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**INFORMATION NOTE**

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| From: | General Secretariat of the Council |
| To: | Permanent Representatives Committee/Council |
| Subject: | Proposal for a DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on computerising the movement and surveillance of excise goods (recast)<br>- Outcome of the European Parliament's first reading,<br>(Brussels, 3 to 4 April 2019) |

## I. INTRODUCTION

The rapporteur, Kay SWINBURNE (ECR, UK), presented a report on behalf of the Committee on Economic and Monetary Affairs, aiming at taking over the Commission proposal for a Decision of the European Parliament and of the Council on computerising the movement and surveillance of excise goods.

## II. VOTE

The Parliament adopted its first-reading position on 4 April 2019 by taking over the Commission proposal. This position is contained in its legislative resolution as set out in the Annex hereto.

On 27 February 2019, the Permanent Representatives Committee had approved the Commission's proposal without amendments. The Council should therefore be in a position to approve the European Parliament's position. The legislative act would then be adopted in the wording which corresponds to the European Parliament's position.

# Computerising the movement and surveillance of excise goods ***I

**European Parliament legislative resolution of 4 April 2019 on the proposal for a decision of the European Parliament and of the Council on computerising the movement and surveillance of excise goods (recast) (COM(2018)0341 – C8-0215/2018 – 2018/0187(COD))**

**(Ordinary legislative procedure – recast)**

*The European Parliament*,

– having regard to the Commission proposal to Parliament and the Council (COM(2018)0341),

– having regard to Article 294(2) and Article 114(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0215/2018),

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– having regard to the opinion of the European Economic and Social Committee of 17 October 2018[1].

– having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts[2],

– having regard to the letter of 18 December 2018 sent by the Committee on Legal Affairs to the Committee on Economic and Monetary Affairs in accordance with Rule 104(3) of its Rules of Procedure,

– having regard to the undertaking given by the Council representative by letter of 27 February 2019 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

– having regard to Rules 104 and 59 of its Rules of Procedure,

– having regard to the report of the Committee on Economic and Monetary Affairs (A8-0010/2019),

A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the Commission proposal does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance;

1. Adopts its position at first reading hereinafter set out;

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1 OJ C 62, 15.2.2019, p. 108.
2 OJ C 77, 28.3.2002, p. 1.

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

**P8_TC1-COD(2018)0187**

**Position of the European Parliament adopted at first reading on 4 April 2019 with a view to the adoption of Decision (EU) 2019/… of the European Parliament and of the Council on computerising the movement and surveillance of excise goods (recast)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114(1) 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 Economic and Social Committee[3],

Acting in accordance with the ordinary legislative procedure[4],

[3] OJ C 62, 15.2.2019, p. 108.
[4] Position of the European Parliament of 4 April 2019.

Whereas:

(1) A number of amendments are to be made to Decision No 1152/2003/EC of the European Parliament and of the Council[5]. In the interests of clarity, that Decision should be recast.

(2) Council Directive (EU) 2019/…[6+] provides that goods moving between the territories of the Member States under excise-duty suspension arrangements are to be accompanied by a document completed by the consignor.

(3) Commission Regulation (EC) No 684/2009[7] lays down the structure and content of the accompanying document referred to in Directive (EU) 2019/…[++] and the procedure for its use.

(4) In order to improve checks and allow the movement of excise goods inside the Union to be simplified, a computerised system was established by means of Decision No 1152/2003/EC.

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5 Decision No 1152/2003/EC of the European Parliament and of the Council of 16 June 2003 on computerising the movement and surveillance of excisable products (OJ L 162, 1.7.2003, p. 5).

6 Council Directive (EU) 2019/… of … laying down the general arrangements for excise duty (OJ L ...).

\+ OJ: Please insert in the text the number of the Directive adopted in the procedure 2018/0176 (CNS) and insert the number, date, title and OJ reference of that Directive in the footnote.

7 Commission Regulation (EC) No 684/2009 of 24 July 2009 implementing Council Directive 2008/118/EC as regards the computerised procedures for the movement of excise goods under suspension of excise duty (OJ L 197, 29.7.2009, p. 24).

++ OJ: Please insert in the text the number of the Directive adopted in the procedure 2018/0176 (CNS).

(5) It is necessary to further maintain and develop the computerised system for monitoring the movement of excise goods in order to allow Member States to obtain real-time information on such movement and to carry out the requisite manual and automated checks, including checks during the movement of excise goods within the meaning of Chapters IV and V of Directive (EU) 2019/…[+] and Chapter IV of Council Regulation (EU) No 389/2012[8].

(6) The modification, extension and operation of the computerised system should allow the intra-Union movement of excise goods under duty suspension as well as the movement of excise goods which have already been released for consumption in the territory of one Member State and are moved to the territory of another Member State in order to be delivered for commercial purposes.

