

Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance  
for the recovery of claims relating to taxes, duties and other measures

COUNCIL DIRECTIVE 2010/24/EU

of 16 March 2010

concerning mutual assistance for the recovery of  
claims relating to taxes, duties and other measures

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 113 and 115 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament<sup>(1)</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>(2)</sup>,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) Mutual assistance between the Member States for the recovery of each others' claims and those of the Union with respect to certain taxes and other measures contributes to the proper functioning of the internal market. It ensures fiscal neutrality and has allowed Member States to remove discriminatory protective measures in cross-border transactions designed to prevent fraud and budgetary losses.
- (2) Arrangements for mutual assistance for recovery were first set out in Council Directive 76/308/EEC of 15 March 1976 on mutual assistance for the recovery of claims resulting from operations forming part of the system of financing the European Agricultural Guidance and Guarantee Fund, and of the agricultural levies and customs duties<sup>(3)</sup>. That Directive and the acts amending it were codified by Council Directive 2008/55/EC of 26 May 2008 on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures<sup>(4)</sup>.
- (3) Those arrangements, however, while providing a first step towards improved recovery procedures within the Union by approximating applicable national rules, have proved insufficient to meet the requirements of the internal market as it has evolved over the last 30 years.
- (4) To better safeguard the financial interests of the Member States and the neutrality of the internal market, it is necessary to extend the scope of mutual assistance for recovery to claims relating to taxes and duties not yet covered by mutual assistance for recovery, whilst in order to cope with the increase in assistance requests and to deliver better results, it is necessary to make assistance more efficient and effective and to facilitate it in practice. In order to fulfil these objectives, important adaptations are

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necessary, whereby a mere modification of the existing Directive 2008/55/EC would not be sufficient. The latter should therefore be repealed and replaced by a new legal instrument which builds on the achievements of Directive 2008/55/EC but provides for clearer and more precise rules where necessary.

- (5) Clearer rules would promote a wider information exchange between Member States. They would also ensure that all legal and natural persons in the Union are covered, taking into account the ever increasing range of legal arrangements, including not only traditional arrangements such as trusts and foundations, but any new instrument which may be set up by taxpayers in the Member States. They would furthermore make it possible to take account of all forms that claims of the public authorities relating to taxes, duties, levies, refunds and interventions may take, including all pecuniary claims against the taxpayer concerned or against a third party which substitute the original claim. Clearer rules are primarily necessary to define better the rights and obligations of all the parties concerned.
- (6) This Directive should not affect the Member States' competence to determine the recovery measures available under their internal legislation. However, it is necessary to ensure that neither disparities between national laws nor lack of coordination between competent authorities jeopardise the seamless operation of the mutual assistance system provided for in this Directive.
- (7) Mutual assistance may consist of the following: the requested authority may supply the applicant authority with the information which the latter needs in order to recover claims arising in the applicant Member State and notify to the debtor all documents relating to such claims emanating from the applicant Member State. The requested authority may also recover, at the request of the applicant authority, the claims arising in the applicant Member State, or take precautionary measures to guarantee the recovery of these claims.
- (8) The adoption of a uniform instrument to be used for enforcement measures in the requested Member State, as well as the adoption of a uniform standard form for notification of instruments and decisions relating to the claim, should resolve the problems of recognition and translation of instruments emanating from another Member State, which constitute a major cause of the inefficiency of the current arrangements for assistance.
- (9) A legal basis for exchange of information without prior request on specific tax refunds should be created. For reasons of efficiency, it should also be rendered possible for tax officials of a Member State to attend or to participate in administrative enquiries in another Member State. Provision should also be made for more direct information exchange between services with a view to making assistance faster and more efficient.
- (10) Given the increasing mobility within the internal market, and the restrictions imposed by the Treaty or other legislation on the guarantees that can be requested from taxpayers not established within the national territory, the possibilities for requesting recovery or precautionary measures in another Member State should be extended. As the age of a claim is a critical factor, it should be possible for Member States to make a request for mutual assistance, even though the domestic means of recovery have not yet been fully

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exhausted, inter alia, where recourse to such procedures in the applicant Member State would give rise to disproportionate difficulty.

