



Procedure file

| Basic information | | |
|--|--------------------------------|---------------------|
| INI - Own-initiative procedure | 2008/2033(INI) | Procedure completed |
| Coordinated strategy to improve the fight against fiscal fraud | | |
| Subject 7.30.30.06 Action to combat economic fraud and corruption | | |

| Key players | | | |
|-------------------------------|---|---|------------|
| European Parliament | Committee responsible | Rapporteur | Appointed |
| | ECON Economic and Monetary Affairs | | 04/07/2006 |
| | | ALDE BOWLES Sharon | |
| | Committee for opinion | Rapporteur for opinion | Appointed |
| | CONT Budgetary Control | The committee decided not to give an opinion. | |
| | JURI Legal Affairs | | 26/02/2008 |
| | | PPE-DE KARAS Othmar | |
| | LIBE Civil Liberties, Justice and Home Affairs | The committee decided not to give an opinion. | |
| Council of the European Union | Council configuration | Meeting | Date |
| | Economic and Financial Affairs ECOFIN | 2857 | 04/03/2008 |
| European Commission | Commission DG | Commissioner | |
| | Taxation and Customs Union | KOVÁCS László | |

| Key events | | | |
|------------|--|---|---------|
| 31/05/2006 | Non-legislative basic document published | COM(2006)0254 | Summary |
| 21/02/2008 | Committee referral announced in Parliament | | |
| 04/03/2008 | Debate in Council | 2857 | Summary |
| 07/07/2008 | Vote in committee | | Summary |
| 17/07/2008 | Committee report tabled for plenary | A6-0312/2008 | |
| 01/09/2008 | Debate in Parliament |  | |
| 02/09/2008 | Results of vote in Parliament |  | |
| 02/09/2008 | Decision by Parliament | T6-0387/2008 | Summary |
| 02/09/2008 | End of procedure in Parliament | | |

| Technical information | |
|-----------------------|--------------------------------|
| Procedure reference | 2008/2033(INI) |
| Procedure type | INI - Own-initiative procedure |

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|----------------------------|--------------------------|
| Procedure subtype | Strategic initiative |
| Legal basis | Rules of Procedure EP 54 |
| Stage reached in procedure | Procedure completed |
| Committee dossier | ECON/6/57878 |

Documentation gateway

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|---|------|-------------------------------|------------|----|---------|
| Non-legislative basic document | | COM(2006)0254 | 31/05/2006 | EC | Summary |
| Document attached to the procedure | | SEC(2006)0659 | 31/05/2006 | EC | |
| Committee draft report | | PE404.725 | 16/04/2008 | EP | |
| Amendments tabled in committee | | PE407.654 | 30/05/2008 | EP | |
| Committee opinion | JURI | PE405.956 | 25/06/2008 | EP | |
| Committee report tabled for plenary, single reading | | A6-0312/2008 | 17/07/2008 | EP | |
| Text adopted by Parliament, single reading | | T6-0387/2008 | 02/09/2008 | EP | Summary |
| Commission response to text adopted in plenary | | SP(2008)6073 | 17/10/2008 | EC | |

Coordinated strategy to improve the fight against fiscal fraud

PURPOSE: to develop a coordinated strategy to improve the fight against fiscal fraud.

BACKGROUND: the Commission considers that, in 2004, fiscal receipts (the total amount of taxes and compulsory social contributions) represented 39.3% of GDP in the European Union, or EUR 4 097.7 billion. On the other hand, there are only very few estimates available on the amount of taxes not collected due to fiscal fraud. In general, the economic literature mentions that fraud accounts for approximately 2 to 2.5% of GDP.

Therefore, the interests at stake in the case of fiscal fraud are extremely important. The functioning of fiscal systems is, and should remain, primarily the responsibility of the Member States. While fiscal administration, tax auditing and the recovery of taxes is in the hands of the Member States, the Commission has the duty to stimulate and facilitate cooperation between Member States in order to guarantee the proper functioning of the internal market and to protect the financial interests of the Community.

CONTENT: the objective of the current Communication is to launch a debate with all the parties concerned on the different elements to be taken into account in an 'anti-fraud' strategy at European level. It does not contain "one" single and global solution to the problems. Its objective is to present some realistic and pragmatic actions that could be taken in the short term but it is essential that this would be done in a coordinated and integrated manner to respond better to the Community or even international dimension of economic markets.

