



COMMISSION EUROPÉENNE
SECÉTARIAT GÉNÉRAL

Direction B - Prise de décision & Collégialité
SG.B.3 - Secrétariat du Groupe des Relations Interinstitutionnelles (GRI)

Brussels, 20 July 2022

SP(2022) 461 final

**Replies of the Commission to positions and resolutions adopted by
the European Parliament – May II 2022 part-session**

THE FIRST PART OF THIS DOCUMENT INFORMS PARLIAMENT OF THE POSITION OF THE COMMISSION ON AMENDMENTS ADOPTED BY THE PARLIAMENT RELATING TO PROPOSED LEGISLATION DURING THE MAY II 2022 PART-SESSION.

IN THE SECOND PART THE COMMISSION LISTS A NUMBER OF NON-LEGISLATIVE RESOLUTIONS ADOPTED BY THE PARLIAMENT DURING THE SAME PART-SESSION, WITH EXPLANATIONS AS TO WHY IT WILL NOT BE RESPONDING FORMALLY.

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Part One
Legislative opinions

ORDINARY LEGISLATIVE PROCEDURE – First reading

Follow up to the European Parliament legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2018/1727 of the European Parliament and the Council, as regards the collection, preservation and analysis of evidence relating to genocide, crimes against humanity and war crimes at Eurojust

- 1. Rapporteur:** N/A
- 2. Reference numbers:** 2020/0130 (COD) / P9_TA-PROV(2022)0209
- 3. Date of adoption of the resolution:** 19 May 2022
- 4. Legal basis:** Article 85 of the Treaty on the Functioning of the European Union
- 5. Competent Parliamentary Committee:** Committee on Civil Liberties, Justice and Home Affairs (LIBE)
- 6. Commission's position:** Accepts all amendments.

ORDINARY LEGISLATIVE PROCEDURE – First reading

Follow up to the European Parliament legislative resolution on the proposal for a regulation of the European Parliament and of the Council on temporary trade liberalisation supplementing trade concessions applicable to Ukrainian products under the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part

- 1. Rapporteur:** Sandra KALNIETE (EPP / LV)
- 2. Reference numbers:** 2022/0138 (COD) / P9_TA-PROV(2022)0142
- 3. Date of adoption of the resolution:** 19 May 2022
- 4. Legal basis:** Article 207(2) of the Treaty on the Functioning of the European Union
- 5. Competent Parliamentary Committee:** Committee on International Trade (INTA)
- 6. Commission's position:** Accepts all amendments.

SPECIAL LEGISLATIVE PROCEDURE – Consultation

Follow up to the European Parliament legislative resolution on the proposal for a Council directive on ensuring a global minimum level of taxation for multinational groups in the Union

1. **Rapporteur:** Aurore LALUCQ (S&D / FR)
2. **Reference numbers:** 2021/0433 (CNS) / A9-0140/2022 / P9_TA-PROV(2022)0216
3. **Date of adoption of the resolution:** 19 May 2022
4. **Legal basis:** Article 115 of the Treaty on the Functioning of the European Union
5. **Competent Parliamentary Committee:** Committee on Economic and Monetary Affairs (LIBE)
6. **Commission's position:** Rejects all amendments

The Commission welcomes the major political support of the European Parliament to ensure a global minimum level of taxation for multinational groups in the Union and the overall spirit of the report on the proposal for a Council directive. The EU is committed to faithfully implement the global agreement on minimum taxation as soon as possible and without substantial deviations. Since the adoption of the directive on 22 December 2021, the concerted efforts of the Commission and of the French Presidency of the Council have led to the support of 26 Member States on a compromise text of the directive.

The Commission agrees with the European Parliament on the need to reach as soon as possible a unanimous agreement in the Council to secure a timely implementation of the global deal. It will continue its efforts with the Czech Presidency of the Council to reach the necessary unanimous approval of the directive and welcomes the outcome of the debates held in the European Parliament since mid-June – both during the plenary session of 23 June and the meeting of the FISC committee on 27 June. In particular, with the resolution of 6 June¹, the European Parliament has urged Hungary to put an immediate end to its blockage of the implementation of the global tax deal in the Council and reiterates the call on the Council to swiftly adopt the Pillar 2 Directive, also to ensure a uniform legal framework and certainty for the Single Market.

The Commission considers indeed that the objective of the directive is to faithfully implement the global agreement on minimum effective taxation and only include modifications to the global agreement when this is required to ensure compatibility with EU law. It is crucial to ensure that the directive remains aligned with the international commitments of Member States.

The following amendments would imply a departure from the internationally agreed OECD Model Rules, and therefore could not be accepted.

- AM 4, AM 30 and AM 35 propose to change from five years to three years the period allowed for the exclusion from the IIR and UTPR of MNE groups and large-scale domestic groups in the initial phase of their international activity.

¹ https://www.europarl.europa.eu/doceo/document/TA-9-2022-0290_EN.html The Commission will provide a separate follow up reply to this resolution.