- (11) A general obligation to communicate requests and documents in a digital form and via an electronic network, and with precise rules on the use of languages for requests and documents, should allow Member States to handle requests faster and more easily.
- (12) During the recovery procedure in the requested Member State, the claim, the notification made by the authorities of the applicant Member State or the instrument authorising its enforcement might be contested by the person concerned. It should be laid down that in such cases the person concerned should bring the action before the competent body of the applicant Member State and that the requested authority should suspend, unless the applicant authority requests otherwise, any enforcement proceedings which it has begun until a decision is taken by the competent body of the applicant Member State.
- (13) To encourage Member States to devote sufficient resources to the recovery of other Member States' claims, the requested Member State should be able to recover the costs related to recovery from the debtor.
- (14) Efficiency would be best achieved if, when executing a request for assistance, the requested authority could make use of the powers provided under its national laws applying to claims concerning the same or similar taxes or duties. In the absence of a similar tax or duty, the most appropriate procedure would be that provided under the laws of the requested Member State which applies to claims concerning the tax levied on personal income. This use of national legislation should not, as a general rule, apply with regard to the preferences accorded to claims arising in the requested Member State. However, it should be made possible to extend preferences to claims of other Member States based on an agreement between the Member States concerned.
- (15) With regard to questions on limitation, it is necessary to simplify the existing rules, by providing that the suspension, interruption or prolongation of periods of limitation is in general determined according to the laws in force in the requested Member State, except where suspension, interruption or prolongation of the period of limitation is not possible under the laws in force in that State.
- (16) Efficiency requires that information communicated in the course of mutual assistance may be used in the Member State receiving the information for purposes other than those provided for in this Directive, where this is allowed under the domestic legislation of both the Member State providing the information and the Member State receiving the information.
- (17) This Directive should not prevent the fulfilment of any obligation to provide wider assistance ensuing from bilateral or multilateral agreements or arrangements.
- (18) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>(5)</sup>.

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- (19) In accordance with point 34 of the Interinstitutional Agreement on better law-making, Member States are encouraged to draw up, for themselves and in the interest of the Union, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public.
- (20) Since the objectives of this Directive, namely the provision of a uniform system of recovery assistance within the internal market, cannot be sufficiently achieved by the Member States and can therefore, by reason of the uniformity, effectiveness and efficiency required, be better achieved at the level of the Union, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (21) This Directive respects the fundamental rights and observes the principles which are recognised in particular by the Charter of Fundamental Rights of the European Union,

HAS ADOPTED THIS DIRECTIVE:

## CHAPTER I

### GENERAL PROVISIONS

#### *Article 1*

##### **Subject matter**

This Directive lays down the rules under which the Member States are to provide assistance for the recovery in a Member State of any claims referred to in Article 2 which arise in another Member State.

#### *Article 2*

##### **Scope**

- 1 This Directive shall apply to claims relating to the following:
  - a all taxes and duties of any kind levied by or on behalf of a Member State or its territorial or administrative subdivisions, including the local authorities, or on behalf of the Union;
  - b refunds, interventions and other measures forming part of the system of total or partial financing of the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD), including sums to be collected in connection with these actions;
  - c levies and other duties provided for under the common organisation of the market for the sugar sector.
- 2 The scope of this Directive shall include:
  - a administrative penalties, fines, fees and surcharges relating to the claims for which mutual assistance may be requested in accordance with paragraph 1, imposed by the administrative authorities that are competent to levy the taxes or duties concerned or

- carry out administrative enquiries with regard to them, or confirmed by administrative or judicial bodies at the request of those administrative authorities;
- b fees for certificates and similar documents issued in connection with administrative procedures related to taxes and duties;
  - c interest and costs relating to the claims for which mutual assistance may be requested in accordance with paragraph 1 or point (a) or (b) of this paragraph.
- 3 This Directive shall not apply to:
- a compulsory social security contributions payable to the Member State or a subdivision of the Member State, or to social security institutions established under public law;
  - b fees not referred to in paragraph 2;
  - c dues of a contractual nature, such as consideration for public utilities;
  - d criminal penalties imposed on the basis of a public prosecution or other criminal penalties not covered by paragraph 2(a).

