targeted searches that can be carried out;
 - (b) the technical data protection measures that lower the risk of unauthorised access, untargeted searches or abuse, including identification of the users referred to in paragraph 2, point (a) and (c), of this Article, user profiles, access controls and mechanisms ensuring the attribution of every access to a concrete investigation case file and user;
 - (c) the requirements of the audit log, including the attribution of every access to a concrete investigation case file and user, and the practical arrangements for accessing it.

The implementing acts referred to in the first subparagraph shall be adopted in accordance with the examination procedure referred to in Article 58(2) of this Regulation.

5. The costs of establishing, operating and maintaining the infrastructure and technical means allowing the secure access to the information referred to in this Article shall be borne by the EPPO.

Article 49b

1. For the purposes defined in paragraph 2(b) of this Article, the competent authorities of the Member States shall grant to OLAF centralised access, for targeted searches, to the following information:
 - (a) From 1 September 2026 until 30 June 2032, the information referred to in Article 17(1), points (a), (b) and (c), of this Regulation;
 - (b) From 1 September 2026, the information referred to in Article 17(1), points (e) and (f), of this Regulation;
 - (c) From 1 September 2026, the information transmitted in accordance with Article 24b(3) of this Regulation;
 - (d) From 1 July 2030, the information referred to in Article 24g(2) of this Regulation.

2. The centralised access referred to in paragraph 1 shall be granted where all of the following conditions are met:
 - (a) the access is only granted to identified staff authorised by OLAF who hold a personal user identification for the electronic systems allowing the centralised access to the information referred to in paragraph 1 of this Article;
 - (b) the access is only granted for the purposes of assessing existing suspicions that there has been fraud prior to opening and for the purposes of carrying out specific customs-related administrative investigations in accordance with OLAF tasks as referred to in Article 1(1) of Regulation (EU, Euratom) No 883/2013;
 - (c) the access is only granted where audit logs of the access are available to the competent authorities of the Member States for information and to the OLAF for internal control purposes.

3. That centralised access shall be an access through a single-entry point, to all the information concerning an investigation, even if that information concerns several Member States.
4. The Commission shall determine by means of implementing acts the following:
 - (a) the technical details concerning the centralised access to the information referred to in paragraph 1 of this Article, including the categories of targeted searches that can be carried out;
 - (b) the technical data protection measures that lower the risk of unauthorised access, untargeted searches or abuse, including identification of the users referred to in paragraph 2, point (a) and (c), of this Article, user profiles, access controls and mechanisms ensuring the attribution of every access to a concrete investigation case file and user;
 - (c) the requirements of the audit log, including the attribution of every access to a concrete investigation case file and user, and the practical arrangements for accessing it.

The implementing acts referred to in the first subparagraph shall be adopted in accordance with the examination procedure referred to in Article 58(2), of this Regulation.

5. The costs of establishing, operating and maintaining the infrastructure and technical means allowing the secure access to the information referred to in this Article shall be borne by OLAF.’.

Article 2

Entry into force and date of application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 1, points (1), (2), (4) and (5) shall apply from 1 September 2026.

Article 1, point (3), shall apply from 1 July 2030.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council

The President
