

Joint report of the Austrian Court of Audit Bundesrechnungshof State Audit Office of Hungary

**Eurofisc — A multilateral warning system of the
Member States for combating VAT fraud**

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EUROFISC – A multilateral warning system of the Member States
for combating VAT fraud

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List of abbreviations

ca.	circa
CCN/CSI	Common Communication Network/Common Systems Interface
CIRCABC	Communication and Information Resource Centre for Administrations, Businesses and Citizens
CLO	Central Liaison Office
COM	European Commission
DG	Directorate General
e.g.	for example
ELO	EUROFISC Liaison Official
ENLO	EUROFISC National Liaison Official
EU	European Union
ff.	following (pages)
KUSS	Coordinating unit for special VAT audits and related tax investigations (Germany)
MTIC	Missing Trader intra-Community
No.	Number
NTCA	National Tax and Customs Administration (Hungary)
OLAF	Office de Lutte Anti-Fraud /European Anti-Fraud Office
OJ	Official Journal of the European Union
p.	page
SAI	Supreme Audit Institution
SCAC	Standing Committee on Administrative Cooperation
TAXUD	Taxation and Customs Union Directorate General
VAT	value added tax
VRN	VAT registration number

Joint report of the Austrian Court of Audit Bundesrechnungshof State Audit Office of Hungary on EUROFISC – A multilateral warning system of the Member States for combating VAT fraud

1 Introduction

1.1 Background to the coordinated audit

The current value added tax (VAT) system in the European Union (EU) provides opportunities for intra-Community fraud that all Member States have to deal with. This is sufficient reason for the Supreme Audit Institutions (SAIs) of the EU to address this topic. Due to its European dimension, the SAIs considered it necessary to cooperate in their audit activities. Consequently, a number of coordinated audits were conducted during the last years.¹ With this audit on EUROFISC, the SAIs of Austria, Germany and Hungary continue the tradition of cooperation in auditing public revenues.

The coordinated audit was conducted in 2013 and 2014 by each SAI in its territory and according to its own mandate. Their audit activities resulted in national reports for each of the three participating countries², and in this report, which presents the overall and synthesized conclusions and recommendations supported by the relevant audit observations.³ The audit period covered the years 2011 to 2013.

1.2 Structure of the report

The report is divided into five parts: an introduction followed by a description of EUROFISC and how it was implemented in the three Member States. The main part is dedicated to the problem areas iden-

¹ For example: in 2006/2007 the SAIs of the Czech Republic and Germany: audit on administration of VAT, in 2008 the SAIs of Belgium, Germany and the Netherlands: audit on intra-Community VAT fraud.

² As for Hungary, EUROFISC was just one part of a comprehensive audit of the tax administration.

³ In respect of Hungary, this document does not constitute a report (as it is understood under Section 32 of the Act on the State Audit Office of Hungary) but shall be interpreted as a study (as it is provided for under Section 5 (13) of the Act on the State Audit Office of Hungary). Therefore, as regards Hungary, any reference to coordinated audit in this document shall be interpreted as a study (in Hungarian: "tanulmány").

tified by the SAIs together with conclusions and recommendations on how to remedy the situation. The report ends with future prospects.

1.3 Status quo at EU level

One of the threats to Member States' budgets is cross-border VAT fraud by taking advantage of the weaknesses of the VAT system in the EU. The supply of goods to another Member State is tax exempt. The acquirer has to pay acquisition tax but can deduct it at the same time. If a domestic supply follows, VAT will be invoiced. This input VAT can be deducted by the domestic acquirer without the supplier having necessarily paid the corresponding VAT. If the domestic supplier disappears, the VAT is lost. This is defined as Missing Trader intra-Community fraud (MTIC fraud).

This kind of fraud with all its facets is well known in all the Member States. Nevertheless, it is difficult to give exact figures on its dimension. But it is clear that large sums of money are involved. Latest figures of the VAT gap published by the European Commission (Commission)⁴ underline the strong need for an improvement in the VAT collection process.

⁴ See 2012 Update Report to the Study to quantify and analyse the VAT Gap in the EU-27 Member States, TAXUD/2013/DE/321.

Table 1: VAT Gap estimates by Member State, 2012

	Revenues VAT Gap		
EU–Member States¹⁾	EUR million		VAT Gap (%)
AT — Austria	24,563	3,244	12
BE — Belgium	26,896	2,991	10
BG — Bulgaria	3,739	957	20
CZ — Czech Republic	11,377	3,267	22
DE — Germany	194,040	21,957	10
DK — Denmark	24,422	2,141	8
EE — Estonia	1,508	255	14
ES — Spain	56,125	12,412	18
FI — Finland	17,640	905	5
FR — France	142,499	25,583	15
GR — Greece	13,713	6,651	33
HU — Hungary	9,084	2,971	25
IE — Ireland	10,219	1,263	11
IT — Italy	95,473	46,034	33
LT — Lithuania	2,521	1,436	36
LU — Luxembourg	3,064	204	6
LV — Latvia	1,570	818	34
MT — Malta	536	241	31
NL — Netherlands	41,699	2,000	5
PL — Poland	27,881	9,317	25
PT — Portugal	13,995	1,228	8
RO — Romania	11,212	8,841	44
SE — Sweden	37,861	2,886	7
SI — Slovenia	2,889	270	9
SK — Slovakia	4,328	2,787	39
UK –United Kingdom	142,943	16,557	10
TOTAL (EU–26)	921,798	177,220	16

¹⁾ without Croatia and Cyprus

Source: European Commission, 2012 Update Report to the Study to quantify and analyse the VAT Gap in the EU–27 Member States, 9/2014, p. 16

Already in 2006 the Commission came forward with a European strategy to combat VAT fraud.⁵ In the course of the following years, a lot of legislative and administrative measures were proposed and adopted. As cross-border cooperation between the tax administrations of the Member States was identified as a core area, a focus was laid on facilitating and enhancing it by implementing the necessary legal instruments. To this end a new regulation on administrative cooperation and combating fraud in the field of VAT was adopted in October 2010.⁶ Part of this regulation is EUROFISC.