### *Article 3*

#### **Definitions**

For the purposes of this Directive:

- (a) ‘applicant authority’ means a central liaison office, a liaison office or a liaison department of a Member State which makes a request for assistance concerning a claim referred to in Article 2;
- (b) ‘requested authority’ means a central liaison office, a liaison office or a liaison department of a Member State to which a request for assistance is made;
- (c) ‘person’ means:
  - (i) a natural person;
  - (ii) a legal person;
  - (iii) where the legislation in force so provides, an association of persons recognised as having the capacity to perform legal acts but lacking the legal status of a legal person; or
  - (iv) any other legal arrangement of whatever nature and form, which has legal personality or not, owning or managing assets which, including income derived therefrom, are subject to any of the taxes covered by this Directive;
- (d) ‘by electronic means’ means using electronic equipment for the processing, including digital compression, and storage of data, and employing wires, radio transmission, optical technologies or other electromagnetic means;
- (e) ‘CCN network’ means the common platform based on the common communication network (CCN) developed by the Union for all transmissions by electronic means between competent authorities in the area of customs and taxation.

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#### Article 4

### Organisation

1 Each Member State shall inform the Commission by 20 May 2010 of its competent authority or authorities (hereinafter respectively referred to as the ‘competent authority’) for the purpose of this Directive and shall inform the Commission without delay of any changes thereof.

The Commission shall make the information received available to the other Member States and publish a list of the competent authorities of the Member States in the *Official Journal of the European Union*.

2 The competent authority shall designate a central liaison office which shall have principal responsibility for contacts with other Member States in the field of mutual assistance covered by this Directive.

The central liaison office may also be designated as responsible for contacts with the Commission.

3 The competent authority of each Member State may designate liaison offices which shall be responsible for contacts with other Member States concerning mutual assistance with regard to one or more specific types or categories of taxes and duties referred to in Article 2.

4 The competent authority of each Member State may designate offices, other than the central liaison office or liaison offices, as liaison departments. Liaison departments shall request or grant mutual assistance under this Directive in relation to their specific territorial or operational competences.

5 Where a liaison office or a liaison department receives a request for mutual assistance requiring action outside the competence assigned to it, it shall forward the request without delay to the competent office or department, if known, or to the central liaison office, and inform the applicant authority thereof.

6 The competent authority of each Member State shall inform the Commission of its central liaison office and any liaison offices or liaison departments which it has designated. The Commission shall make the information received available to the Member States.

7 Every communication shall be sent by or on behalf or, on a case by case basis, with the agreement of the central liaison office, which shall ensure effectiveness of communication.

## CHAPTER II

### EXCHANGE OF INFORMATION

#### Article 5

### Request for information

1 At the request of the applicant authority, the requested authority shall provide any information which is foreseeably relevant to the applicant authority in the recovery of its claims as referred to in Article 2.

For the purpose of providing that information, the requested authority shall arrange for the carrying-out of any administrative enquiries necessary to obtain it.

- 2 The requested authority shall not be obliged to supply information:
- a which it would not be able to obtain for the purpose of recovering similar claims arising in the requested Member State;
  - b which would disclose any commercial, industrial or professional secrets;
  - c the disclosure of which would be liable to prejudice the security of or be contrary to the public policy of the requested Member State.

3 Paragraph 2 shall in no case be construed as permitting a requested authority of a Member State to decline to supply information solely because this information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

4 The requested authority shall inform the applicant authority of the grounds for refusing a request for information.

#### *Article 6*

### **Exchange of information without prior request**

Where a refund of taxes or duties, other than value-added tax, relates to a person established or resident in another Member State, the Member State from which the refund is to be made may inform the Member State of establishment or residence of the upcoming refund.

#### *Article 7*

### **Presence in administrative offices and participation in administrative enquiries**

1 By agreement between the applicant authority and the requested authority and in accordance with the arrangements laid down by the requested authority, officials authorised by the applicant authority may, with a view to promoting mutual assistance provided for in this Directive:

- a be present in the offices where the administrative authorities of the requested Member State carry out their duties;
- b be present during administrative enquiries carried out in the territory of the requested Member State;
- c assist the competent officials of the requested Member State during court proceedings in that Member State.

