Council Regulation (EU, Euratom) No 609/2014 of 26 May 2014 on the methods and procedure for making available the traditional, VAT and GNI-based own resources and on the measures to meet cash requirements (Recast)

COUNCIL REGULATION (EU, Euratom) No 609/2014

of 26 May 2014

on the methods and procedure for making available the traditional, VAT and GNI-based own resources and on the measures to meet cash requirements

(Recast)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 322(2) thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a 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,

Having regard to the opinion of the European Court of Auditors[(1)],

Whereas:

(1) Council Regulation (EC, Euratom) No 1150/2000[(2)] has been substantially amended several times. Since further amendments are to be made, it should be recast in the interests of clarity.

(2) Certain provisions of Regulation (EC, Euratom) No 1150/2000 have been included in Council Regulation (EU, Euratom) No 608/2014[(3)] and are not covered by this Regulation. Those provisions concern the calculation and budgeting of the balance, control and supervision of own resources and relevant reporting requirements, as well as the Advisory Committee on Own Resources (ACOR).

(3) The Union must have the own resources referred to in Article 2 of Council Decision 2014/335/EU, Euratom[(4)] available in the best possible conditions and accordingly rules should be laid down for the Member States to provide the Commission with those own resources. This Regulation takes over the rules on making available the traditional own resources referred to in Article 2(1)(a) of Decision 2014/335/EU, Euratom, the own resources based on value added tax (VAT) referred to in Article 2(1)(b) of that Decision ('VAT-based own resource') and own resources based on gross national income (GNI) referred to in Article 2(1)(c) of that Decision ('GNI-based own resource'), previously included in Regulation (EC, Euratom) No 1150/2000.

Changes to legislation: *There are outstanding changes not yet made to Council Regulation (EU, Euratom) No 609/2014. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(4) The concept of establishment should be defined in respect of the own resources and detailed rules should be laid down for satisfying the obligation to establish the traditional own resources referred to in Article 2(1)(a) of Decision 2014/335/EU, Euratom.

(5) For own resources deriving from sugar levies, which need to be recovered in the budget year corresponding to the marketing year to which the expenditure relates, provision should be made for the Member States to make such levies available to the Commission during the budget year in which they are established.

(6) The Member States should keep at the disposal of the Commission and, where necessary, forward to it the documents and information needed to allow it to exercise the power conferred upon it as regards the own resources of the Union.

(7) The national authorities responsible for the collection of own resources should be able to produce to the Commission at all times the documents substantiating the own resources collected.

(8) Separate accounts should be kept for entitlements which have not been recovered. These accounts and the submission of a quarterly statement of such accounts should enable the Commission to monitor more closely the action taken by Member States to collect own resources, and particularly those compromised by fraud or irregularities.

(9) A time-limit should be laid down for relations between Member States and the Commission, given that new entitlements established by Member States in respect of earlier years are deemed to be establishments for the current year.

(10) In order to ensure that the budget of the Union will be financed in all circumstances, a procedure should be laid down, as regards the VAT-based own resource and the GNI-based own resource created in accordance with Council Regulation (EC, Euratom) No 1287/2003[(5)], for Member States to make available to the Union, in the form of constant monthly twelfths, the own resources entered in the budget and subsequently to adjust the amounts made available in accordance with the actual base of the VAT-based own resource and the relevant changes to GNI as soon as they are fully known.

(11) The impact of modifications in the GNI data made after the end of each financial year on the financing of gross reductions should be clarified.

(12) The own resources must be made available in the form of an entry of the amounts due in an account opened for this purpose in the name of the Commission with the Treasury or with the body appointed by each Member State. In order to restrict the movements of funds to that which is necessary for the implementation of the budget, the Union must confine itself to drawing on those accounts solely to cover the Commission's cash requirements.

(13) The Commission must have sufficient cash resources to comply with the regulatory requirements for payments concentrated in the opening months of the year, in particular for the specific needs of paying expenditure of the European Agricultural Guarantee Fund (EAGF) pursuant to Council Regulation (EC) No 73/2009[(6)].

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(14) In accordance with the principle of sound financial management, care should be taken that the cost of recovery of interest due on own resources made available belatedly should not exceed the amount of the interest payable.

(15) The reporting of write-off cases concerning established entitlements declared or deemed irrecoverable should be harmonised.

(16) Close collaboration between Member States and the Commission will facilitate proper application of the financial rules relating to own resources.

(17) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[(7)].

(18) The advisory procedure should be used for the adoption of implementing acts in order to establish detailed rules for the monthly statements of the accounts for the entitlements to traditional own resources and the quarterly statements of the separate accounts, as well as for the cases concerning irrecoverable amounts exceeding EUR 50 000, given the technical nature of those acts required for reporting purposes.

