

Council Directive (EU) 2020/262 of 19 December 2019
laying down the general arrangements for excise duty (recast)

CHAPTER V

Movement and taxation of excise goods after release for consumption

Section 2

Procedure to be followed for movements of excise goods which have 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 there for commercial purposes

Article 38

Fallback procedure and recovery at dispatch

1 By way of derogation from Article 36, where the computerised system is unavailable in the Member State of dispatch, the certified consignor may start a movement of excise goods provided that:

- a the goods are accompanied by a fallback document containing the same data as the draft electronic simplified administrative document referred to in Article 35(1);
- b the certified consignor informs the competent authorities of the Member State of dispatch before the beginning of the movement.

The Member State of dispatch may require from the certified consignor a copy of the document referred to in point (a) of the first subparagraph, the verification by the Member State of dispatch of the data contained in that copy and, where the certified consignor is responsible for the unavailability of the computerised system, appropriate information on the reasons for that unavailability before the beginning of the movement.

2 As soon as the availability of the computerised system is restored, the certified consignor shall submit a draft electronic simplified administrative document in accordance with Article 36(1).

As soon as the data in the draft electronic simplified administrative document have been verified in accordance with Article 36(2), if those data are valid, that document shall replace the fallback document referred to in point (a) of the first subparagraph of paragraph 1 of this Article. Article 36(3) and Article 37 shall apply *mutatis mutandis*.

3 A copy of the fallback document referred to in point (a) of the first subparagraph of paragraph 1 shall be kept by the certified consignor in his or her records.

4 Where the computerised system is unavailable in the Member State of dispatch, the certified consignor may amend the destination of the goods as referred to in Article 36(5) and shall communicate that information to the competent authorities of the Member State of dispatch using alternative means of communication. The certified consignor shall inform the competent authorities of the Member State of dispatch before the change of destination is initiated. Paragraphs 2 and 3 of this Article shall apply *mutatis mutandis*.