2 In so far as it is permitted under the legislation in force in the requested Member State, the agreement referred to in paragraph 1(b) may provide that officials of the applicant Member State may interview individuals and examine records.

3 Officials authorised by the applicant authority who make use of the possibilities offered by paragraphs 1 and 2 shall at all times be able to produce written authority stating their identity and their official capacity.

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## CHAPTER III

### ASSISTANCE FOR THE NOTIFICATION OF DOCUMENTS

#### *Article 8*

##### **Request for notification of certain documents relating to claims**

1 At the request of the applicant authority, the requested authority shall notify to the addressee all documents, including those of a judicial nature, which emanate from the applicant Member State and which relate to a claim as referred to in Article 2 or to its recovery.

The request for notification shall be accompanied by a standard form containing at least the following information:

- a name, address and other data relevant to the identification of the addressee;
- b the purpose of the notification and the period within which notification should be effected;
- c a description of the attached document and the nature and amount of the claim concerned;
- d name, address and other contact details regarding:
  - (i) the office responsible with regard to the attached document, and, if different;
  - (ii) the office where further information can be obtained concerning the notified document or concerning the possibilities to contest the payment obligation.

2 The applicant authority shall make a request for notification pursuant to this article only when it is unable to notify in accordance with the rules governing the notification of the document concerned in the applicant Member State, or when such notification would give rise to disproportionate difficulties.

3 The requested authority shall forthwith inform the applicant authority of any action taken on its request for notification and, more especially, of the date of notification of the document to the addressee.

#### *Article 9*

##### **Means of notification**

1 The requested authority shall ensure that notification in the requested Member State is effected in accordance with the national laws, regulations and administrative practices in force in the requested Member State.

2 Paragraph 1 shall be without prejudice to any other form of notification made by a competent authority of the applicant Member State in accordance with the rules in force in that Member State.

A competent authority established in the applicant Member State may notify any document directly by registered mail or electronically to a person within the territory of another Member State.



## CHAPTER IV

### RECOVERY OR PRECAUTIONARY MEASURES

#### *Article 10*

##### **Request for recovery**

1 At the request of the applicant authority, the requested authority shall recover claims which are the subject of an instrument permitting enforcement in the applicant Member State.

2 As soon as any relevant information relating to the matter which gave rise to the request for recovery comes to the knowledge of the applicant authority, it shall forward it to the requested authority.

#### *Article 11*

##### **Conditions governing a request for recovery**

1 The applicant authority may not make a request for recovery if and as long as the claim and/or the instrument permitting its enforcement in the applicant Member State are contested in that Member State, except in cases where the third subparagraph of Article 14(4) applies.

2 Before the applicant authority makes a request for recovery, appropriate recovery procedures available in the applicant Member State shall be applied, except in the following situations:

- a where it is obvious that there are no assets for recovery in the applicant Member State or that such procedures will not result in the payment in full of the claim, and the applicant authority has specific information indicating that the person concerned has assets in the requested Member State;
- b where recourse to such procedures in the applicant Member State would give rise to disproportionate difficulty.

#### *Article 12*

##### **Instrument permitting enforcement in the requested Member State and other accompanying documents**

1 Any request for recovery shall be accompanied by a uniform instrument permitting enforcement in the requested Member State.

This uniform instrument permitting enforcement in the requested Member State shall reflect the substantial contents of the initial instrument permitting enforcement, and constitute the sole basis for the recovery and precautionary measures taken in the requested Member State. It shall not be subject to any act of recognition, supplementing or replacement in that Member State.

The uniform instrument permitting enforcement shall contain at least the following information:

- a information relevant to the identification of the initial instrument permitting enforcement, a description of the claim, including its nature, the period covered by the

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- claim, any dates of relevance to the enforcement process, and the amount of the claim and its different components such as principal, interest accrued, etc.;
- b name and other data relevant to the identification of the debtor;
  - c name, address and other contact details regarding:
    - (i) the office responsible for the assessment of the claim, and, if different;
    - (ii) the office where further information can be obtained concerning the claim or the possibilities for contesting the payment obligation.
- 2 The request for recovery of a claim may be accompanied by other documents relating to the claim issued in the applicant Member State.