1.4 Audit objective

The SAIs involved did not audit EUROFISC itself. Their audit objective was to ascertain how EUROFISC, the new instrument for tackling VAT fraud, was implemented in their respective Member States, and to look for areas of potential improvement at EU level within the framework of this coordinated audit.

Therefore the three SAIs elaborated a number of questions that formed the basis of the audit work. They covered statistical aspects as well as evaluation issues. Based on the replies of the administrations the SAIs identified problem areas that need to be addressed at national level and need to be discussed at EU level.

2 EUROFISC network

2.1 General information

EUROFISC is a decentralized network for the swift exchange of targeted information between Member States. All Member States are participating in this network. For the purpose of this network each Member State has appointed at least one EUROFISC Liaison Official (ELO) who has experience in the fight against tax fraud. Among those, each Member State has designated one EUROFISC national coordinator (so-called ENLO) who shall vote on behalf of his own Member State as well as attend EUROFISC group meetings. The network is composed of the EUROFISC group and of working fields. The EUROFISC group includes the ELOs of all Member States and a representative of the Commission. From among the ELOs the chair of EUROFISC is elected.

⁵ See COM(2006) 254 final of 31 May 2006.

⁶ Council Regulation (EU) No. 904/2010 of 7 October 2010, OJ 2010 L 268, p. 1 ff.

The number of working fields can vary depending on the need. Currently, there are four working fields, three of them exchanging operational data in specific fraud areas. In practice, companies acting as suppliers are selected for monitoring. Monitoring means that Member States check business relations of these companies. The respective data derive from recapitulative statements, invoices and clearance requests of VAT registration numbers (VRN). These data are filled in excel files and sent to the Member State where the acquirer is located. This Member State is requested to give a feedback according to certain categories on its company – the receiver of the goods. The fourth working field acts as an observatory and collects intelligence about new trends and developments in fraud patterns as well as techniques and approaches in the fight against VAT fraud. Each working field has a coordinator (working field coordinator) chosen from the participating ELOs. Member States can determine in which working field they take part and can also decide to terminate their participation. When joining a working field, Member States shall actively participate in the exchange of targeted information. Member States can also have the status of an observer in any working field.

The role of the Commission is limited to offering technical and logistical support. It means that the Commission facilitates the exchange of information by providing a secured network, called CIRCABC.⁷ Additionally, the Commission is funding the reimbursement of traveling expenses, accommodation costs, daily allowances and conference costs within the framework of the Fiscalis programme. However, the Commission has no access to the operational data exchanged through this network.⁸

EUROFISC coordinates the swift multilateral exchange of targeted information in the four working fields and it coordinates the work of the ELOs of the participating Member States in acting on warnings received.

2.2 Legal framework

The EUROFISC activities are based on Council Regulation (EU) No. 904/2010 of 7 October 2010 on administrative cooperation and combating fraud in the field of value added tax (hereinafter referred to as

⁷ CIRCABC (Communication and Information Resource Centre for Administrations, Businesses and Citizens) is an application used to create collaborative workspaces where communities of users can share information and resources in private workspaces over the Internet. EUROFISC–Document No. 002, TAXUD/R4/DOC of 27 October 2010.

⁸ See Article 35 of Council Regulation (EU) No. 904/2010, OJ 2010 L 268, p. 1 ff.

Regulation). Chapter X of the Regulation lays down the conditions for the network.⁹ In addition to that there are notices of the Commission.¹⁰

2.3 Key data

Table 2: EUROFISC working fields			
Working fields ¹⁾	Description	Participating Member States	Working field coordinator
1. Missing Trader intra-Community (MTIC)	Generic network used for any possible failures	28	France
2. Cars-boats -planes	Specific network aimed at frauds regarding vehicles, vessels or aircrafts	22 ²⁾	Netherlands
3. CP4200 ⁴⁾	Abuse of Customs procedures to facilitate VAT fraud	22 ³⁾	France
4. VAT-Observatory	Observation of new trends thanks to data and risk analysis	28	Sweden
EUROFISC Chair ¹⁾		Portugal	
Number of EUROFISC (National) Liaison Officials ¹⁾		Austria: 4	
		Germany: 2	
		Hungary: 4	

¹⁾ Status per January 2014

²⁾ Observer status: Croatia, Italy and Latvia

³⁾ Observer status: Croatia, Estonia, Germany, Luxembourg and Malta

⁴⁾ In this context, customs procedures 63 (re-importation after customs procedures 42) are also monitored in this working field.

3 National implementation

The legal basis for EUROFISC was the Regulation (see chapter 2.2), which was binding and directly applicable in all Member States. Therefore, none of the Member States needed a national legal act for its implementation.

⁹ Council Regulation No. 904/2010, OJ 2010 L 268, p. 1 ff.; besides, there is a Commission Implementing Regulation (EU) No. 79/2012 of 31 January 2012, OJ 2012 L 29 p. 13 ff.

¹⁰ Notice 2011/C 131/03 from the Member States on 'Value Added Tax – Administrative Cooperation', OJ 2011 C 131 p. 5; Notice 2013/C 191/03 from the Member States on 'Value Added Tax – Administrative Cooperation', OJ 2013 C 191 p. 4.

3.1 Austria

3.1.1 Participation in working fields

EUROFISC started its work in 2011; since then, Austria has participated actively in all four working fields. From 2011 to 2013 the Austrian ENLO was coordinator of working field 3 – customs procedures 42.

3.1.2 Organizational and personnel structure

The Austrian Federal Ministry of Finance (DG Customs and International as well as Organisational Tax Issues) was, amongst others, responsible for strategic issues in the field of combating tax and customs fraud and for international cooperation, in particular in the EU area (e.g. OLAF, EUROFISC).

