

**Section 1 – Difficulties with the applications, communication and web portals in the Member State of Establishment (MSE)**

<b>Ref</b>	<b>Problem</b>	<b>Priority</b>	<b>Solution</b>	<b>Action</b>
1.2	Lack of contingency plan if MSE portal does not function (particularly when close to deadline).	Low	Simple solution that MSE informs other Member States of difficulties – MSR agrees to accept late applications (within boundaries).	<b>EU</b> level common agreement/understanding.
1.2a	MSE sends application close to deadline, rejected by MSR via validation report, application then resent following the deadline. MSR rejects the application because it is outside deadline.	CRITICAL	All Member States to accept that it is when the application is submitted to the MSE which is the relevant date for the deadline, provided the MSE informs MSR of the situation as soon as possible. Unless the application does not contain all the information required under Articles 8, 9 and 11.	<b>EU</b> level common agreement/understanding
1.3	MSE limits access to portal to business/agents established in their own Member State.  <u>Legal obligation under the principles of the TFEU.</u>	HIGH	All Member States to enable non established agents to access their portal.	Action required at <b>national</b> level for particular Member States.
1.4	MSE does not allow uploads of data (batch upload).	Medium	Commission Guideline exists - MS to improve their systems where possible – allow for xml uploads.	Action required at <b>national</b> level.

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	No legal obligation, but would improve the system.			
1.5	No sum total for each application.  No legal obligation, but would improve the system.	Medium	Commission Guideline exists – MS to improve their systems where possible.	Action required at <b>national</b> level.
1.6	No common unique reference number for applications submitted.  No legal obligation, but would improve the system.	CRITICAL	When MSE allocates a reference number, this is to be used in all correspondence with the applicant, including by MSR (who might use in addition its own number).  <b>Responses to questionnaire</b> – all but 4 MS use 2 reference numbers, and very clear which number should be used (first number often temporary).	<b>EU level common agreement/understanding</b>
1.7	No save function.  No legal obligation, but would improve the system.	High	Commission Guideline exists – MS to improve their systems where possible.	Action required at <b>national</b> level.
1.8	Some Member States have restrictions on the numbers of lines per	CRITICAL	Where national limit in MSE is reached, MSE to allow for further applications (and MSR should	<b>EU level common agreement/understanding</b>

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	<p>application.</p> <p><u>Legal obligation – when combined with limitation on the number of applications per year restricts the right of deduction.</u></p>		<p>accept these).</p> <p><b>Responses to questionnaire</b> – not a problem for majority of Member States whose limit is above what has been received so far.</p> <p><u>Link to 2.5 – (some MS do not allow for second applications)</u></p>	Action required at <b>national</b> level.
1.9	<p>Impossibility to submit invoices due to 5mb limit.</p>	CRITICAL	<p>Attach highest value invoices first. Article 20 to be used if further invoices are required. MSR should not refuse repayment because the invoices could not be attached.</p> <p>Existing guidance on how to reduce the size of attachments to be made widely available to applicants.</p> <p>May be a solution through the use of cloud technology.</p>	<p><b>EU</b> level common agreement / understanding.</p> <p>Action required at <b>national</b> level – Member States to provide guidance on attachments and processes when limit is reached – <u>see also 3.3</u></p>
1.11	<p>Credit notes not allowed.</p> <p>Credit note is to be treated as an invoice (<u>Legal obligation VAT Directive – Article 219</u>).</p>	CRITICAL	<p>Clarify that this is a legal requirement.</p>	Action required at <b>national</b> level.

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1.12	<p>Corrections (after submission) not allowed to a submitted application.</p> <p><u>Legally corrections only permitted where these relate to the adjustment of the deductible proportion (Article 13).</u></p>	CRITICAL	<p><b>Responses to questionnaire</b> show divergent treatment in Member States (link to 1.2a – acceptance of corrections following the 30<sup>th</sup> September deadline).</p> <p>Common approach required, along the lines of what is under discussion for the MOSS : change of specifications to allow corrections according to standardised rules.</p>	EU level common agreement / understanding.
1.17	<p>Web Portal only reflects options available in MSE, does not reflect the options of MSR.</p> <p>Legal obligation</p>	CRITICAL	Clarification given that web portal should allow all options required by MSR.	Action required at <b>national</b> level.
1.18	Divergent treatment of VAT Groups	CRITICAL	Applicant to attach a list of Members of the VAT Group to application.	EU level common agreement / understanding.
2.6	Format of attachments – may be a need for a common minimum standard.	CRITICAL	<p>Reaffirm Commission Guideline – MSE should accept at least pdf/zip. MSR should accept all formats.</p> <p>As for 1.9 – guidance for applicant on reducing size of attachments.</p>	Action required at <b>national</b> level <sup>1</sup> .