Improve the functioning of administrative cooperation between the Member States: the Commission considers that the moment has come to set up a monitoring system, on the basis of quantifiable indicators, in order to ensure that each Member State is able to and actually does provide efficient assistance to other Member States. In addition, multilateral audits should become the rule in view of the Community dimension of trade.

As regards VAT, Member States should also make more coherent use of the structures for support and operational assistance at Community level, specifically the resources of the European Anti-Fraud Office (OLAF). Since fiscal fraud is often linked with organised criminal structures in different criminal sectors, it is important to adopt a common and multidisciplinary approach to the fight against fraud. This is why the Commission has put forward its proposal for a Regulation on mutual administrative assistance for the protection of the financial interests of the Community against fraud and any other illegal activities (see [COD/2004/0172](#)).

Alongside the strengthening of the means to detect tax fraud, reinforcement of the existing legislation on assistance in the recovery of taxes should improve the collection of unpaid taxes. Consideration should therefore be given to ways of facilitating procedures and providing assistance for tax officials.

The Commission also suggests that it would be appropriate to create a forum for high-level discussion or even consultation where issues relating to fraud and to cooperation between Member States could be examined at an overall level.

Developing cooperation with third countries: the increased involvement of companies established in third countries in carousel fraud, the expansion of electronic commerce and the globalisation of the services market underline the need for international cooperation on VAT.

In the Member States, cooperation with third countries is primarily under bilateral agreements. This approach does not ensure the necessary effectiveness. The Commission is looking into proposals to develop a Community approach to cooperation with third countries. The inclusion of tax cooperation clauses under the economic partnership agreements that the Community concludes with its partners could be a way of supporting this objective. Lastly, the Commission is currently trying to promote technical assistance to help third country partners increase the transparency of their taxation systems.

Modifying the common VAT and excise duty system: regarding VAT, the Commission considers that the weak points of the current system need to be analysed in the light of the fraud opportunities it creates. These include in particular the taxation of distance selling, the rules for the taxation of new and second-hand vehicles, and even the rules for the taxation of intra-Community trade in general.

Without wanting to exclude alternative solutions, the Commission recalls that the definitive VAT regime supported by the Community institutions could remedy these weaknesses as well as eliminate certain types of fraud. Moreover, the Commission could envisage the possibility of strengthening the principle of joint and several liability for the payment of tax.

Some Member States consider that the VAT system should be amended in order to reduce the losses of VAT income due to fraud. They call for the reverse charge mechanism to be extended to domestic transactions in a Member State, thus challenging the principle of fractionated payment, which has hitherto been regarded as a key element in a VAT system.

The Commission is examining the need for such a step with an open mind at this stage. Such a change raises a number of important questions, requiring an in-depth discussion with all the interested parties, first and foremost with the operators who would be affected. This would cover primarily: (i) the level of legal certainty for operators applying the reverse charge system in good faith (the VAT treatment of operations being dependent on the customer's status); (ii) the advantages and the costs of implementation.

In examining possible changes to the VAT system to fight tax fraud, the taxation of intra-Community transactions should be considered, either at a single rate, which should be high enough to rule out any incentive to set up a carousel fraud, or at the rate of the receiving Member State.

As regards excise duties, the current structure of tax on tobacco prevents the proper functioning of the internal market, in particular by partitioning markets (price fixing) and thus generating trade diversions. Consequently, these distortions should be eliminated.

Coordinated strategy to improve the fight against fiscal fraud

The Council examined draft conclusions on the issue of combating value-added tax (VAT) fraud, on the basis of a communication from the Commission.

The Council agreed to re-examine the issue at one of its forthcoming meetings, with a view to adopting the conclusions.

Coordinated strategy to improve the fight against fiscal fraud

The Committee on Economic and Monetary Affairs adopted an own initiative report by Sharon BOWLES (ALDE, UK), in response to the Commission's communication on a co-ordinated strategy to improve the fight against fiscal fraud.

MEPs regret that, in spite of repeated analyses, demands, and objections, the Council has not yet adopted an effective strategy for the fight against fiscal fraud. They call on the Member States to finally take the fight against fiscal fraud seriously.

The report notes that the purpose of the EU fiscal fraud strategy must be to tackle tax losses due to fiscal fraud by identifying the areas in which improvements to both EC legislation and administrative cooperation between Member States can be made, without creating unnecessary burdens both for tax administrations and tax payers.