For Austria's participation in EUROFISC, the Federal Ministry of Finance denominated four staff members as ELOs; one of them was additionally responsible for the national coordination of all activities in the working fields. This employee was entitled to vote as ENLO for Austria at EUROFISC meetings. He was also elected as coordinator of working field 3 until the end of 2013. In his activities for EUROFISC he was supported by a staff member of the Central Liaison Office (CLO) for international cooperation – both were settled in the Tax Investigation Agency.¹¹

The following table gives an overview of the personnel structure in Austria in relation to EUROFISC for the audited period:

Table 3: Staff in Austria dealing with EUROFISC; 2011 — 2013 (Austrian Federal Ministry of Finance and Tax Investigation Agency)		
	Staff	Full-time equivalent
EUROFISC National Liaison Official (ENLO)	1	ca. 80%
EUROFISC Liaison Official (ELO)	3	< 10%
Member Central Liaison Office (CLO)	1	ca. 50%

Source: Federal Ministry of Finance, Austria

¹¹ The Tax Investigation Agency is a nationwide organizational unit for combating tax fraud.

National implementation

3.1.3 Procedures

The information (warning signals) in the EUROFISC network was exchanged on the EU server platform CIRCABC, separately for each working field. In working fields 1 and 2 the information was based on recapitulative statements, on clearance requests of VRN or on invoices; in working field 3 information was based on data from customs procedures 42.

For the VAT-risk assessment in Austria, the ENLO primarily evaluated the incoming warning signals on the basis of (database-) research and personal experience; the result was uploaded as feedback to CIRCABC. Then he forwarded the warning signals to the tax offices for (further) inquiries with a deadline of one month. In case of dissenting evaluations by the tax offices the ENLO uploads an updated feedback in CIRCABC.

3.2 Germany

3.2.1 Participation in working fields

Since the beginning, Germany has participated actively in working fields 1, 2 and 4. It has observer status to working field 3.

3.2.2 Organizational and personnel structure

In Germany the work of EUROFISC is based on a detailed implementation concept, which was announced on 15 September 2011. According to the concept, the EUROFISC team is part of a coordinating unit for special VAT audits and related tax investigations (KUSS), which belongs to the CLO. KUSS is in charge of VAT fraud cases that need coordination because of their cross-border character. These are cases where taxpayers in different federal states (states) or in different Member States are involved. Each state has special units being counterparts of the KUSS. These units also deal with VAT fraud and are in charge of processing the requests coming from EUROFISC. The implementation concept determines the procedural rules for the cooperation of the ELO and his counterparts in the states. In 2013 the EUROFISC team consisted of the ENLO, a deputy and four more persons, whereas in 2011 and 2012 the staff level was lower.

The following table gives an overview of the personnel structure in Germany in relation to EUROFISC:

Table 4: Staff in Germany dealing with EUROFISC in 2013 (Federal Central Tax Office)		
	Staff	Full-time equivalent
EUROFISC National Liaison Official (ENLO)	1	90%
EUROFISC Liaison Official (ELO)	1	80%
Member Central Liaison Office (CLO)	3	100%
Member Central Liaison Office (CLO)	1	90%

Source: Federal Central Tax Office, Germany

3.2.3 Procedures

The implementation concept contains detailed procedural guidelines on how the information exchange between the responsible units at federal level (CLO) and at the level of the states in the different working fields should be organized. Incoming requests from other Member States downloaded from CIRCABC are processed by the EUROFISC team. They add to these requests all information available at CLO level and submit them to their counterparts in the states. It is their turn to check the requested companies and provide a feedback. To put it in a nutshell, the assessment of companies according to the criteria approved at EU level is done by the fraud units in the states.

The concept also foresaw the implementation of an IT program to facilitate the work of the EUROFISC team. This program is not yet in place.

The efficiency of the information exchange between the EUROFISC team and the fraud units in the states is subject to regular evaluation. An assessment meeting of all parties involved takes place annually. As a result of this the implementation concept might be adjusted to reflect changes in the factual circumstances.

3.3 Hungary

3.3.1 Participation in working fields

Since the beginning of EUROFISC, Hungary has actively participated in all four working fields.

National implementation

3.3.2 Organizational and personnel structure

In Hungary the CLO of the National Tax and Customs Administration (NTCA) was assigned as competent authority. The CLO was a separate division under the Audit Department of NTCA's Central Office. The NTCA's Operational and Organizational Rules and internal regulations contained the tasks of the CLO related to the EUROFISC network. The specialized procedural regulations defined the rules applicable within NTCA in connection with the international data exchange realized under EUROFISC. There were designated "competent organizational units" in the Central Office and in the provincial directorates to gather and forward the required information to the CLO.

ELOs were appointed for the four working fields of EUROFISC, among them one ENLO. The appointments concerned four persons altogether, of whom three were working for the CLO and one for the customs department. They coordinated the information sharing within the EUROFISC network, the tasks related to the reply to the warning signals received, and they took part in EUROFISC group meetings and working field meetings.

3.3.3 Procedures

The ELOs downloaded the data containing the requests from other Member States from the CIRCABC information system and made them available for the contact persons of NTCA. The competent departments sent a quarterly report to the CLO based on the analysis of the data received and on the audits carried out. The reports delivered textual information on the examination of taxpayers from EUROFISC data files under their competence. The data necessary to fulfil the information requests on EUROFISC data exchange in different databases were available at NTCA.

The ELOs uploaded the data transferred from the competent departments as requests to other countries in the CIRCABC system.

