COMMISSION IMPLEMENTING DECISION (EU) 2022/523

of 31 March 2022

amending Implementing Decision (EU, Euratom) 2018/194 as regards the collection costs and models for statements of accounts for entitlements to traditional own resources and the form for reports on irrecoverable amounts

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to Council Regulation (EU, Euratom) No 609/2014 of 26 May 2014 on the methods and procedure for making available the traditional, VAT and GNI-based own resources and on the measures to meet cash requirements ([1]), and in particular Articles 6(4) and 13(3) thereof,

After consulting the Advisory Committee on Own Resources,

Whereas:

(1) In Commission Implementing Decision (EU, Euratom) 2018/194 ([2]), some of the models used by the Member States to communicate information to the Commission need to be updated and improved to take into account the experience gained in recent years using those models. To that end, the models in Annexes I, II, III and V to that Implementing Decision, used for the transmission of the account statements referred to in Article 6(4) of Regulation (EU, Euratom) No 609/2014, and for the reports on irrecoverable amounts corresponding to entitlements to own resources referred to in Article 13(3) of that Regulation, should be replaced by new models.

(2) Council Decision (EU, Euratom) 2020/2053 ([3]) introduced a 25 % deduction rate to cover costs related to the collection of 'traditional' own resources. It is therefore necessary to reflect that deduction rate in the models used by Member States for the transmission of the monthly statements of the 'A' account as set out in Annexes I and II to Implementing Decision (EU, Euratom) 2018/194. The models in Annexes I and II to that Implementing Decision should also indicate clearly the different rates to apply, depending on the due date for making the amount available to the Union budget.

(3) Following the advanced phasing-out of sugar levies in accordance with Article 124 of Regulation (EU) No 1308/2013 ([4]) it is possible to simplify the models set out in Annexes I and III to Implementing Decision (EU, Euratom) 2018/194 by merging all sub-categories of those levies.

(4) The report of Annex V, referred to in Article 13(3) of Regulation (EU, Euratom) No 609/2014, should contain all the facts necessary for a full examination of the reasons, which prevented the Member States from making available amounts deemed or declared irrecoverable exceeding EUR 100 000, including the recovery measures taken by the Member States. However, the reports submitted under Implementing Decision (EU, Euratom) 2018/194 are sometimes not correctly completed or inconsistent with other available information and for that reason requests for additional information need to be made to the Member States concerned. Therefore, it is appropriate to include several clarifications in the existing forms such as on the amounts of corrections recorded pursuant to Article 8 of Regulation (EU, Euratom) No 609/2014 and the indications on the legal instruments used as basis for enforced recovery under national law.

([1]) OJ L 168, 7.6.2014, p. 39.

([2]) Commission Implementing Decision (EU, Euratom) 2018/194 of 8 February 2018 establishing models for statements of accounts for entitlements to own resources and a form for reports on irrecoverable amounts corresponding to the entitlements to own resources pursuant to Council Regulation (EU, Euratom) No 609/2014 (OJ L 36, 9.2.2018, p. 20).

([3]) Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom (OJ L 424, 15.12.2020, p. 1).

([4]) Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

(5) In order to give Member States sufficient time to adapt to the amendments introduced in the models set out in Annexes I, II and III to Implementing Decision (EU, Euratom) 2018/194, it is appropriate to defer the date of application of those amendments.

(6) Implementing Decision (EU, Euratom) 2018/194 should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

Implementing Decision (EU, Euratom) 2018/194 is amended as follows:

(1) Article 3 is deleted;

(2) Annexes I, II and III are replaced by the text in Annex I to this Decision;

(3) Annex V is replaced by the text in Annex II to this Decision.

Article 2

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

Article 1, point (2) shall apply from 1 July 2022.