(19) Regulation (EC, Euratom) No 1150/2000 should be repealed.

(20) For reasons of consistency and taking account of Article 11 of Decision 2014/335/EU, Euratom, this Regulation should enter into force on the same day as that Decision and should apply from 1 January 2014,

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation lays down rules on making available to the Commission the own resources of the Union referred to in Article 2(1)(a), (b) and (c) of Decision 2014/335/EU, Euratom.

Article 2

Date of establishment of traditional own resources

1 For the purpose of applying this Regulation, the Union's entitlement to the traditional own resources referred to in Article 2(1)(a) of Decision 2014/335/EU, Euratom shall be established as soon as the conditions provided for by the customs regulations have been met concerning the entry of the entitlement in the accounts and the notification of the debtor.

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2 The date of the establishment referred to in paragraph 1 shall be the date of entry in the accounting ledgers provided for by the customs regulations.

As regards the levies and other charges connected with the common organisation of the sugar market, the date of the establishment referred to in paragraph 1 shall be the date of notification under the sugar regulations.

Where that notification is not explicitly provided for, the date shall be the date of establishment by the Member States of the amounts due by the debtors, where necessary by way of advance payment or payment of balance.

3 In disputed cases, the competent administrative authorities shall be deemed, for the purposes of the establishment referred to in paragraph 1, to be in a position to calculate the amount of the entitlement not later than when the first administrative decision is taken notifying the debtor of the debt or when judicial proceedings are brought if this occurs first.

The date of the establishment referred to in paragraph 1 shall be the date of the decision or of the calculation to be made following the initiation of those judicial proceedings.

4 Paragraph 1 shall apply when a notification must be corrected.

Article 3

Conservation of supporting documents

Member States shall take all appropriate measures to ensure that the supporting documents concerning the establishment and making available of own resources are kept for at least three calendar years, counting from the end of the year to which these supporting documents refer.

[[F1]The supporting documents relating to the statistical procedures and bases referred to in Article 3 of Regulation (EC, Euratom) No 1287/2003 shall be kept by the Member States until 30 November of the fourth year following the financial year in question. The supporting documents relating to the VAT-based own resource base shall be kept for the same period.**]**

If verification pursuant to Article 2(3) of Regulation (EU, Euratom) No 608/2014 or Article 11 of Council Regulation (EEC, Euratom) No 1553/89[(8)] of the supporting documents referred to in the first and second paragraphs shows that a correction is required, they shall be kept beyond the time limit provided for in the first paragraph for a sufficient period to permit the correction to be made and monitored.

Where a dispute between a Member State and the Commission concerning the obligation to make available a certain amount of own resources is settled by mutual agreement or by a decision of the Court of Justice of the European Union, the Member State shall transmit the supporting documents necessary for the financial follow-up to the Commission within two months after that settlement.

Textual Amendments

F1 Substituted by Council Regulation (EU, Euratom) 2016/804 of 17 May 2016 amending Regulation (EU, Euratom) No 609/2014 on the methods and procedure for making available the traditional, VAT and GNI-based own resources and on the measures to meet cash requirements.

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Article 4

Administrative cooperation

1 Each Member State shall inform the Commission of the following:

a the names of the departments or agencies responsible for establishing, collecting, making available and controlling own resources and the basic provisions relating to the role and operation of those departments and agencies;

b the general provisions laid down by law, regulation or administrative action and those relating to accounting procedure concerning the establishment, collection, making available and control by the Commission of own resources;

c the precise title of all administrative and accounting records in which are entered the established entitlements as specified in Article 2, in particular those used for drawing up the accounts provided for in Article 6.

The Commission shall be informed immediately of any change in these names or provisions.

2 The Commission shall, at the request of a Member State, transmit to all Member States the information referred to in paragraph 1.

Article 5

Applicable rates

The uniform rate referred to in Article 2(1)(c) of Decision 2014/335/EU, Euratom shall be set in the course of the budgetary procedure and shall be calculated as a percentage of the sum of the forecast of the gross national income (GNI) of the Member States in such a manner that it fully covers that part of the budget not financed from the revenue referred to in Article 2(1)(a) and (b) of Decision 2014/335/EU, Euratom, from financial contributions to supplementary research and technological development programmes and other revenue.

That rate shall be expressed in the budget by a figure containing as many decimal places as is necessary to fully divide the GNI-based own resource among the Member States.

CHAPTER II

ACCOUNTS FOR OWN RESOURCES

Article 6

Entry in the accounts and reporting

[[F1]1 Accounts for own resources shall be kept by the treasury of each Member State or a public entity exercising similar functions (‘treasury’), or by the national central bank of each Member State. Those accounts shall be broken down by type of resources.**]**

2 For own-resources accounting purposes, the month shall end no earlier than 1 p.m. on the last working day of the month during which establishment took place.