

EUROPEAN DATA PROTECTION SUPERVISOR

Summary of the Opinion of the European Data Protection Supervisor on the Proposal for a Council Regulation amending Regulation (EU) No 389/2012 as regards the exchange of information maintained in the electronic registers concerning economic operators who move excise goods between Member States for commercial purposes

(2022/C 466/08)

(The full text of this Opinion can be found in English, French and German on the EDPS website <https://edps.europa.eu>)

The EDPS notes that the draft Proposal would introduce the following amendments to Council Regulation EU (No) 389/2012 ⁽¹⁾:

- according to the new Article 19(4), the information contained in the national registers concerning all economic operators engaged in movements of excise goods as referred to in Chapter IV, and Chapter V, Section 2, of Council Directive (EU) 2020/262 ⁽²⁾ shall be automatically exchanged via a central register;
- according to the new Article 20(1), the Commission must ensure that all persons involved in the movement of excise goods can obtain confirmation by electronic means of the validity of excise numbers held in the central register.

The EDPS considers that these amendments do not raise significant data protection issues, notably since the information to be provided in the context of administrative cooperation in the field of excise duties are not modified by the proposed amendments.

The EDPS also notes that the proposed amendments would not impact on the already established means for the processing of personal data in the context of Council Regulation EU (No) 389/2012.

1. INTRODUCTION

1. On 24 October 2022 the European Commission adopted the Proposal for a Council Regulation amending Regulation (EU) No 389/2012 as regards the exchange of information maintained in the electronic registers concerning economic operators who move excise goods between Member States for commercial purposes ('the Proposal').
2. The objective of the Proposal according to the explanatory memorandum is to introduce the obligations of Member States regarding the exchange of data of economic operators moving goods under Chapter V, section 2 of Directive (EU) 2020/262 maintained in the national registers with the central register, enabling full exchange of information and reducing the administrative burden on economic operators as well as the risk of fraud and improving the administrative cooperation between the competent authorities of the Member States.

To achieve these objectives, the Proposal seeks to align the procedure of exchanging the data of economic operators moving goods under Duty Suspension with the exchange of data of the economic operators moving goods under Duty Paid. This alignment will contribute to the digitalisation of the monitoring of movements of excise goods released for consumption in the territory of one Member State and moved to the territory of another Member State in order to be delivered there for commercial purposes and improve the fight against tax fraud, according to the explanatory memorandum.

⁽¹⁾ 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).

⁽²⁾ 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).

3. In accordance with Article 36 of Council Directive (EU) 2020/262, as from 13 February 2023 all intra-EU movements of excise goods released for consumption in one Member State and moved to another Member State to be delivered there for commercial purposes (so-called 'Duty Paid movements') will be monitored through the computerised system, that is the Excise Movement and Control System (EMCS). Until 13 February 2023, EMCS is only covering intra-EU movements of excise goods in suspension of excise duty.

The extension of the computerised system to Duty Paid movements by Council Directive (EU) 2020/262 requires to extend also the scope of Regulation (EU) No 389/2012.

4. The present Opinion of the EDPS is issued in response to a consultation by the European Commission of 26 October 2022, pursuant to Article 42(1) of EUDPR ⁽³⁾. The EDPS welcomes the reference to this consultation in recital (6) of the Proposal. In this regard, the EDPS also positively notes that he was already previously informally consulted pursuant to recital 60 of EUDPR.

4. CONCLUSIONS

11. In light of the above, the EDPS refrains from making any recommendations.

Brussels, 9 November 2022.

Wojciech Rafał WIEWIÓROWSKI

⁽³⁾ 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).