Done at Brussels, 31 March 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

'ANNEX I

"A" ACCOUNT OF OWN RESOURCES OF THE EUROPEAN UNION

Statement of established entitlements ([1])

Member State:

Month/year:

(national currency)

NATURE OF RESOURCE		Member State's reference (optional)	Amounts established during month ([2])	Amounts recovered from separate account ([3])	Corrections to earlier establishments ([4])		Gross amounts	Net amounts
					+	-		
			(1)	(2)	(3)	(4)	(5) = (1) + (2) + (3) – (4)	(6)
1210	Customs duties (excluding countervailing and anti-dumping)							
1230	Countervailing and anti-dumping duties on products							
1240	Countervailing and anti-dumping duties on services							
12	**CUSTOMS DUTIES**							
1100	Sugar levies							
11	**SUGAR LEVIES**							
	TOTAL 12 + 11							
					– 25 % collection costs ([5]) - 20 % collection costs ([6]) - 25 % collection costs ([7]) - 10 % collection costs ([8])			
					Total to be paid to the EU			

(1) Including entitlements as a result of inspections and detected cases of fraud and irregularities.
(2) Including accounting corrections.
(3) Including amounts declared or deemed irrecoverable for reasons attributable to the Member States.
(4) Corrections to initial establishments, in particular cases of post-clearance recovery and repayment. For sugar, corrections relating to earlier years must mention the corresponding marketing year.
(5) The 25 % deduction rate is to be applied to amounts, which in accordance with applicable Union rules, were to be made available after 28 February 2021.
(6) The 20 % deduction rate is to be applied to amounts, which in accordance with applicable Union rules, were to be made available between 1 March 2014 and 28 February 2021.
(7) The 25 % deduction rate is to be applied to amounts, which in accordance with applicable Union rules, were to be made available between 1 March 2001 and 28 February 2014.
(8) The 10 % deduction rate is to be applied to amounts, which in accordance with applicable Union rules, were to be made available before 28 February 2001.

ANNEX II

ANNEX TO THE STATEMENT OF THE "A" ACCOUNT OF THE OWN RESOURCES OF THE EUROPEAN UNION

Monitoring of recovery of amounts which relate to cases of irregularities or delays identified through control and supervision measures ([1])

Month/year

(national currency)

Gross amount of own resources recovered	References to irregularities or delays in the establishment, entry in the accounts and making available of own resources noted as a result of national or Union inspections ([2]) ([3]) ([4])	Rate of deduction to be applied ([5])				Amounts included under the heading "Total to be paid to the EU"		Other information ([6])
		25 % (from 1 March 2021 on)	20 % (1 March 2014 – 28 February 2021)	25 % (1 March 2001 – 28 February 2014)	10 % (before 28 February 2001)	YES ([7])	NO ([8])	
Total:								

([1]) Article 2(3) or Article 4(6), third subparagraph, of Regulation (EU, Euratom) 2021/768.
([2]) References to reports pursuant to Article 13(3) of Regulation (EU, Euratom) No 609/2014 are also to be shown in this column.
([3]) References to Commission letters and inspection reports are also to be mentioned in this column.
([4]) If applicable, the following specific references shall also be mentioned:
(a) OWNRES reference;
(b) references to identify individual payments related to Member States' financial responsibility for administrative errors;
(c) references to the national decisions, as also included in the Annex to the statement of the separate account (Annex IV) in cases where the Member State autonomously considers that the conditions of Article 13(2) of Regulation (EU, Euratom) No 609/2014 are not met and TOR is made available voluntarily.
([5]) Mark with an X the retention rate applied to the amount.
([6]) Include in this heading further information regarding each amount entered in the annex:
(a) if an amount is made available separately from the current monthly statement and not included in the "Total to be paid to the EU", indicate here the date of making available of the amount and information to identify the amount at stake;
(b) indicate here if a payment is made under reservation;
(c) regular date for making the amount available.
([7]) Mark with an X, if the amount is included in the current monthly statement.
([8]) Mark with an X if the amount was made available separately and not included in a previous statement or Annex.