<sup>1</sup> IE is unable to accept zip files

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			<p><b>Responses to questionnaire</b> shows that only issue is with zip files, some Member States do not accept them for security reasons.</p>	

**Section 2 – Difficulties in communication between MSE, Member State of Refund (MSR), and applicant**

<b>Ref</b>	<b>Problem</b>	<b>Priority</b>	<b>Solutions</b>	<b>Action</b>
2.1	<p>Receipt of claim not acknowledged by MSR.</p> <p><u>Legal obligation under Article 19(1).</u></p>	CRITICAL	<p>Where error is applicant's (i.e. wrong email address, applicant changing agent) no action at EU level.</p> <p><b>Responses to questionnaire</b> show that only one Member State does not forward notifications when requested by the MSR unless the MSE has no other means to contact the applicant. Nine Member States send to the MSE and not the applicant/agent, of which four have specific data protection rules forbidding the use of email.</p>	<p>Action required at <b>national</b> level – Member States can implement safeguards into web portal which reduce the numbers of errors (specifically in email addresses).</p> <p>Action required at <b>applicant/agent</b> level – internal auditing and inputting systems need to be effective.</p> <p>On the role of the MSE in forwarding notifications to the applicant, particularly in relation to data protection rules. <u>See 2.1a</u></p>
2.1a	<p>Systematic refusal to notify decisions under art 25 (Reg° 904) or systematic requests under this article without any justification.</p>	CRITICAL	<p>1) Those MS who have data protection restrictions to inform the other MSs of the restrictions in their legislation, and why this prohibits them from contacting the non-established taxable person directly. Those MSs also to consider the possibility to amend their legislation in this respect.</p> <p>2) All MSs to implement Article 10 and recital 12 of Regulation 79/2012</p>	<p>Action required at <b>national</b> level – implementation of existing rules</p>

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Ref	Problem	Priority	Solutions	Action
			(ex Article 3 of Regulation 1174/2009/EC), at least for article 19.1 notifications (whose electronic character is likely to raise data protection issues).	
2.1b	MSR asks MSE to forward decision of refusal or partial payment to applicant, but nothing is attached (simply a message with codes for the refusal).	CRITICAL	Attachment should be systematically included in decisions of refusal or partial payment which details reasons for refusal and grounds/process for appeal.	Action required at <b>national</b> level.
2.2	MSR claiming not to have received claim, though sent from MSE.	CRITICAL	<b>Protocol</b> developed, outlining stages of the process, and who is responsible for queries at each stage.  <b>Responses to questionnaire</b> show that there are divergent treatments – most MSRs require a new claim, but nine MSEs do not allow for duplicate claims for the same period.	<b>EU</b> level common agreement/understanding (on the protocol).
2.3	Failure of MSE or MSR to take responsibility for queries.	CRITICAL	<b>Protocol</b> developed, outlining stages of the process, and who is responsible for queries at each stage.	<b>EU</b> level common agreement/understanding (on the protocol).
2.4	MSR wants further information on status of applicant/agent, although this has been accepted	Medium	Preferences can be shared on general information requirements in each Member State of refund. (link to 3.4)	Action required at <b>EU</b> level on collating and making available requirements in each MSR. Update and amend the VAT Refund Vademecum.

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	by MSE.			
2.4b	Treatment of insolvent businesses submitting claims relating to periods when they were solvent.		Common approach is required. Suggested solution is that MSE always allow these claims to be submitted (possibly by the person in charge of the accounts of the insolvent business).	EU level common agreement/understanding.
2.5	Claim periods – most Member States accept at least one application per quarter, plus one for any 'forgotten' invoices.	CRITICAL	No legal restrictions on the numbers of claims - but sensible approach is needed to avoid situation of 15 applications (for example) each of 1 invoice.  Suggested approach is to maintain minimum of 4+1 claims, unless a claim exceeds the number of lines allowed, then additional claim for that period is permissible. See 1.8	Solution for 1.8 will also cover this issue.
2.10	Delay in MSE processing claims and sending to MSR.  <u>Legal obligation</u> under Article 48 of Council Regulation 904/2010 to forward application within 15 calendar days.	CRITICAL	<b>Responses to questionnaire</b> show that nearly all MS provide Article 18(2) notifications.	Action required at <b>national</b> level





**Section 3 – Difficulties from MSR once claim is lodged**

<b>Ref</b>	<b>Problem</b>	<b>Priority</b>	<b>Solutions</b>	<b>Action</b>
3.1	Systematic raising of queries.  <u>Legal basis Article 20(1)</u> - further information may be requested where a decision cannot be made based on information already provided.	HIGH	Attachment to application can be information other than invoices – MS to make applicants aware of what their preferences are/what their general requirements are.	Action required at <b>national</b> level, not to systematically raise queries.
3.4	Systematic requests for original invoices.	Medium	Business complains there is no justifiable reason for asking for additional invoices.  Cannot stop MS from carrying out their controls. But should not be systematic.  <u>Relates to 3.1</u>	Action required at <b>national</b> level (proportionate use of this option).
3.6	Claim rejected but no reason given.	Medium	Reasons for rejection should always be supplied.	Action required at <b>national</b> level.
3.14	Difficulties with specifying agent's bank account number.	Low	Applies to one MS only	Action required at <b>national</b> level.

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3.15	Major delays in refunds as a systematic practice	High	Member States to respect deadlines laid out in Directive.	Action required at <b>national</b> level.