4 Audit observations and recommendations

4.1 Data volume

In the period of 2011 to 2013 the Member States exchanged the following information¹²:

Table 5: EUROFISC total — exchanged information; 2011 — 2013

	2011	2012	2013	total
	number			
working field 1	29,983	42,017	49,443	121,443
working field 2	82,775	97,635	20,250	200,660
working field 3	2,823	41,105	79,902	123,830
TOTAL	115,581	180,757	149,595	445,933

Source: Federal Ministry of Finance, Austria

In the working fields 1 and 3 the information exchanged between the participating Member States increased strongly. In working field 2 it decreased by three quarters; this was due to an agreement that no more information should be provided based on clearance requests of VRN because of the high amount of information and the low effectiveness.¹³ The increase of data lines in working field 3 was due to the fact that since June 2012 data exchange had no longer been limited to certain commodities but covered all.¹⁴ The trend of exchanged information between Austria, Germany and Hungary followed in general the development of total EUROFISC information.

More details regarding the volume of exchanged information and feedback given can be found in Annex 1.

¹² This means data lines including warning signals.

¹³ Minutes of the 3rd meeting of working field 2, Bucharest, 24 – 25 October 2012.

¹⁴ EUROFISC annual report 2012, p. 19/20.

Audit observations and recommendations

Data in EUROFISC annual reports

In accordance with Articles 37 and 58 of the Regulation, annual reports of the activities of all working fields had to be submitted to the SCAC¹⁵. The therein presented data (–structure), however, varied considerably, depending on the working fields (coordinator). Also the report itself, the structure and content were different from year to year.

The three SAIs ascertained that a direct comparison of the presented data within the EUROFISC annual reports and the data contained in this report was not practicable. Possible deviations shall be attributed to a number of reasons, e.g. different ways of presenting data, dissenting accruals or allocations in the provided databases.¹⁶

Taking into account the fact that the audience of the EUROFISC annual reports is not composed of EUROFISC–“experts” only, the addressees would have an increased value from more easy to understand and comparable data within these reports.

To enhance the informative value of the reports, it is recommended

- that the EUROFISC network defines uniform principles for the preparation of the reports in respect of the presented meaningful data (–structure).

Multiple warning signals

Analysis of the exchanged EUROFISC–information revealed that several companies were subject to multiple warning signals. The following table shows the highest number of multiple warning signals per working field, each based on one company within each working field.

¹⁵ = Standing Committee on Administrative Cooperation. It was set up according to Article 10 of Council Regulation (EEC) No. 218/92 of 27 January 1992. The Commission is assisted by the SCAC. This Committee is composed of representatives of the Member States and chaired by a representative of the Commission.

¹⁶ E.g. EUROFISC annual report 2013, 2.2.2 Overview of exchanges 2011/2013, p. 15.

Table 6: Highest numbers of warning signals per working field; 2011 — 2013 (based on one company within each working field)	
	number
working field 1	475
working field 2	1,192
working field 3	10,807

Source: Federal Ministry of Finance, Austria

This demonstrates that e.g. in working field 3 one specific company was 10,807 times (nearly 9% of total exchanged information in working field 3) subject of warning signals in three years. The benefit of this quantity of information was not clear in that case, especially since the company was qualified as “not dubious” (for the qualification categories see chapter 4.2.1).

Multiple alerts for the same company could be an expression of special and clear suspicion of tax fraud, but on the other hand every single warning caused an administrative burden in both the sending and the receiving Member State. Therefore it should be the goal of a well-functioning early warning system to identify (only) the right cases. Precondition for that would be a good risk analysis system. Within EUROFISC, however, it was not transparent which risk criteria were applied to the data selected for exchange in each Member State.

To reduce the amount of information and to keep administrative costs as low as possible it is recommended:

- to take all efforts for improving the quality and in consequence the quantity of warning signals in the EUROFISC network,
- to provide for a standard method of calculation,
- to ensure an overall consistency in creating statistics,
- to conduct a risk analysis before sending data to other Member States,
- to make the risk criteria of each Member State transparent within the EUROFISC network.

4.2 Feedback

EUROFISC was meant to be a network for the exchange of targeted information to facilitate and support Member States' fight against VAT fraud. To this effect information exchange was enhanced: usually, within the framework of mutual assistance, information is shared on a bilateral basis. Within the network it is shared between all participating Member States. This is a completely new feature.

Exchange of data is just but one side. The other side is feedback on the information received. At the beginning it was a main interest to get the network functioning. The longer the network exists the more important is the smooth and effective running of it. And to this end, inter alia, feedback was recognized as being crucial.¹⁷

According to Article 34 of the Regulation, Member States having chosen to join a EUROFISC working field shall actively participate in the multilateral exchange of targeted information between all participating Member States. In the EUROFISC report 2013 it was stated that "active participation is crucial for the functioning of EUROFISC and consists at least of uploading signals and providing feedback about the qualification of the signals".¹⁸ Qualification means that the Member State receiving warning signals provides the Member State sending them with information about the status of the company in question. Out of the four existing working fields three were based on operational data. For them, feedback was of special relevance.

4.2.1 Feedback quantity

The following table shows the total number of exchanged information for all working fields during the audit period 2011 to 2013 and how the receiving Member States responded to them: what kind of feedback was given or if there was no feedback at all.¹⁹

¹⁷ EUROFISC annual report 2012, p. 11, No. C. 1.

¹⁸ A definition for active participation is also part of the new Rules of Procedure (Article 7 No. 3 last sentence); Rules of Procedure for EUROFISC as of 6 October 2014.

¹⁹ Fraud-related: missing trader, conduit company, cross invoicer, defaulter, buffer, broker, hijacked VRN, domestic fraud, dubious (since 2013 due to a changed methodology). Others: all categories not included in categories "fraud-related", "not dubious" and "no feedback".