### *Article 13*

#### **Execution of the request for recovery**

1 For the purpose of the recovery in the requested Member State, any claim in respect of which a request for recovery has been made shall be treated as if it was a claim of the requested Member State, except where otherwise provided for in this Directive. The requested authority shall make use of the powers and procedures provided under the laws, regulations or administrative provisions of the requested Member State applying to claims concerning the same or, in the absence of the same, a similar tax or duty, except where otherwise provided for in this Directive.

If the requested authority considers that the same or similar taxes or duties are not levied on its territory, it shall make use of the powers and procedures provided under the laws, regulations or administrative provisions of the requested Member State which apply to claims concerning the tax levied on personal income, except where otherwise provided for in this Directive.

The requested Member State shall not be obliged to grant other Member States' claims preferences accorded to similar claims arising in that Member State, except where otherwise agreed between the Member States concerned or provided in the law of the requested Member State. A Member State which grants preferences to another Member State's claims may not refuse to grant the same preferences to the same or similar claims of other Member States on the same conditions.

The requested Member State shall recover the claim in its own currency.

2 The requested authority shall inform the applicant authority with due diligence of any action it has taken on the request for recovery.

3 From the date on which the recovery request is received, the requested authority shall charge interest for late payment in accordance with the laws, regulations and administrative provisions in force in the requested Member State.

4 The requested authority may, where the laws, regulations or administrative provisions in force in the requested Member State so permit, allow the debtor time to pay or authorise payment by instalment and it may charge interest in that respect. It shall subsequently inform the applicant authority of any such decision.

5 Without prejudice to Article 20(1), the requested authority shall remit to the applicant authority the amounts recovered with respect to the claim and the interest referred to in paragraphs 3 and 4 of this Article.

## Article 14

### Disputes

1 Disputes concerning the claim, the initial instrument permitting enforcement in the applicant Member State or the uniform instrument permitting enforcement in the requested Member State and disputes concerning the validity of a notification made by a competent authority of the applicant Member State shall fall within the competence of the competent bodies of the applicant Member State. If, in the course of the recovery procedure, the claim, the initial instrument permitting enforcement in the applicant Member State or the uniform instrument permitting enforcement in the requested Member State is contested by an interested party, the requested authority shall inform that party that such an action must be brought by the latter before the competent body of the applicant Member State in accordance with the laws in force there.

2 Disputes concerning the enforcement measures taken in the requested Member State or concerning the validity of a notification made by a competent authority of the requested Member State shall be brought before the competent body of that Member State in accordance with its laws and regulations.

3 Where an action as referred to in paragraph 1 has been brought before the competent body of the applicant Member State, the applicant authority shall inform the requested authority thereof and shall indicate the extent to which the claim is not contested.

4 As soon as the requested authority has received the information referred to in paragraph 3, either from the applicant authority or from the interested party, it shall suspend the enforcement procedure, as far as the contested part of the claim is concerned, pending the decision of the body competent in the matter, unless the applicant authority requests otherwise in accordance with the third subparagraph of this paragraph.

At the request of the applicant authority, or where otherwise deemed to be necessary by the requested authority, and without prejudice to Article 16, the requested authority may take precautionary measures to guarantee recovery in so far as the laws or regulations in force in the requested Member State allow such action.

The applicant authority may, in accordance with the laws, regulations and administrative practices in force in the applicant Member State, ask the requested authority to recover a contested claim or the contested part of a claim, in so far as the relevant laws, regulations and administrative practices in force in the requested Member State allow such action. Any such request shall be reasoned. If the result of contestation is subsequently favourable to the debtor, the applicant authority shall be liable for reimbursing any sums recovered, together with any compensation due, in accordance with the laws in force in the requested Member State.

If a mutual agreement procedure has been initiated by the competent authorities of the applicant Member State or the requested Member State, and the outcome of the procedure may affect the claim in respect of which assistance has been requested, the recovery measures shall be suspended or stopped until that procedure has been terminated, unless it concerns a case of immediate urgency because of fraud or insolvency. If the recovery measures are suspended or stopped, the second subparagraph shall apply.

