I

(Legislative acts)

REGULATIONS

COUNCIL REGULATION (EU) 2021/774

of 10 May 2021

amending Regulation (EU) No 389/2012 on administrative cooperation in the field of excise duties as regards the content of electronic registers

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 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 Parliament ([1]),

Having regard to the opinion of the European Economic and Social Committee ([2]),

Acting in accordance with a special legislative procedure,

Whereas:

(1) Article 19 of Council Regulation (EU) No 389/2012 ([3]) lays down an obligation for Member States to maintain electronic registers of authorisations of economic operators and tax warehouses that are engaged in moving excise goods under duty suspension arrangements.

(2) Council Directive (EU) 2020/262 ([4]) extends the use of the computerised system under Decision (EU) 2020/263 of the European Parliament and of the Council ([5]), which is currently used to supervise movements of excise goods under duty suspension, to the supervision of excise goods released for consumption in the territory of one Member State and then moved to the territory of another Member State in order to be delivered for commercial purposes.

(3) In order to allow for the proper functioning of the computerised system by ensuring storage of complete, up-to-date and accurate data, it is necessary to amend the scope of Article 19 of Regulation (EU) No 389/2012 in order to set out the information that Member States should introduce in the electronic registers in relation to the certified consignors and certified consignees moving excise goods only occasionally.

(4) Since the objective of this Regulation, namely the specification of the information that Member States should introduce in the electronic registers in relation to the certified consignors and certified consignees moving excise goods only occasionally, cannot be sufficiently achieved by the Member States but can rather, by reason of ensuring

([1]) Opinion of 29 April 2021 (not yet published in the Official Journal).
([2]) Opinion of 27 April 2021 (not yet published in the Official Journal).
([3]) 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).
([4]) Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty (OJ L 58, 27.2.2020, p. 4).
([5]) Decision (EU) 2020/263 of the European Parliament and of the Council of 15 January 2020 on computerising the movement and surveillance of excise goods (OJ L 58, 27.2.2020, p. 43).

the harmonised functioning of the computerised system and facilitating the fight against fraud, 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 Regulation does not go beyond what is necessary in order to achieve that objective.

(5) This Regulation respects the fundamental rights and observes the principles which are recognised by the Charter of Fundamental Rights of the European Union, in particular the right to the protection of personal data. In view of the limits set by Regulation (EU) No 389/2012, the processing of such data carried out within the framework of this Regulation does not go beyond what is necessary and proportionate for the purpose of protecting the legitimate fiscal interests of the Member States.

(6) The European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation (EU) 2018/1725 of the European Parliament and of the Council [6].

(7) In order to align the application date of this Regulation with the application date of the provisions of Directive (EU) 2020/262 on automation of movements of excise goods released for consumption in the territory of one Member State and then moved to the territory of another Member State in order to be delivered for commercial purposes in the territory of that other Member State and to allow the Member States adequate time to prepare for the changes resulting from this Regulation, this Regulation should apply from 13 February 2023.

(8) Regulation (EU) No 389/2012 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 19(2) of Regulation (EU) No 389/2012, the following points are added:

'(l) for certified consignors sending excise goods only occasionally referred to in Article 35(8) of Directive (EU) 2020/262, the quantity of excise goods, the identity of the consignee in the Member State of destination and the period of time for which the temporary certification is valid;

(m) for certified consignees receiving excise goods only occasionally referred to in Article 35(8) of Directive (EU) 2020/262, the quantity of excise goods, the identity of the consignor in the Member State of dispatch and the period of time for which the temporary certification is valid.'.

Article 2

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

It shall apply from 13 February 2023.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 10 May 2021.

For the Council
The President
J. BORRELL FONTELLES

[6] Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).