**Table 7: Exchanged information and feedback — Total number per working field;
2011–2013**

	2011	%	2012	%	2013	%	total	%
working field 1								
fraud-related	11,581	39	13,833	33	15,698	32	41,112	34
not dubious	7,105	24	8,368	20	7,368	15	22,841	19
no feedback	6,328	21	13,856	33	22,113	45	42,297	35
others	4,969	17	5,960	14	4,264	9	15,193	13
total	29,983	100	42,017	100	49,443	100	121,443	100
working field 2								
fraud-related	4,783	6	3,977	4	1,942	10	10,702	5
not dubious	19,691	24	19,441	20	7,085	35	46,217	23
no feedback	54,934	66	70,260	72	9,773	48	134,967	67
others	3,367	4	3,957	4	1,450	7	8,774	4
total	82,775	100	97,635	100	20,250	100	200,660	100
working field 3								
fraud-related	64	2	611	1	1,726	2	2,401	2
not dubious	1,980	70	21,228	52	35,306	44	58,514	47
no feedback	629	22	17,131	42	35,311	44	53,071	43
others	150	5	2,135	5	7,559	9	9,844	8
total	2,823	100	41,105	100	79,902	100	123,830	100
TOTAL	115,581		180,757		149,595		445,933	

Rounding differences are possible

Source: Federal Ministry of Finance, Austria

The three SAIs ascertained that the feedback ratio in total was rather poor. This applied especially to working field 2 where feedback was provided only for 33 percent of the received data.

Another issue to be raised in this context is that the duration of feedback was quite different and could not be analyzed because of an insufficient data basis.

Besides, the assessment procedure was slightly different in the three Member States. What they had in common was that data from EUROFISC were submitted to the tax offices. They were responsible for checking the companies and feedback was provided based on their assessment. This took at least some weeks. Furthermore, the ENLO gave a first feedback within a shorter period in Austria. This feedback was

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based on a quick check of all data available at the level of the ENLO. After the check by the tax offices this feedback could be changed (see chapter 3.1.3).

To remedy the situation it is recommended:

- to provide feedback in any case,
- to provide feedback as soon as possible,
- to make sure that the duration of feedback can be analyzed.

4.2.2 Feedback categories

A major problem of feedback quality was caused by Member States being negligent with how they fill in the “qualification” field used for the exchange. For example, the members of working field 1 approved a number of categories for the qualification that should be used for feedback:

- missing trader
- defaulter
- cross invoicer
- dubious
- conduit company (including buffer)
- broker
- hijacked VRN
- checking
- not a dubious trader.

While analyzing the data exchanged, the three SAIs found a lot more qualifications than those agreed. For instance:

- fictitious intra-Community acquisitions
- under monitoring in EUROFISC working field 1

- export third countries
- ended 28-09-2011
- not registered
- wrong number
- not to be included in this feedback.

Reasons for this rather unsatisfying situation might be, inter alia, that the qualifications were not officially announced; it was the outcome of a working field meeting only. As there are no official minutes of the meeting and the results were circulated as a power point presentation, the qualifications were not binding, which was obviously a deficit. Another reason was that the exchange of information on CIRCABC was based on Excel. This allowed filling in free text in the “qualification” field, which should be avoided by all means. Not only did this lead to a heavy workload in the receiving Member State when processing the data, it also hampered a quick analysis of the data.

Moreover, it also influenced the data analysis as a whole. In the annual reports, statistics play an important role. This is especially true for those data that are considered to provide evidence for the necessity of EUROFISC, namely data about detected fraud-related companies. If Member States do not stick to the feedback categories approved, it is rather difficult to arrive at precise data to evaluate how targeted the exchanged information was.

It is therefore recommended:

- to stick to the categories after these had been officially agreed and declared to be binding,
- to update the feedback category in case of a change of qualification.

4.2.3 Basis for feedback

The quality of feedback was not quite clear as it was not known how Member States had arrived at the decision on the qualifications. The SAIs ascertained that the Member States had handled the qualification procedure differently: In some cases Member States conducted a full

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audit or at least a spot check, whereas in other cases Member States used a database analysis to arrive at the qualification.

Qualified feedback has more than one advantage: the network itself needs qualified feedback to detect fraudulent cases, and additionally, it is necessary for the adjustment of the risk analysis criteria of each Member State.

Although it is very difficult to standardize the different Member States' procedures for giving feedback and their decision-making on qualifications, it would be beneficial to ensure at least some transparency.

It is therefore recommended to make the basis of feedback transparent for the Member States.

4.3 IT Support

According to Article 35 of the Regulation, the Commission provides technical and logistical support to EUROFISC. Article 16 of the Rules of Procedure for EUROFISC describes the IT system background as contained in Article 53 of the Regulation, which includes the CCN/CSI network as the base of the information exchange of EUROFISC. However, over the audit period the information exchange was carried out through CIRCABC. The platform provided data storage for EUROFISC. In practice, the exchange of the data stored in CIRCABC was carried out with hundreds of Excel files. Until now, no common database has been established with research and analyzing tools.

During the data exchange process, the ELOs of every participating Member State were responsible for uploading the data periodically to their so-called "country folder". These data had to be extracted from each of the country folders by the working field coordinators manually, to be merged into one single file and made accessible for the other ELOs in the so-called "all out folder". This created a risk of a change of data content or even of data loss.

The IT background for the working field coordinators and ELOs was provided by their own Member State, which meant different versions of software and tools. There were many possibilities for errors because there was no uniformly accepted version for the used Excel software.

Handling the large volume of information was neither reliable nor transparent, because Excel does not ensure traceability. Moreover, on several occasions ELOs did not follow the data formats accepted at working

field meetings (e.g. differences in VRN format), so the comparability and uniform assessment of data was not ensured.

Another point to be mentioned is that there was no additional rule concerning the handling of authority to access the data stored in CIR-CABC. According to the Regulation “the competent authorities of each Member State shall designate at least one EUROFISC Liaison Official. EUROFISC Liaison Officials shall be competent officials within the meaning of Article 2 (1) (c) and shall carry out the activities referred to in Article 33 (2)”.²⁰ The Regulation stipulates that “the competent authority of each Member State may in addition designate, under the conditions laid down by it, competent officials who can directly exchange information on the basis of this Regulation. When it does so, it may limit the scope of such designation. The central liaison office shall be responsible for keeping the list of those officials up-to-date and making it available to the central liaison offices of the other Member States concerned”.²¹

The list of ELOs was available in CIRCABC and it was accessible for the Member States. In the audited period the list was checked from time to time but not on a regular basis. Therefore changes concerning access roles and names of authorized ELOs or ENLOs were not reflected in a timely manner. Additionally, the SAIs detected that besides ELOs also administrative workers could obtain access rights.