ANNEX III

OWN RESOURCES OF THE EUROPEAN UNION – SEPARATE ACCOUNT (1)

Statement of established entitlements not included in "A" account

Member State:

Quarter/year:

(national currency)

NATURE OF RESOURCE		Outstanding from previous quarter	Established entitlement for current quarter	Corrections of establishments (Article 8) (2)	Irrecoverable amounts which cannot be made available for justified reasons (Article 13(2)) (4)	Total (1 + 2 ± 3 – 4)	Amounts recovered for the EU budget during current quarter (5) (6)	Outstanding at end of current quarter
		(1)	(2)	(3)	(4)	(5)	(6)	(7) = (5) – (6)
1210	Customs duties (excluding countervailing and anti-dumping)							
1230	Countervailing and anti-dumping duties on products							
1240	Countervailing and anti-dumping duties on services							
12	**CUSTOMS DUTIES**							
1100	**Sugar levies**							
11	**SUGAR LEVIES**							
	TOTAL 12 + 11							
						Estimate of amounts established for which recovery is unlikely (6)		

(1) 'B' account kept pursuant to the second subparagraph of Article 6(3) of Regulation (EU, Euratom) No 609/2014, including entitlements established as a result of inspections and detected cases of fraud and irregularities.

(2) Correction of establishments shall be understood as corrections, including cancellations resulting from a revision of the initial establishment arising from previous quarters. They differ by nature from those entered in column (4).

(3) All the cases are to be set out in Annex IV, which is to be returned at the same time as this quarterly statement. The total for this column (4) and the total in column 2 of Annex IV shall be the same.

(4) The total for this column shall be the same as the total given in column (2) of the statement of the 'A' account for the three months concerned.

(5) Including all amounts, which had not been recovered from debtors for reasons attributable to the Member State. These need to be entered in column 2 of the 'A' account statement (Annex I) and are equally to be shown in column 1 of Annex IV.

(6) Compulsory for the final quarter of each year. If the estimate comes to zero, the word 'nil' shall be entered.'

ANNEX II

'ANNEX V

Form of the report [1] **on irrecoverable amounts corresponding to the entitlements to own resources**

Unless otherwise stated, all information must be provided if available and relevant. All amounts are to be indicated in the currency of the respective Member State at the time of reporting.

1. **GENERAL DATA**

Member State: .....

Reference of the report: .....

(the Member State's code/year of reporting/serial number of the year of reporting)

Reference to a related information form sent beforehand pursuant to Article 5(1) of Regulation (EU, Euratom) 2021/768: .....

Justification of absence of a reference to the aforementioned information form:

.....

Case related to a Union inspection (Yes/No)

Reference to a related Union inspection: .....

Total amount irrecoverable: .....

(Please specify here the entire irrecoverable amount arising from the same circumstances – irregularities or fraud involving at least one common main debtor and discovered as a result of the same clearance or post-clearance control)

Authority that declared or deemed the amount irrecoverable: .....

National reference of the administrative decision of irrecoverability: .....

(See third column of Annex IV)

Date of the administrative decision on irrecoverability: .....

Date on which the amount was to be deemed irrecoverable: .....

2. **DEBT INCURRED**

Date or period during which the debt was incurred: .....

Legal basis for the incurrence of the debt: .....

(Legal bases preceding Council Regulation (EEC) No 2913/92 [2] *are to be indicated by using the relevant article of Regulation (EEC) No 2913/92)*

Indirect representation (Article 18 of Regulation (EU) No 952/2013 of the European Parliament and of the Council [3] or precursors): (Yes/No)

Customs situation: .....

(Customs procedure in force, situation of the goods or customs-approved treatment at the time of the customs debt being incurred)

Additional details to be indicated in the case of transit movements (for each movement separately):

— Date(s) of acceptance of the customs declaration [4]: .....

— Member State(s) of departure or entry into the Union (ISO Code): .....

— Member State(s) of destination or exit from the Union (ISO Code):

[1] Referred to in Article 13(3), the second and third subparagraph, of Regulation (EU, Euratom) No 609/2014.
[2] Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).
[3] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).
[4] Including TIR Carnets.

— MRN ([5])(s) of the transit declaration(s) or TIR operation(s):

.....

— TIR carnet number(s): .....

Type of check that led to the establishment of the entitlement: .....

— Checks not related to the acceptance of a customs declaration: .....

— Checks during clearance of a customs declaration including sample taking:

.....

— Checks after clearance but before discharge of the customs procedure: .....

