

Council Regulation (EU) No 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (recast)

CHAPTER XV

CONDITIONS GOVERNING THE EXCHANGE OF INFORMATION

Article 51

1 Information communicated pursuant to this Regulation shall, as far as possible, be provided by electronic means under arrangements to be adopted in accordance with the procedure provided for in Article 58(2).

2 Where the request has not been lodged completely through the electronic system referred to in paragraph 1, the requested authority shall confirm receipt of the request by electronic means without delay and, in any event, no later than five working days after receipt.

Where an authority has received a request or information of which it is not the intended recipient, it shall send a message by electronic means to the sender without delay and, in any event, no later than five working days after receipt.

Article 52

Requests for assistance, including requests for notification, and attached documents may be made in any language agreed between the requested and requesting authority. The said requests shall be accompanied by a translation into the official language or one of the official languages of the Member State in which the requested authority is established only in special cases when the requested authority gives a reason for asking for such a translation.

Article 53

The Commission and the Member States shall ensure that such existing or new communication and information exchange systems which are necessary to provide for the exchanges of information described in this Regulation are operational. A service level agreement ensuring the technical quality and quantity of the services to be delivered by the Commission and the Member States for the functioning of those communication and information exchange systems shall be decided in accordance with the procedure provided for in Article 58(2). The Commission shall be responsible for whatever development of the CCN/CSI network is necessary to permit the exchange of this information between Member States. Member States shall be responsible for whatever development of their systems is necessary to permit this information to be exchanged using the CCN/CSI network.

Member States shall waive all claims for the reimbursement of expenses incurred in applying this Regulation except, where appropriate, in respect of fees paid to experts.

Article 54

1 The requested authority in one Member State shall provide a requesting authority in another Member State with the information referred to in Article 1 provided that:

- a the number and the nature of the requests for information made by the requesting authority within a specific period do not impose a disproportionate administrative burden on that requested authority;

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- b that requesting authority has exhausted the usual sources of information which it could have used in the circumstances to obtain the information requested, without running the risk of jeopardising the achievement of the desired end.

2 This Regulation shall impose no obligation to have enquiries carried out or to provide information on a particular case if the laws or administrative practices of the Member State which would have to supply the information do not authorise the Member State to carry out those enquiries or collect or use that information for that Member State's own purposes.

3 The competent authority of a requested Member State may refuse to provide information where the requesting Member State is unable, for legal reasons, to provide similar information. The Commission shall be informed of the grounds of the refusal by the requested Member State.

4 The provision of information may be refused where it would lead to the disclosure of a commercial, industrial or professional secret or of a commercial process, or of information whose disclosure would be contrary to public policy.

5 Paragraphs 2, 3 and 4 should on no account be interpreted as authorising the requested authority of a Member State to refuse to supply information on a taxable person identified for VAT purposes in the Member State of the requesting authority on the sole grounds that this information is held by a bank, other financial institution, nominee or person acting in an agency or fiduciary capacity or because it relates to ownership interests in a legal person.

6 The requested authority shall inform the requesting authority of the grounds for refusing a request for assistance.

7 A minimum threshold triggering a request for assistance may be adopted in accordance with the procedure provided for in Article 58(2).

Article 55

1 Information communicated or collected in any form pursuant to this Regulation, including any information to which an official has had access in the circumstances set out in Chapters VII, VIII and X, and in the cases referred to in paragraph 2 of this Article, shall be covered by the obligation of official secrecy and enjoy the protection extended to similar information under both the national law of the Member State which received it and the corresponding provisions applicable to Union authorities. Such information shall be used only in the circumstances provided for in this Regulation.

Such information may be used for the purpose of establishing the assessment base or the collection or administrative control of tax for the purpose of establishing the assessment base.

The information may also be used for the assessment of other levies, duties, and taxes covered by Article 2 of 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⁽¹⁾.

In addition, it may be used in connection with judicial proceedings that may involve penalties, initiated as a result of infringements of tax law without prejudice to the general rules and legal provisions governing the rights of defendants and witnesses in such proceedings.

[^{F12} Persons duly accredited by the Security Accreditation Authority of the Commission may have access to this information only in so far as it is necessary for care, maintenance

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and development of the electronic systems hosted by the Commission and used by the Member States to implement this Regulation.]

3 By way of derogation from paragraph 1, the competent authority of the Member State providing the information shall permit its use for other purposes in the Member State of the requesting authority, if, under the legislation of the Member State of the requested authority, the information can be used for similar purposes.

4 Where the requesting authority considers that information it has received from the requested authority is likely to be useful to the competent authority of a third Member State, it may transmit it to the latter authority. It shall inform the requested authority thereof in advance. The requested authority may require that the transmission of the information to a third party be subject to its prior agreement.

[^{F15} All storage, processing or exchange of information referred to in this Regulation is subject to Regulations (EU) 2016/679⁽²⁾ and (EC) No 45/2001⁽³⁾ of the European Parliament and of the Council. However, Member States shall for the purpose of the correct application of this Regulation, restrict the scope of the obligations and rights provided for in Articles 12 to 15, 17, 21 and 22 of Regulation (EU) 2016/679. Such restrictions shall be limited to what is strictly necessary in order to safeguard the interests referred to in point (e) of Article 23(1) of that Regulation, in particular to:

- a enable the competent authorities of the Member States to fulfil their tasks properly for the purposes of this Regulation; or
- b avoid obstructing official or legal enquiries, analyses, investigations or procedures for the purposes of this Regulation and to ensure that the prevention, investigation and detection of tax evasion and tax fraud is not jeopardised.

The processing and storage of information referred to in this Regulation shall be carried out only for the purposes referred to in Article 1(1) of this Regulation and the information shall not be further processed in a way that is incompatible with those purposes. The processing of personal data on the basis of this Regulation for any other purposes, such as commercial purposes, shall be prohibited. The storage periods of this information shall be limited to the extent necessary to achieve those purposes. The storage periods of the information referred to in Article 17 of this Regulation shall be determined as per the limitation periods provided for in the legislation of the Member State concerned but no longer than ten years.]

Textual Amendments

- F1** Substituted by [Council Regulation \(EU\) 2018/1541 of 2 October 2018 amending Regulations \(EU\) No 904/2010 and \(EU\) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.](#)

Article 56

Reports, statements and any other documents, or certified true copies or extracts thereof, obtained by the staff of the requested authority and communicated to the requesting authority under the assistance provided for by this Regulation may be invoked as evidence by the competent bodies of the Member State of the requesting authority on the same basis as similar documents provided by another authority of that country.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EU) No 904/2010, CHAPTER XV. (See end of Document for details)

Article 57

1 For the purpose of applying this Regulation, Member States shall take all necessary measures to:

- a ensure effective internal coordination between the competent authorities;
- b establish direct cooperation between the authorities authorised for the purposes of such coordination;
- c ensure the smooth operation of the information exchange arrangements provided for in this Regulation.

2 The Commission shall communicate to each Member State, as quickly as possible, any information which it receives and which it is able to provide.

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- (1) [OJ L 150, 10.6.2008, p. 28.](#)
- (2) [^{F1}Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) ([OJ L 119, 4.5.2016, p. 1.](#))]
- (3) [^{F1}Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ([OJ L 8, 12.1.2001, p. 1.](#))]

Textual Amendments

- F1** Substituted by [Council Regulation \(EU\) 2018/1541 of 2 October 2018 amending Regulations \(EU\) No 904/2010 and \(EU\) 2017/2454 as regards measures to strengthen administrative cooperation in the field of value added tax.](#)

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