The provisions set forth in Article 17 of the Rules of Procedure for EUROFISC refer to the Regulation²², stating the following: “Information is covered by the obligation of official secrecy and enjoy the protection extended to similar information under both the national law of the Member State which received it and the corresponding provisions applicable to Union authorities”. However, there were no commonly agreed Rules of Procedure on managing the authorization and on establishing and managing adequate controls. This situation imposes a risk for data protection.

Based on the aforementioned, it is recommended:

- to implement a common data base with modern research and analyzing tools,
- to establish a procedure that ensures the reliability of data by standardized input options and provides for adequate controls,

²⁰ Article 36 (1) of the Regulation.

²¹ Article 4 (3) of the Regulation.

²² Article 55 of the Regulation.

Audit observations and recommendations

- that only the chair of EUROFISC is in charge of administering the access rights to EUROFISC data.

4.4 Documentation

Within the scope of the EUROFISC network activities, meetings were held on a regular basis (e.g. plenary, working field coordinators, separate working fields). The Commission supported the network by forwarding the particular agendas and the invitations to the participating Member States, and chaired meetings as needed. Since the establishment of EUROFISC in 2010, one to three meetings per working field have taken place annually.

The need to record the minutes of the meetings was addressed in the Rules of Procedure for EUROFISC as follows: “1. For each meeting minutes are recorded which are to be approved at the following meeting”.²³ However, these Rules of Procedure did not include any specifications concerning the template of minutes and their preparation.

In fact, there was no complete documentation for the official minutes of meetings available from the national ELOs. Furthermore, the minutes consisted partially of presentations only. For that reason there is a certain risk of not understanding adopted decisions or specific courses of discussions by those Member States that did not attend the meeting. Consequently, there was a certain demand of strict compliance with the current Rules of Procedure. Minutes are not only important for all those people being currently active in the network but shall serve as knowledge management for those who will join it in future.

Better documentation – aligned with the current Rules of Procedure for EUROFISC – would furthermore help to reconstruct contentious issues as well as disputed assumptions more easily and swiftly.

It is therefore recommended:

- to prepare minutes of each official EUROFISC meeting held,
- to distribute these minutes to the Member States without delay,
- to officially approve the minutes at the following meeting.

²³ Article 13, Rules of Procedure for EUROFISC of 10 November 2010.

4.5 Manuals and regulations

At the opening meeting of the EUROFISC group in 2010, the representatives of the Member States defined, based on the authorization granted by point (5) of Council Statement 2010/C 275/06, the general operative rules of the network in the Rules of Procedure for EUROFISC. The Rules of Procedure for EUROFISC regulated the organizational structure of the network, the operation and tasks of the EUROFISC group, the meetings of the working fields, the general rules of the meetings and the role of the Commission in the operation of the network in accordance with Chapter X of the Regulation. However, they regulated the rules for submitting the annual report in a different way.²⁴

The Rules of Procedure provided the framework for the operation of the network, but did not require the preparation of further manuals or regulations and did not give the authorization for issuing them. Manuals and regulations were not established in practice, which is why the detailed rules are not clear and they are not arranged in a single, transparent system.

As mentioned above, certain problems were addressed in the area of information exchange, feedback, IT support and documentation; several recommendations were made to tackle these problems and to improve the procedures. In this context proper manuals would be needed.

Until now, the operational tasks connected to the EUROFISC network have been defined as recommendations on the meetings of each working field. However, it was not compulsory to follow the regulations, which have been accepted as recommendations. As a result, the rules to follow were not transparent or clear. The ELOs – according to their own approach – followed the recommendations approved at working field meetings connected to operational work, and no sanctions were imposed for not following them.

A crucial point was that the tasks of the ELOs and the working field coordinators were not regulated in an integrated way (e.g. the determination of deadlines and frequencies of uploading and downloading).

²⁴ According to Article 37 of the Regulation, the working field coordinators submit an annual report to SCAC about the operation of every single working field. According to Article 3 (Item 2) and Article 5 (Item 2) of the Rules of Procedure for EUROFISC, the annual report should be submitted to the EUROFISC group, and after the approval of the group the Chairperson of the group presents the report to SCAC.

Audit observations and recommendations

As a solution, it is recommended

- to create integrated and clear Rules of Procedure for EUROFISC covering data protection as well; this could enhance compliance with the tasks and responsibilities,
- to document in manuals how procedures shall function better in the future.

4.6 Evaluation

Based on Article 49 of the Regulation, the Member States and the Commission shall examine and evaluate how the arrangements for administrative cooperation provided for in this Regulation are working. The Commission had to pool the Member States' experience with the aim of improving the operation of those arrangements. The Member States shall therefore communicate to the Commission any available information relevant to their application of this Regulation (also applicable to a provided list of statistical data).

According to Article 59, the Commission had to report to the European Parliament and the Council on the application of this Regulation by 1 November 2013 and thereafter every 5 years. The first report was presented on 12 February 2014.²⁵ It addressed some important weaknesses of the network and considered "risk analysis" and "feedback" as key areas with essential potential for improvement. The Commission also noted in the report that the vast majority of Member States "do not appear to perform any systematic internal evaluation of their arrangements, but seem rather to base their self-assessment solely on the annual statistics that they must provide to the Commission".²⁶ Nevertheless, such a domestic analysis would be very useful for the Member States themselves in order to evaluate the importance, usefulness and effectiveness of the tool for administrative cooperation. In particular, this would be important for the EUROFISC network, which was specially created to fight fraud more efficiently. Member States have an interest in evaluating the extent to which this network has contributed to the reduction of the revenue lost through VAT fraud.