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### Article 15

#### **Amendment or withdrawal of the request for recovery assistance**

1 The applicant authority shall inform the requested authority immediately of any subsequent amendment to its request for recovery or of the withdrawal of its request, indicating the reasons for amendment or withdrawal.

2 If the amendment of the request is caused by a decision of the competent body referred to in Article 14(1), the applicant authority shall communicate this decision together with a revised uniform instrument permitting enforcement in the requested Member State. The requested authority shall then proceed with further recovery measures on the basis of the revised instrument.

Recovery or precautionary measures already taken on the basis of the original uniform instrument permitting enforcement in the requested Member State may be continued on the basis of the revised instrument, unless the amendment of the request is due to invalidity of the initial instrument permitting enforcement in the applicant Member State or the original uniform instrument permitting enforcement in the requested Member State.

Articles 12 and 14 shall apply in relation to the revised instrument.

### Article 16

#### **Request for precautionary measures**

1 At the request of the applicant authority, the requested authority shall take precautionary measures, if allowed by its national law and in accordance with its administrative practices, to ensure recovery where a claim or the instrument permitting enforcement in the applicant Member State is contested at the time when the request is made, or where the claim is not yet the subject of an instrument permitting enforcement in the applicant Member State, in so far as precautionary measures are also possible, in a similar situation, under the national law and administrative practices of the applicant Member State.

The document drawn up for permitting precautionary measures in the applicant Member State and relating to the claim for which mutual assistance is requested, if any, shall be attached to the request for precautionary measures in the requested Member State. This document shall not be subject to any act of recognition, supplementing or replacement in the requested Member State.

2 The request for precautionary measures may be accompanied by other documents relating to the claim, issued in the applicant Member State.

### Article 17

#### **Rules governing the request for precautionary measures**

In order to give effect to Article 16, Articles 10(2), 13(1) and (2), 14, and 15 shall apply *mutatis mutandis*.

## Article 18

### Limits to the requested authority's obligations

1 The requested authority shall not be obliged to grant the assistance provided for in Articles 10 to 16 if recovery of the claim would, because of the situation of the debtor, create serious economic or social difficulties in the requested Member State, in so far as the laws, regulations and administrative practices in force in that Member State allow such exception for national claims.

2 The requested authority shall not be obliged to grant the assistance provided for in Articles 5 and 7 to 16, if the initial request for assistance pursuant to Article 5, 7, 8, 10 or 16 is made in respect of claims which are more than 5 years old, dating from the due date of the claim in the applicant Member State to the date of the initial request for assistance.

However, in cases where the claim or the initial instrument permitting enforcement in the applicant Member State is contested, the 5-year period shall be deemed to begin from the moment when it is established in the applicant Member State that the claim or the instrument permitting enforcement may no longer be contested.

Moreover, in cases where a postponement of the payment or instalment plan is granted by the competent authorities of the applicant Member State, the 5-year period shall be deemed to begin from the moment when the entire payment period has come to its end.

However, in those cases the requested authority shall not be obliged to grant the assistance in respect of claims which are more than 10 years old, dating from the due date of the claim in the applicant Member State.

3 A Member State shall not be obliged to grant assistance if the total amount of the claims covered by this Directive, for which assistance is requested, is less than EUR 1 500.

4 The requested authority shall inform the applicant authority of the grounds for refusing a request for assistance.

## Article 19

### Questions on limitation

1 Questions concerning periods of limitation shall be governed solely by the laws in force in the applicant Member State.

2 In relation to the suspension, interruption or prolongation of periods of limitation, any steps taken in the recovery of claims by or on behalf of the requested authority in pursuance of a request for assistance which have the effect of suspending, interrupting or prolonging the period of limitation according to the laws in force in the requested Member State shall be deemed to have the same effect in the applicant Member State, on condition that the corresponding effect is provided for under the laws in force in the applicant Member State.

If suspension, interruption or prolongation of the period of limitation is not possible under the laws in force in the requested Member State, any steps taken in the recovery of claims by or on behalf of the requested authority in pursuance of a request for assistance which, if they had been carried out by or on behalf of the applicant authority in its Member State, would have had the effect of suspending, interrupting or prolonging the

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period of limitation according to the laws in force in the applicant Member State shall be deemed to have been taken in the latter State, in so far as that effect is concerned.