(7) Modifying and extending the computerised system serves to enhance the internal-market aspects of the movement of excise goods. Any fiscal aspects relating to the movement of excise goods should be addressed by amending Directive (EU) 2019/…[+] or Regulation (EU) No 389/2012. This Decision does not prejudice the legal basis of any future amendments to Directive (EU) 2019/…[+] or Regulation (EU) No 389/2012.

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[+] OJ: Please insert in the text the number of the Directive adopted in the procedure 2018/0176 (CNS).

[8] Council Regulation (EU) No 389/2012 of 2 May 2012 on administrative cooperation in the field of excise duties and repealing Regulation (EC) No 2073/2004 (OJ L 121, 8.5.2012, p. 1).

(8) It is necessary to define the division between the Union and non-Union components of the computerised system, as well as the respective duties of the Commission and the Member States with regard to the system's development and deployment. In that context, the Commission, assisted by the relevant Committee, should fulfil a major role in coordinating, organising and managing the system.

(9) In order to ensure uniform conditions for the implementation of the measures necessary for the modification, extension and operation of the computerised system, 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[9].

(10) Arrangements should be made for evaluating the implementation of the computerised system for monitoring excise goods.

[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).

(11) Before a new extension of the computerised system is operational, and given the problems which have been experienced, the Commission, in collaboration with Member States, and taking account of the views of the trade sectors concerned, should investigate whether any current paper-based systems are still suitable.

(12) The costs of the computerised system should be shared between the Union and the Member States.

(13) Due to the size and complexity of the computerised system, it is necessary that both the Union and the Member States provide human and financial resources for the development and deployment of the system. In developing the national components, Member States should apply the principles laid down for electronic government systems and should treat the economic operators in the same way as in the other fields where computer systems are set up. In particular, they should allow the economic operators, especially the small and medium-sized enterprises active in this sector, to use the national components at the lowest possible cost, and they should promote all measures aimed at preserving their competitiveness.

(14) Since the objective of this Decision, namely to provide a basis for the governance of further automations of processes set out in Union legislation on excise duties, cannot be sufficiently achieved by the Member States but can rather, by reason of ensuring the proper functioning of the internal market, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Decision does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS DECISION:

Article 1

1. This Decision makes provision for the management of the modification, extension and operation of the computerised system used for the movement and surveillance of excise goods referred to in Article 1(1) of Directive (EU) 2019/…[+] ('the computerised system').

2. The computerised system is intended to:

(a) permit the electronic transmission of the administrative documents provided for in Directive (EU) 2019/…[+] and Regulation (EU) No 389/2012, and the improvement of checks;

(b) improve the functioning of the internal market, by simplifying the intra-Union movement of excise goods and by affording Member States the possibility of monitoring the flows in real time and of carrying out the requisite checks where necessary.

[+] OJ: Please insert in the text the number of the Directive adopted in the procedure 2018/0176 (CNS).

Article 2

Activities relating to the initiation of extension of the computerised system shall begin by ... [12 months after the date of entry into force of this Decision].

Article 3

1. The computerised system shall be made up of Union and non-Union components.

2. The Commission shall ensure that in work on the Union components of the computerised system every attention is paid to reusing existing systems as much as possible and ensuring that the computerised system is compatible with other relevant Commission and Member State computerised systems, with the objective of creating an integrated set of computerised systems for the surveillance both of intra-Union movements of excise goods and of movements of excise goods and goods subject to other duties and charges coming from or going to third countries.

3. The Union components of the computerised system shall be the common specifications, the technical products, the services of the Common Communications Network / Common Systems Interface network, and the coordination services used by all the Member States, to the exclusion of any variant or special feature of any such services designed to meet national requirements.

4. The non-Union components of the computerised system shall be the national specifications, the national databases forming part of the computerised system, network connections between the Union and non-Union components and any software or equipment which a Member State considers necessary to ensure full use of the computerised system throughout its administration.

Article 4

1. The Commission shall coordinate the modification, extension and operation of the Union and non-Union components of the computerised system, and in particular:

(a) the infrastructure and tools needed to guarantee the computerised system's internal links and overall interoperability;

(b) the development of a security policy of the highest standard possible in order to prevent unauthorised access to data and to guarantee the integrity of the computerised system;

(c) the instruments for the exploitation of data to combat fraud.

2. To achieve the aims set out in paragraph 1, the Commission shall conclude the necessary contracts for the modification and extension of the Union components of the computerised system and shall, in cooperation with the Member States meeting within the Committee referred to in Article 7(1), draw up a master plan and management plans required for the modification, extension and operation of the computerised system.