— Checks after discharge of the customs procedure for the goods: .....

— Checks after clearance and release for free circulation: .....

Date(s) of presumed discharge of the customs procedure(s), to be communicated exclusively in the case of customs situations involving suspensive arrangements, under the Union Customs Code special procedures referred to in Article 210 of Regulation (EU) No 952/2013 of the European Parliament and of the Council, such as in case of fraudulent transit arrival confirmation, initially considered authentic:

.....

Comprehensive description of events leading to the establishment of the entitlement:

(The following questions shall be always addressed: What triggered the checks or investigations and when? When ended the checks or investigations (give data of report)? Which goods were involved? Give details of the grounds for which duties were evaded. Did the check or investigation allow for the calculation of additional duties and the identification of debtor(s)? Give the date, when the different debtors were identified and if applicable indicate the parts of the debt for which they became debtors.)

Date when the investigation/customs inspection/control started: .....

Date when the report of the customs inspection/control was produced, allowing to identify the debtor(s) and the amount of additional duties: .....

3. **MUTUAL ASSISTANCE**

Case related to Mutual assistance (MA) within the meaning of Council Regulation (EC) No 515/97 ([6]) involving Commission departments (Yes/No)

Reference of the MA communication: .....

Date of receipt: .....

Comments (optional): .....

OLAF File reference (format: LL/yyyy/nnnn): .....

Joint Customs Operation (JCO) reference(if applicable):

.....

Case related to a Risk information Form (RIF) or to a Common Priority Control Area (CPCA) (Yes/No)

RIF reference (if applicable): .....

CPCA reference (if applicable): .....

4. **ESTABLISHMENT OF THE ENTITLEMENT** (Article 2 of Regulation (EU, Euratom) No 609/2014 ([7]))

Office of establishment: .....

Date of establishment: .....

Accounting reference of establishment (optional): .....

([5]) International acronym for Master Reference Number/Movement Reference Number.

([6]) Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters (OJ L 82, 22.3.1997, p. 1).

([7]) Entry in the accounts as referred to in Article 104(1) of Regulation (EU) No 952/2013 and Article 217(1) of Regulation (EEC) No 2913/92.

Date of entry in the B account (Article 6 of Regulation (EU, Euratom) No 609/2014): .....

Accounting reference of the B account (optional): .....

Entry in the accounts or notification of the customs debt deferred in order not to prejudice a criminal investigation affecting the financial interests of the Union (the second subparagraph of Article 13(2) of Regulation (EU, Euratom) No 609/2014) (yes/no)

Total amount of traditional own resources established:

(Please specify here the entire amount established arising from the same circumstances – irregularities or fraud involving at least one common main debtor and discovered as a result of the same clearance or post-clearance control)

.....

Amount of customs and agricultural duties established, not including countervailing and antidumping duties: .....

.....

Amount of countervailing and antidumping duties established: .....

Amount of sugar levies established: .....

Corresponding established amount of national excise duties and VAT (optional):

.....

Amount of correction ([8]) of traditional own resources (increase or decrease) after the initial establishment:

.....

Amount of correction of customs and agricultural duties (increase or decrease) after the initial establishment, not including countervailing and antidumping duties: .....

.....

Amount of correction of countervailing and antidumping duties (increase or decrease) after the initial establishment: .....

.....

Amount of correction related to sugar levies (addition or deduction) after the initial establishment: .....

.....

Corresponding amount of correction related to national excise duties and VAT (addition or deduction) after the initial establishment (optional): .....

Total amount of traditional own resources to be recovered after correction

Total amount of security/guarantee ([9]): .....

(Amount covering Union own resources and if applicable national duties. It can be nil if there is a waiver or if a security is not lodged. In the case of a comprehensive guarantee less than 100 % of the reference amount, the reference amount shall also be indicated)

Part of security to be allocated to Union own resources: .....

Type of security (compulsory, optional, not planned): .....

Type of compulsory security: .....

Additional explanations as regards security

(*Reason why a planned security was not lodged, comments on application of Articles 89(4), subparagraph 3, of Regulation (EU) No 952/2013, …*): .....