The Regulation itself did not provide for quantifiable targets for EUROFISC. It is, however, quite clear that purely monetary indicators could

²⁵ Report from the Commission to the Council and the European Parliament on the application of Council Regulation (EU) No. 904/2010 concerning administrative cooperation and combating fraud in the field of value added tax, 12 February 2014, COM(2014) 71 final.

²⁶ Report, 3.9. Relations with the Commission (Article 49).

be only of limited use as their meaningfulness within a preventive network was severely restricted.

Although there could be preventive effects of the EUROFISC network, no evaluation was conducted at EU level in respect of its effectiveness so far supporting this assumption. This also explains why the Commission was not in the position to make any statements to concrete former effects of EUROFISC in the above-mentioned report. A sound feedback mechanism within the EUROFISC network (see chapter 4.2) would be of special significance and could be a valuable contribution to an evaluation of EUROFISC.

Also at national level (Austria, Germany and Hungary), no quantifiable and measurable objectives had been set up for the evaluation of the participation in EUROFISC. Because of missing national targets and indicators, Austria, Germany and Hungary could neither measure nor analyse the effects of taking part in the network so far.²⁷

The Commission was therefore lacking essential information from the Member States concerning the functioning and the effectiveness of the EUROFISC network.

It is obvious that EUROFISC has some effect. The SAIs ascertained that a significant number of missing traders and conduit companies had been identified by the tax administrations in the three Member States in the audit period. However, to make reliable statements on the costs and benefits, the success of the EUROFISC network should be made more transparent and visible.

For this purpose, it is recommended:

- to agree on meaningful indicators at a joint (EU) level and
- to evaluate these indicators on a regular basis.

As the Commission depends very much on the quality of the information communicated by the Member States, it would be of enormous value if the Commission and the Member States took a joint decision on these indicators. This evaluation process (at national as well as EU level) is not only considered to be necessary to carry out a real cost and benefit analysis of the EUROFISC network itself, but also to clearly show potential benefits of this tool in combating fraud in the field of VAT.

²⁷ However, Austria mentioned some individual results on EUROFISC in the annual “Anti-Fraud”-Reports of the Federal Ministry of Finance.

5 Future prospects

Given the dimension of the VAT gap²⁸, the three SAIs consider the fight against VAT fraud to be of vital interest to all the Member States. Close and strong cooperation of the Member States is the key element in this fight.

The EUROFISC network is a quite new instrument, which should enhance and facilitate cooperation of the tax administrations. Its “trademark” is the new quality of information exchange: within the network, information is not shared bilaterally, but on a multilateral basis. In this respect, EUROFISC is a good example of joint efforts within the EU.

Even though the three SAIs identified room for improvement in different areas such as quality of data and the number of feedback, EUROFISC is, from our point of view, of added value in fighting tax fraud. Taking into account that EUROFISC is a network composed of Member States, the responsibility for development cannot be delegated to the Commission only. In fact, the community of Member States needs to take joint efforts with the Commission to make this network even more effective and successful.

²⁸ See 2012 Update Report to the Study to quantify and analyse the VAT Gap in the EU-27 Member States, TAXUD/2013/DE/321.

ANNEX

**Annex 1: Total EUROFISC data per Member State
(Austria, Germany, Hungary)**

Annex 2: Data exchange between Austria, Germany and Hungary

Annex 1: Total EUROFISC data per Member State (Austria, Germany, Hungary)

The feedback was considered as “fraud-related” if the assessment of the requested Member State was as follows:

- missing trader
- conduit company
- cross invoicer
- defaulter
- buffer
- broker
- hijacked VRN
- domestic fraud
- dubious (since 2013 due to a changed methodology)

Every feedback not falling into the categories “fraud-related”, “not dubious” and “no feedback” was considered as “other” feedback.

This applies to all tables in this annex.

ANNEX

a) Austria

The following table shows the information received from other Member States and the feedback given by the Austrian tax administration.

Austria — EUROFISC total — information received and feedback given					
	2011	2012	2013	total	ratio in %
working field 1					
fraud-related	54	59	16	129	1
not dubious	567	442	255	1,264	10
no feedback	754	3,947	5,008	9,709	80
others	427	346	249	1,022	8
total	1,802	4,794	5,528	12,124	100
working field 2					
fraud-related	0	0	2	2	0
not dubious	0	4	27	31	1
no feedback	970	1,053	275	2,298	97
others	9	7	17	33	1
total	979	1,064	321	2,364	100
working field 3					
fraud-related	0	2	3	5	0
not dubious	12	165	532	709	98
no feedback	0	0	0	0	0
others	0	1	11	12	2
total	12	168	546	726	100
TOTAL	2,793	6,026	6,395	15,214	

Rounding differences are possible

Source: Federal Ministry of Finance, Austria

The following table shows the information sent by Austria to other Member States and the feedback received from the tax administrations of the other Member States.

Austria — EUROFISC total — information sent and feedback received					
	2011	2012	2013	total	ratio in %
working field 1					
fraud-related	711	724	1,316	2,751	54
not dubious	103	127	338	568	11
no feedback	117	214	827	1,158	23
others	153	196	253	602	12
total	1,084	1,261	2,734	5,079	100
working field 2					
fraud-related	915	862	120	1,897	3
not dubious	3,979	4,757	432	9,168	13
no feedback	22,958	32,025	904	55,887	81
others	912	954	98	1,964	3
total	28,764	38,598	1,554	68,916	100
working field 3					
fraud-related	48	271	267	586	1
not dubious	1,727	7,237	16,327	25,291	56
no feedback	334	7,714	8,431	16,479	36
others	84	453	2,449	2,986	7
total	2,193	15,675	27,474	45,342	100
TOTAL	32,041	55,534	31,762	119,337	

Rounding differences are possible

Source: Federal Ministry of Finance, Austria

ANNEX

b) Germany

The following table shows the information received from other Member States and the feedback given by the German tax administration.