The master plan and the management plans shall specify the initial and routine tasks which the Commission and each Member State are to perform. The management plans shall specify the completion dates for the tasks required for carrying out each project identified in the master plan.

Article 5

1. Member States shall complete, by the date specified in the management plans referred to in Article 4(2), the initial and routine tasks allocated to them.

They shall report to the Commission on the results of each task and the date of its completion. The Commission shall in turn inform the Committee referred to in Article 7(1) thereof.

2. Member States shall not take any action relating to the modification, extension or operation of the computerised system that might affect its internal links and overall interoperability or its functioning as a whole.

Any measure that a Member State wishes to take that could affect either the computerised system's internal links and overall interoperability or its functioning as a whole shall be taken with the prior agreement of the Commission.

3. Member States shall inform the Commission regularly of any measure they have taken to enable their respective administrations to make full use of the computerised system. The Commission shall in turn inform the Committee referred to in Article 7(1) thereof.

Article 6

The Commission shall adopt implementing acts establishing the measures necessary for the modification, extension and operation of the computerised system as relating to the matters referred to in Article 4(1) and the second subparagraph of Article 5(2). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 7(2). Those implementing acts shall not affect the Union provisions in relation to the raising and checking of indirect taxes or administrative cooperation and mutual assistance in matters of indirect taxation.

Article 7

1. The Commission shall be assisted by the Committee on Excise Duty. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 8

1. The Commission shall verify that the measures financed from the general budget of the European Union are being carried out correctly and in compliance with the provisions of this Decision.

   It shall regularly, in collaboration with the Member States, meeting in the Committee referred to in Article 7(1), monitor the various development and deployment stages of the computerised system with a view to determining whether the objectives pursued have been achieved and to issuing guidelines on how to increase the effectiveness of the activities involved in implementing the computerised system.

2. By ... [five years after the date of entry into force of this Decision] and every five years thereafter, the Commission shall present a report to the European Parliament and the Council on the implementation and operation of the computerised system.

   The report shall set out, inter alia, the methods and criteria to be used in the later evaluation of how the computerised system is functioning.

Article 9

The countries that have applied for membership of the Union shall be kept informed by the Commission of the development and deployment of the computerised system and may, if they so desire, take part in the tests to be carried out.

Article 10

1. The costs of modifying and extending the computerised system shall be split between the Union and the Member States in accordance with paragraphs 2 and 3.

2. The Union shall bear the costs of the design, acquisition, installation and maintenance of the Union components of the computerised system and the ongoing operating costs of those Union components installed in Commission premises, or in those of a subcontractor designated by the Commission.

3. Member States shall bear the costs of modifying, extending and operating the non-Union components of the computerised system and the ongoing operating costs of those Union components installed in their premises, or in those of a subcontractor designated by the Member State concerned.

Article 11

1. The annual appropriations, including appropriations assigned to the use and operation of the computerised system after the implementation period, shall be authorised by the budgetary authority within the limits of the financial perspective set out in Regulation (EU) No 1286/2013 of the European Parliament and of the Council[10].

2. Member States shall estimate and make available the budgets and human resources needed to meet their obligations described in Article 5. The Commission and the Member States shall provide the human, budgetary and technical resources needed to modify, extend, operate and further develop the computerised system.

[10] Regulation (EU) No 1286/2013 of the European Parliament and of the Council of 11 December 2013 establishing an action programme to improve the operation of taxation systems in the European Union for the period 2014-2020 (Fiscalis 2020) and repealing Decision No 1482/2007/EC (OJ L 347, 20.12.2013, p. 25).

Article 12

Decision No 1152/2003/EC is repealed.

References to the repealed Decision shall be construed as references to this Decision and shall be read in accordance with the correlation table in the Annex.

Article 13

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

Article 14

This Decision is addressed to the Member States.

Done at ...,

*For the European Parliament* *For the Council*

*The President* *The President*

ANNEX

Correlation table

| Decision No 1152/2003/EC | This Decision |
|---|---|
| Article 1 | Article 1 |
| Article 2, first paragraph | _ |
| Article 2, second paragraph | Article 2 |
| Article 3 | Article 3 |
| Article 4 | Article 4 |
| Article 5 | Article 5 |
| Article 6 | Article 6 |
| Article 7(1) | Article 7(1) |
| Article 7(2) | Article 7(2) |
| Article 7(3) | - |
| Article 8(1) | Article 8(1) |
| Article 8(2) | - |
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| Article 9 | Article 9 |

| | |
|---|---|
| Article 10 | Article 10 |
| Article 11(1), first subparagraph | _ |
| Article 11(1), second subparagraph | Article 11(1) |
| Article 11(2) | Article 11(2) |
| - | Article 12 |
| Article 12 | Article 13 |
| Article 13 | Article 14 |
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