- AM 12 and AM 42 propose to add a new provision requiring a review of the directive five years after its entry into force, with possible integration into EU law of the modifications to the Model Rules.
- AM 14 propose to clarify the criteria used for the location of a constituent entity.
- AM 15 propose to insert a general anti-avoidance rule, to disregard a series of arrangements which have been put in place for the essential purpose of obtaining a tax advantage that defeats the object or purpose of this directive and to allow the Commission to adopt delegated acts to provide for more detailed rules.
- AM 21 and AM 22 propose to reduce, from five to three fiscal years, the time allowed for a deferred tax liability to reverse before it is recaptured as a reduction to covered taxes.
- AM 26 propose to add a minimum time period of six years for when a demerged group is deemed to meet the revenue threshold for a year, provided that certain conditions are met by this group.
- AM 27 propose to add a constituent entity-owner of an insurance investment entity in the scope of election to apply a taxable distribution method.
- AM 28 propose to add a provision establishing deemed filer to be the largest entity of the MNE group located in the same Member State.

The following amendments were not accepted for various other reasons. The aspects covered in some of those amendments are sufficiently reflected in the latest Council Presidency compromise text and would therefore not add anything new in substance. Moreover, the discussions on the various outputs of the OECD Implementation Framework are likely to be of relevance to the aspects covered by some amendments. The Commission is taking part in those discussions and will consider the best way for addressing the various outputs of the Implementation Framework in the EU in due time as it would be premature to provide for some elements without knowing the exact details and timing of the outputs by the Implementation Framework.

- AM 1 proposes to add in recitals that the success of the agreement will depend entirely on a transparent and consistent implementation in the EU and globally, and that the directive diverges in some aspects from the global agreement.
- AM 2 proposes to modify recitals by adding that the EUR 750 million threshold is respected by Member States and that the Commission should monitor to what extent Member States are applying the Model Rules to smaller entities and take appropriate measures if they are applying them in a way that conflicts with the principles of Union law or undermines the integrity of the internal market.
- AM 3 proposes to modify recitals by adding that the Council's Code of Conduct Group (business taxation) should carefully monitor the application of domestic top-up tax, with the assistance from the Commission.
- AM 5 proposes to modify recitals relating to rationale for the *de-minimis* exclusion.
- AM 6, AM 11, AM 18, AM 19, AM 23, AM 25, AM 37 - AM 39 and AM 41 propose to allow the Commission to adopt delegated acts, in order to: (i) amend the terms used in allocating the top-up tax under the UTPR, and (ii) provide for the adjustments that determine the qualifying income or loss, to which an exception accrual applies under the Directive, the *de minimis* amounts and safe harbours.

- AM 7 and AM 10 request a review of the Directive on administrative cooperation (DAC) and an impact assessment in accordance with the future OECD work by the end of 2022.
- AM 8 proposes to add a recital saying that potentially harmful and distortive measures that aim to compensate for the potential increase in corporate income tax should be monitored and that the Commission notice on the application of the state aid rules to measures relating to direct business taxation should be updated as necessary.
- AM 9 proposes to add a recital, tasking the Council's Code of Conduct Group (business taxation) with continuous monitoring of the development of the accounting standards and their application for minimum tax purposes.
- AM 13 proposes to add a new recital asking the Commission to recommend that Member States modify their bilateral tax agreements with low-income countries in order to include Subject to Tax Rule.
- AM 16 proposes to reduce, from three to one fiscal year, the time allowed for the payment of tax under qualified domestic minimum top-up tax.
- AM 17, AM 20, AM 24 and AM 40 propose to allow the Commission, by means of implementing acts, to further specify the meaning of the terms used in (i) allocating the top-up tax under the UTPR, (ii) calculating adjusted covered taxes, and (iii) for calculating the substance-based income exclusion.
- AM 29 proposes to provide a mechanism for adopting the measures necessary to implement the filing obligations under this directive and ensuring the necessary exchange of information.
- AM 43 proposes to add a provision stipulating that the directive will not affect the application by Member States of domestic or agreement-based provisions, aimed at safeguarding a higher level of protection for domestic corporate tax bases.

Part Two

Non-legislative resolutions

**THE COMMISSION DOES NOT INTEND TO RESPOND FORMALLY TO THE
FOLLOWING NON-LEGISLATIVE RESOLUTIONS, ADOPTED BY THE
EUROPEAN PARLIAMENT DURING THE MAY II 2022 PART-SESSION**

- Prosecution of the opposition and the detention of trade union leaders in Belarus (2022/2664 (RSP))
EP: RC9-0270/2022
Date: 19-05-2022
Competence: Josep BORRELL FONTELLES

Reason: The Commission will not be responding formally to the requests addressed in the resolution as they were comprehensively addressed in plenary by Commissioner Reynders on behalf of the High Representative/Vice-President Borrell.