Security amount made available to the Union: .....

Date on which the security amount was made available to the Union: .....

5. **RECOVERY PROCESS**

(If there are several debtors for the same debt, the following information needs to be provided for each debtor)

([8]) Corrections of establishments as referred to in Article 8 of Regulation (EU, Euratom) No 609/2014.

([9]) Security as referred to in Article 6(3), second subparagraph of Regulation (EU, Euratom) No 609/2014.

Quality of debtor ([10]): .....

Amount owed, if less than total amount established: .....

Date of notification of the debt: .....

Date(s) of payment reminders: .....

Establishment subject to an appeal procedure within the meaning of Article 243(1) of Regulation (EEC) No 2913/92 or Article 44 of Regulation (EU) No 952/2013 or a remission procedure within the meaning of Articles 236, 238 and 239 of Regulation (EEC) No 2913/92 or Articles 117 to 120 of Regulation (EU) No 952/2013 (Yes/No)

Levels attained in appeal/remission procedure: .....

Date of first appeal/remission lodged: .....

Date on which the definitive judgment is notified: .....

Comments

(*Please also specify here, if applicable, the different periods of appeal/remission*): .....

Suspension of implementation within the meaning of Articles 222 and 244 of Regulation (EEC) No 2913/92 and Article 876a of Commission Regulation (EEC) No 2454/93 ([11]) or Articles 108(3) and 45 of Regulation (EU) No 952/2013 (Yes/No)

Security lodged on suspension (Yes/No)

Amount of security on suspension: .....

Reasons why no security was lodged on suspension: .....

(Member States need to specify whether or not a security was waived because of foreseeable economic and social difficulties and the grounds for such a decision)

Payment facilities within the meaning of Article 229 of Regulation (EEC) No 2913/92 or Article 112 of Regulation (EU) No 952/2013 (no request/request rejected/request accepted)

Description of payment facility arrangements: .....

Security lodged pursuant to payment facilities (Yes/No)

Amount of security pursuant to payment facilities: .....

Reason why no security was lodged on payment facilities: .....

(Member States need to specify whether or not a security was waived because of foreseeable economic and social difficulties and the grounds for such a decision)

Date of issue of enforcement order: .....

Notification of enforcement order (Yes/No)

Date of notification of enforcement order: .....

Comments on enforcement order (indication of the legal instrument under national law): .....

Date(s) of any payment(s) (including from attachment and from bankruptcy proceedings) received and made available to the Union: .....

Corresponding amount(s) of payment(s) received and made available to the Union: .....

Total amounts paid and made available: .....

Date(s) of attachments: .....

Amount obtained by way of attachment: .....

Comments on the attachment (optional): .....

([10]) Including civil liability debtors, indirect representatives and guarantors.

([11]) Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, p. 1).

Date of opening of bankruptcy/liquidation/insolvency proceedings: .....

Date of declaring the claim in those proceedings: .....

Date of closure of bankruptcy/liquidation/insolvency proceedings: .....

Amount of own resources recovered from bankruptcy/liquidation/insolvency proceedings: .....

.....

Mutual assistance by other Member States in recovery (Council Directive 2010/24/EU [12] or precursors) (Yes/No)

Reference of Mutual assistance in recovery: .....

Member State contacted: .....

Date of request: .....

Amount recovered: .....

Date of reply: .....

Comments on the reply (in particular if the Member State contacted has not acted on the request): .....

.....

6. **REASONS WHY RECOVERY HAS PROVED IMPOSSIBLE FOR THE REMAINING AMOUNT**

(In this part, the Member States shall clearly indicate for instance all the specific enforcement measures taken and the reasons why in the case of a bankruptcy/liquidation/insolvency procedure the amount received was not sufficient to cover the debt or why it covers only a part of the debt. Also, Member States shall explain in detail the circumstances if entry in the accounts or notification of customs debts was deferred in order not to prejudice criminal investigations affecting the financial interests of the Union.)

(Member States do not need to provide information they have already provided under points 1 to 5)

7. **OTHER INFORMATION**

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[12] Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ L 84, 31.3.2010, p. 1).'