The first and second subparagraphs shall not affect the right of the competent authorities in the applicant Member State to take measures to suspend, interrupt or prolong the period of limitation in accordance with the laws in force in that Member State.

3 The applicant authority and the requested authority shall inform each other of any action which interrupts, suspends or prolongs the limitation period of the claim for which the recovery or precautionary measures were requested, or which may have this effect.

#### *Article 20*

##### **Costs**

1 In addition to the amounts referred to in Article 13(5), the requested authority shall seek to recover from the person concerned and retain the costs linked to the recovery that it incurred, in accordance with the laws and regulations of the requested Member State.

2 Member States shall renounce all claims on each other for the reimbursement of costs arising from any mutual assistance they grant each other pursuant to this Directive.

However, where recovery creates a specific problem, concerns a very large amount in costs or relates to organised crime, the applicant and requested authorities may agree reimbursement arrangements specific to the cases in question.

3 Notwithstanding paragraph 2, the applicant Member State shall remain liable to the requested Member State for any costs and any losses incurred as a result of actions held to be unfounded, as far as either the substance of the claim or the validity of the instrument permitting enforcement and/or precautionary measures issued by the applicant authority are concerned.

#### CHAPTER V

### **GENERAL RULES GOVERNING ALL TYPES OF ASSISTANCE REQUESTS**

#### *Article 21*

##### **Standard forms and means of communication**

1 Requests pursuant to Article 5(1) for information, requests pursuant to Article 8(1) for notification, requests pursuant to Article 10(1) for recovery or requests pursuant to Article 16(1) for precautionary measures shall be sent by electronic means, using a standard form, unless this is impracticable for technical reasons. As far as possible, these forms shall also be used for any further communication with regard to the request.

The uniform instrument permitting enforcement in the requested Member State, the document permitting precautionary measures in the applicant Member State and the other documents referred to in Articles 12 and 16 shall also be sent by electronic means, unless this is impracticable for technical reasons.

Where appropriate, the standard forms may be accompanied by reports, statements and any other documents, or certified true copies or extracts thereof, which shall also be sent by electronic means, unless this is impracticable for technical reasons.

Standard forms and communication by electronic means may also be used for the exchange of information pursuant to Article 6.

2 Paragraph 1 shall not apply to the information and documentation obtained through the presence in administrative offices in another Member State or through the participation in administrative enquiries in another Member State, in accordance with Article 7.

3 If communication is not made by electronic means or with use of standard forms, this shall not affect the validity of the information obtained or of the measures taken in the execution of a request for assistance.

## *Article 22*

### **Use of languages**

1 All requests for assistance, standard forms for notification and uniform instruments permitting enforcement in the requested Member States shall be sent in, or shall be accompanied by a translation into, the official language, or one of the official languages, of the requested Member State. The fact that certain parts thereof are written in a language other than the official language, or one of the official languages, of the requested Member State, shall not affect their validity or the validity of the procedure, in so far as that other language is one agreed between the Member States concerned.

2 The documents for which notification is requested pursuant to Article 8 may be sent to the requested authority in an official language of the applicant Member State.

3 Where a request is accompanied by documents other than those referred to in paragraphs 1 and 2, the requested authority may, where necessary, require from the applicant authority a translation of such documents into the official language, or one of the official languages of the requested Member State, or into any other language bilaterally agreed between the Member States concerned.

## *Article 23*

### **Disclosure of information and documents**

1 Information communicated in any form pursuant to this Directive shall be covered by the obligation of official secrecy and enjoy the protection extended to similar information under the national law of the Member State which received it.

Such information may be used for the purpose of applying enforcement or precautionary measures with regard to claims covered by this Directive. It may also be used for assessment and enforcement of compulsory social security contributions.

2 Persons duly accredited by the Security Accreditation Authority of the European Commission may have access to this information only in so far as it is necessary for care, maintenance and development of the CCN network.

3 The Member State providing the information shall permit its use for purposes other than those referred to in paragraph 1 in the Member State receiving the information, if, under the legislation of the Member State providing the information, the information may be used for similar purposes.