MEPs consider that the current VAT system (established in 1993 as a transitional system) is outdated and requires radical reform. They support the Commission in its efforts to bring about a fundamental change to the current VAT system and call on Member States to be prepared to take substantive measures in this context.

The committee recalls that the establishment of a VAT system based on the 'origin principle' (which implies that transactions between Member States liable to VAT would bear the tax charged in the country of origin instead of being zero-rated) remains a long-term solution for combating tax fraud effectively. The report stresses that such a system requires tax approximation between countries to avoid tax competition, as well as the establishment of a clearing system, as originally proposed by the Commission in 1987.

Noting that estimates of overall (direct and indirect) tax losses due to fiscal fraud range from EUR 200 to 250 billion, which is equal to between 2 and 2.25% of GDP in the European Union, MEPs call on the Commission to consider a harmonised European system for collecting data and producing statistics on fiscal fraud, so as to reach an assessment of the full extent of the phenomenon that is as accurate as possible.

Alternative systems to the current VAT system: the report acknowledges that the reverse-charge system has the advantage of removing the opportunity to engage in missing-trader fraud, by designating the taxable person to whom the goods are supplied as the person liable to pay the VAT. However, the reverse-charge system has some criticisms: the system does not allow for fractionated payment, removing the self-policing control mechanism of VAT. Furthermore, the report warns that new forms of fraud may appear including increased tax losses at the retail level and the misuse of VAT identification numbers. MEPs therefore urge caution and serious consideration before the introduction of a reverse-charge system.

MEPs accept that a pilot project may help Member States better understand the inherent risks of the reverse-charge mechanism. They urge the Commission and the Member States to lay down appropriate guarantees to ensure that neither the Member State participating nor any other Member State is exposed to major risks during the operation of the pilot project.

Taxation of intra-Community supplies: MEPs consider that the best solution to tackle VAT fraud related to cross-border supplies is to introduce a system in which the VAT exemption for intra-Community supplies is replaced by taxation at the rate of 15%.

The committee recognises that, because of differential VAT rates, the taxation of intra-Community supplies would require rebalancing payments between Member States. It considers that such rebalancing should be made through a clearing house that would facilitate the passing of revenue between Member States.

Lastly, the report stresses that it should be the responsibility of the tax administration of the Member State of supply to collect the VAT from its supplier and to make a transfer via the clearing system to the tax administration where the intra-Community acquisition has taken place.

Administrative cooperation and mutual assistance: the report stresses that, in order to protect fiscal revenue of all the Member States in

relation to the internal market, Member States should take comparable measures against fraudsters, in particular in terms of sanctions and criminal proceedings, regardless of where losses of revenue take place. The Commission is called upon to propose possible mechanisms to promote such cooperation between Member States.

MEPs welcome the Commission's proposals for the amendment of the VAT Directive and the VAT Administrative Cooperation Regulation to speed up the collection and exchange of information on intra-Community transactions from 2010 onwards. They urge the Council to adopt proposed measures quickly and invite the Commission to submit further proposals on: (i) the automated access by all other Member States to certain non-sensitive data held by Member States on their own taxable persons; (ii) the harmonisation of the procedures for the registration and de-registration of persons liable for VAT.

Tax Evasion: MEPs call on the European Union to make the elimination of tax havens at a worldwide level a priority. According to MEPs, the elimination of tax havens requires a three-pronged strategy: tackling tax avoidance, widening the scope of the Savings Tax Directive and requesting that the OECD, through its members, sanction non-cooperative tax havens.

Coordinated strategy to improve the fight against fiscal fraud

The European Parliament adopted by 391 votes to 93, with 178 abstentions, a resolution on a co-ordinated strategy to improve the fight against fiscal fraud, in response to the Commission's communication on this issue.

The own initiative report had been tabled for consideration in plenary by Sharon BOWLES (ALDE, UK) on behalf of the Committee on Economic and Monetary Affairs.

Objectives: the resolution notes that the purpose of the EU fiscal fraud strategy must be to tackle tax losses due to fiscal fraud by identifying the areas in which improvements to both EC legislation and administrative cooperation between Member States can be made, without creating unnecessary burdens both for tax administrations and tax payers. Recalling that tax fraud has serious consequences for Member States' budgets and the European Union's resource system, MEPs regret the blockading attitude of some Member States in the last ten years, which has thwarted any effective EU strategy to counter fiscal fraud. They urge the Commission not to desist from tackling the problem head-on and call on the Member States to finally take the fight against fiscal fraud seriously.