Germany — EUROFISC total — information received and feedback given					
	2011	2012	2013	total	ratio in %
working field 1					
fraud-related	1,465	2,135	2,394	5,994	55
not dubious	978	1,172	1,832	3,982	37
no feedback	11	40	93	144	1
others	145	225	319	689	6
total	2,599	3,572	4,638	10,809	100
working field 2					
fraud-related	716	559	253	1,528	3
not dubious	5,188	4,772	1,752	11,712	19
no feedback	19,708	24,560	2,270	46,538	76
others	409	601	143	1,153	2
total	26,021	30,492	4,418	60,931	100
TOTAL	28,620	34,064	9,056	71,740	

Rounding differences are possible

Source: Federal Central Tax Office, Germany

In the audit period, Germany had observer status and had no access to the data of working field 3. Therefore no data are presented.

The following table shows the information sent by Germany to other Member States and the feedback received from the tax administrations of the other Member States.

Germany — EUROFISC total — information sent and feedback received					
	2011	2012	2013	total	ratio in %
working field 1					
fraud-related	3,349	2,087	2,824	8,260	19
not dubious	4,415	5,286	3,054	12,755	30
no feedback	1,493	6,307	8,860	16,660	39
others	1,949	1,596	1,292	4,837	11
total	11,206	15,276	16,030	42,512	100
working field 2					
fraud-related	46	89	216	351	32
not dubious	6	31	152	189	17
no feedback	43	240	147	430	39
others	16	39	69	124	11
total	111	399	584	1,094	100
TOTAL	11,317	15,675	16,614	43,606	

Rounding differences are possible

Source: Federal Central Tax Office, Germany

In the audit period, Germany had observer status and had no access to the data of working field 3. Therefore no data are presented.

ANNEX

c) Hungary

The following table shows the information received from other Member States and the feedback given by the Hungarian tax administration.

Hungary — EUROFISC total — information received and feedback given					
	2011	2012	2013	Total	ratio in %
working field 1					
fraud-related	277	1,059	1,307	2,643	66
not dubious	110	161	284	555	14
no feedback	0	87	60	147	4
others	292	227	113	632	16
total	679	1,534	1,764	3,977	100
working field 2					
fraud-related	218	570	436	1,224	15
not dubious	280	599	224	1,103	14
no feedback	1,636	3,532	35	5,203	64
others	149	362	83	594	7
total	2,283	5,063	778	8,124	100
working field 3					
fraud-related	122	217	433	772	20
not dubious	366	779	1,281	2,426	64
no feedback	62	0	0	62	2
others	32	100	391	523	14
total	582	1,096	2,105	3,783	100
TOTAL	3,544	7,693	4,647	15,884	

Rounding differences are possible

Source: National Tax and Customs Administration of Hungary

The following table shows the information sent by Hungary to other Member States and the feedback received from the tax administrations of the other Member States.

Hungary — EUROFISC total — information sent and feedback received					
	2011	2012	2013	total	ratio in %
working field 1					
fraud-related	202	263	195	660	14
not dubious	256	434	117	807	17
no feedback	1,467	1,098	498	3,063	65
others	76	70	59	205	4
total	2,001	1,865	869	4,735	100
working field 2¹					
fraud-related	0	0	0	0	0
not dubious	0	0	0	0	0
no feedback	0	0	0	0	0
others	0	0	0	0	0
total	0	0	0	0	0
working field 3					
fraud-related	0	0	32	32	3
not dubious	0	0	135	135	12
no feedback	93	78	448	619	55
others	118	48	171	337	30
total	211	126	786	1,123	100
TOTAL	2,212	1,991	1,655	5,858	

¹ There was no data upload because Hungary is not a car exporter country

Rounding differences are possible

Source: National Tax and Customs Administration of Hungary

ANNEX

Annex 2: Data exchange between Austria, Germany and Hungary

a) Austria

The following table shows the information sent by Austria to Germany.

Austria — EUROFISC — information sent to Germany				
	2011	2012	2013	total
working field 1	236	327	720	1,283
working field 2	13,553	18,123	664	32,340
working field 3	261	3,883	7,355	11,499
TOTAL	14,050	22,333	8,739	45,122

Source: Federal Ministry of Finance, Austria

The following table shows the information sent by Austria to Hungary.

Austria — EUROFISC — information sent to Hungary				
	2011	2012	2013	total
working field 1	49	82	200	331
working field 2	1,450	2,302	117	3,869
working field 3	87	590	1,131	1,808
TOTAL	1,586	2,974	1,448	6,008

Source: Federal Ministry of Finance, Austria

b) Germany

The following table shows the information sent by Germany to Austria.

Germany — EUROFISC — information sent to Austria				
	2011	2012	2013	total
working field 1	1,439	4,386	5,117	10,942
working field 2	6	25	57	88
working field 3	0	0	0	0
TOTAL	1,445	4,411	5,174	11,030

Source: Federal Central Tax Office, Germany

The following table shows the information sent by Germany to Hungary.

Germany — EUROFISC — information sent to Hungary				
	2011	2012	2013	total
working field 1	305	390	303	998
working field 2	0	1	9	10
working field 3	0	0	0	0
TOTAL	305	391	312	1,008

Source: Federal Central Tax Office, Germany

ANNEX

c) Hungary

The following table shows the information sent by Hungary to Austria.

Hungary — EUROFISC — information sent to Austria				
	2011	2012	2013	total
working field 1	83	79	55	217
working field 2	0	0	0	0
working field 3	1	0	3	4
TOTAL	84	79	58	221

Source: National Tax and Customs Administration of Hungary

The following table shows the information sent by Hungary to Germany.

Hungary — EUROFISC — information sent to Germany				
	2011	2012	2013	total
working field 1	214	164	54	432
working field 2	0	0	0	0
working field 3	2	30	203	235
TOTAL	216	194	257	667

Source: National Tax and Customs Administration of Hungary