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4 Where the applicant or requested authority considers that information obtained pursuant to this Directive is likely to be useful for the purposes referred to in paragraph 1 to a third Member State, it may transmit that information to that third Member State, provided this transmission is in accordance with the rules and procedures laid down in this Directive. It shall inform the Member State of origin of the information about its intention to share that information with a third Member State. The Member State of origin of the information may oppose such a sharing of information within ten working days of the date at which it received the communication from the Member State wishing to share the information.

5 Permission to use information pursuant to paragraph 3 which has been transmitted pursuant to paragraph 4 may be granted only by the Member State from which the information originates.

6 Information communicated in any form pursuant to this Directive may be invoked or used as evidence by all authorities within the Member State receiving the information on the same basis as similar information obtained within that State.

## CHAPTER VI

### FINAL PROVISIONS

#### *Article 24*

#### **Application of other agreements on assistance**

1 This Directive shall be without prejudice to the fulfilment of any obligation to provide wider assistance ensuing from bilateral or multilateral agreements or arrangements, including for the notification of legal or extra-legal acts.

2 Where the Member States conclude such bilateral or multilateral agreements or arrangements on matters covered by this Directive other than to deal with individual cases, they shall inform the Commission thereof without delay. The Commission shall in turn inform the other Member States.

3 When providing such greater measure of mutual assistance under a bilateral or multilateral agreement or arrangement, Member States may make use of the electronic communication network and the standard forms adopted for the implementation of this Directive.

#### *Article 25*

#### **Committee**

1 The Commission shall be assisted by the Recovery Committee.

2 Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.

The period referred to in Article 5(6) of Decision 1999/468/EC shall be set at 3 months.



## Article 26

### Implementing provisions

The Commission shall adopt, in accordance with the procedure referred to in Article 25(2), detailed rules for implementing Article 4(2), (3) and (4), Article 5(1), Articles 8, 10, 12(1), Article 13(2), (3), (4) and (5), Articles 15, 16(1) and 21(1).

Those rules shall relate to at least the following:

- (a) the practical arrangements with regard to the organisation of the contacts between the central liaison offices, the other liaison offices and the liaison departments, referred to in Article 4(2), (3) and (4), of different Member States, and the contacts with the Commission;
- (b) the means by which communications between authorities may be transmitted;
- (c) the format and other details of the standard forms to be used for the purposes of Article 5(1), Articles 8, 10(1), Article 12(1) and Article 16(1);
- (d) the conversion of the sums to be recovered and the transfer of sums recovered.

## Article 27

### Reporting

1 Each Member State shall inform the Commission annually by 31 March of the following:

- a the number of requests for information, notification and recovery or for precautionary measures which it sends to each requested Member State and which it receives from each applicant Member State each year;
- b the amount of the claims for which recovery assistance is requested and the amounts recovered.

2 Member States may also provide any other information that may be useful for evaluating the provision of mutual assistance under this Directive.

3 The Commission shall report every 5 years to the European Parliament and the Council on the operation of the arrangements established by this Directive.

## Article 28

### Transposition

1 Member States shall adopt and publish, by 31 December 2011, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith inform the Commission thereof.

They shall apply these provisions from 1 January 2012.

When these provisions are adopted by Member States, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their

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official publication. The methods of making such reference shall be laid down by Member States.

2 Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

*Article 29*

**Repeal of Directive 2008/55/EC**

Directive 2008/55/EC is repealed with effect from 1 January 2012.

References to the repealed Directive shall be construed as references to this Directive.

*Article 30*

**Entry into force**

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

*Article 31*

**Addressees**

This Directive is addressed to the Member States.

Done at Brussels, 16 March 2010.

*For the Council*

*The President*

E. SALGADO

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- (1) Opinion of 10 February 2010 (not yet published in the Official Journal).
- (2) Opinion of 16 July 2009 (not yet published in the Official Journal).
- (3) [OJ L 73, 19.3.1976, p. 18.](#)
- (4) [OJ L 150, 10.6.2008, p. 28.](#)
- (5) [OJ L 184, 17.7.1999, p. 23.](#)