VAT system based on the 'origin principle': MEPs consider that the current VAT system (established in 1993 as a transitional system) is outdated and requires radical reform. They support the Commission in its efforts to bring about a fundamental change to the current VAT system and call on Member States to be prepared to take substantive measures in this context. The resolution recalls that the establishment of a VAT system based on the 'origin principle' (which implies that transactions between Member States liable to VAT would bear the tax charged in the country of origin instead of being zero-rated) remains a long-term solution for combating tax fraud effectively. MEPs stress that such a system requires tax approximation between countries to avoid tax competition, as well as the establishment of a clearing system, as originally proposed by the Commission in 1987.

Better evaluation of fraud: acknowledging that estimates of overall (direct and indirect) tax losses due to fiscal fraud range from EUR 200 to 250 billion, which is equal to between 2% and 2.25 % of GDP in the European Union, MEPs call on the Commission to consider a harmonised European system for collecting data and producing statistics on fiscal fraud, so as to reach an assessment of the full extent of the phenomenon that is as accurate as possible.

Alternative systems to the current VAT system: the resolution recognises that a reverse-charge system (where VAT is accounted for by the taxable customer instead of the supplier) has the advantage of removing the opportunity to engage in 'missing-trader fraud'. However, this system does not allow for fractionated payment, removing the self-policing control mechanism of VAT. Furthermore, the resolution warns that new forms of fraud may appear, including increased tax losses at the retail level and the misuse of VAT identification numbers. MEPs therefore urge caution and serious consideration before the introduction of a reverse-charge system. While remaining critical, MEPs accept that a pilot project may help Member States better understand the inherent risks of the reverse-charge mechanism. They urge the Commission and the Member States to lay down appropriate guarantees to ensure that neither the Member State participating nor any other Member State is exposed to major risks during the operation of the pilot project.

Taxation of intra-Community supplies: MEPs consider that the best solution to tackle VAT fraud related to cross-border supplies is to introduce a system in which the VAT exemption for intra-Community supplies is replaced by taxation at the rate of 15%. They recognise that, because of differential VAT rates, the taxation of intra-Community supplies would require rebalancing payments between Member States. Such rebalancing should be made through a clearing house that would facilitate the passing of revenue between Member States. The resolution also stresses that it should be the responsibility of the tax administration of the Member State of supply to collect the VAT from its supplier and to make a transfer via the clearing system to the tax administration where the intra-Community acquisition has taken place.

Administrative cooperation and mutual assistance: the resolution stresses that, in order to protect fiscal revenue of all the Member States in relation to the internal market, Member States should take comparable measures against fraudsters, in particular in terms of sanctions and criminal proceedings, regardless of where losses of revenue take place. The Commission is called upon to propose possible mechanisms to promote such cooperation between Member States.

MEPs welcome the Commission's proposals for the amendment of the VAT Directive and the VAT Administrative Cooperation Regulation to speed up the collection and exchange of information on intra-Community transactions from 2010 onwards. They urge the Council to adopt proposed measures quickly and invite the Commission to submit further proposals on: (i) the automated access by all other Member States to certain non-sensitive data held by Member States on their own taxable persons; (ii) the harmonisation of the procedures for the registration and de-registration of persons liable for VAT.

Tax havens: MEPs recall that tax havens might represent a barrier to the implementation of the Lisbon Strategy and that removing tax havens requires, inter alia, a three-pronged strategy: tackling tax avoidance, widening the scope of Council Directive 2003/48/EC on taxation of savings income and requesting that the OECD, through its members, sanction non-cooperative tax havens.

The Parliament urges the European Union to keep the elimination of tax havens at a worldwide level on the agenda. In this context, the Council and the Commission are called upon to use the leverage of EU trade power when negotiating trade and cooperation agreements with the governments of tax havens, in order to persuade them to eliminate tax provisions and practices that favour tax evasion and fraud.

MEPs also consider that the reform of the Directive on taxation of savings income must tackle its various loopholes and deficiencies, as they

prevent discovery of tax evasion and fiscal fraud operations. In the context of this Directive, the European Commission is called upon to examine options for reform, including investigating some widening of the scope of the Directive with regard to types of legal entity and sources of financial revenue.