

Proposal for a Decision of the European Parliament and of the Council adopting a Community programme to improve the operation of taxation systems in the internal market (Fiscalis 2007 programme)

(2002/C 103 E/27)

COM(2002) 10 final — 2002/0015(COD)

(Submitted by the Commission on 17 January 2002)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

- (1) In the internal market, the effective, uniform and efficient application of Community law is essential for the functioning of taxation systems, in particular for the protection of national and Community financial interests through combating tax evasion and tax avoidance, avoiding distortions of competition and reducing burdens on administrations and taxpayers. Achieving this effective, uniform and efficient application is a matter for the Community acting in partnership with the Member States.
- (2) Decision No 888/98/EC of the European Parliament and the Council of 30 March 1998 establishing a programme of Community action to ameliorate the indirect taxation systems of the internal market (Fiscalis programme) ⁽¹⁾ has significantly contributed to the achievement of those overall objectives for the period 1998 to 2002. It is therefore considered desirable to continue the Fiscalis programme for another five-year period. Decision No 888/98/EC should accordingly be repealed.
- (3) Efficient, effective and extensive co-operation among the current and future Member States and between them and the Commission is important for the functioning of the taxation systems of the internal market.
- (4) The experience gained by the Community from the Fiscalis programme has shown that exchanges, seminars and multilateral control exercises could achieve the objectives of the programme by bringing officials from different national administrations together in professional

activities. Those activities should therefore be continued, but extended to cover taxes on income, on capital and on insurance.

- (5) The establishment and functioning of a communication and information exchange infrastructure has a vital part to play in reinforcing the taxation systems within the Community. In particular the VAT Information Exchange System (VIES), referred to in Council Regulation (EEC) No 218/92 of 27 January 1992 on administrative co-operation in the field of indirect taxation (VAT) ⁽²⁾, has shown the value of information technology in protecting revenue whilst minimising administrative burdens.
- (6) In order to ensure uniform application of Community law it is essential that officials responsible for taxation have a high common standard of understanding of Community law and its implementation in the current and future Member States. Such a standard can be achieved only through effective initial and continuous training provided by the current and future Member States. Supplementary Community action is useful to co-ordinate and foster such training.
- (7) The experience gained from the Fiscalis programme has indicated that the coordinated development and implementation of a common training programme could achieve the objectives of this programme, in particular in achieving a higher common standard of understanding of Community law.
- (8) A sufficient standard of linguistic competence on the part of taxation officials has proved to be essential to facilitate co-operation. Participating countries should therefore provide the necessary language training for their officials.
- (9) Although the primary responsibility for achieving these objectives rests with the participating countries, supplementary Community action is needed for the coordination of such activities as well as for the provision of an infrastructure and the necessary stimulus. In accordance with the principle of subsidiarity as set out in Article 5 of the Treaty, the objectives of the measures laid down in this Decision cannot all be sufficiently achieved by the participating countries and can therefore, by reason of the scale and the effect of the action, be better achieved at Community level. In accordance with the principle of proportionality as set out in that Article this Decision confines itself to the minimum required in order to achieve those objectives and does not go beyond what is necessary for that purpose.

⁽¹⁾ OJ L 126, 28.4.1998, p. 1.

⁽²⁾ OJ L 24, 1.2.1992, p. 1.

(10) This Decision lays down, for the entire duration of the programme, a financial framework constituting the principal point of reference, within the meaning of point 33 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure ⁽¹⁾.

(11) Since the measures necessary for the implementation of this Decision are management measures within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽²⁾, they should be adopted by use of the management procedure provided for in Article 4 of that Decision,

HAVE ADOPTED THIS DECISION:

CHAPTER I

SCOPE AND OBJECTIVES

Article 1

Fiscalis 2007 programme

1. A multiannual Community action programme (Fiscalis 2007) hereinafter referred to as 'the programme', is hereby established for the period 1 January 2003 to 31 December 2007 to improve the operation of the taxation systems of the internal market.

2. The activities of the programme shall consist in:

- (a) communication and information-exchange systems;
- (b) multilateral controls involving Member States and those applicant countries which have bilateral or multilateral agreements either with one another or with Member States of the European Union permitting such activity;
- (c) seminars;
- (d) exchanges;
- (e) training activities;
- (f) any other activities which shall be decided on a case-by-case basis in accordance with the procedure referred to in Article 13(2).

Article 2

Definitions

For the purpose of this Decision:

- (a) 'taxation' means the following taxes applied in the participating countries:

- (i) value added tax;
- (ii) excise duties on alcohol and tobacco products and mineral oils;
- (iii) taxes on income and on capital as defined in Article 1(2) of Council Directive 77/799/EEC ⁽³⁾;
- (iv) taxes on insurance as defined in Article 3 of Council Directive 76/308/EEC ⁽⁴⁾;
- (b) 'administration' means the public authorities in the participating countries responsible for administering taxation;
- (c) 'participating countries' means the Member States and the countries referred to in Article 4;
- (d) 'official' means an official of the administration;
- (e) 'exchange' means a working visit organised under the programme of an official from an administration in another participating country;
- (f) 'multilateral control' means a co-ordinated control of the tax liability of one or more related taxable persons, which is organised by several participating countries, and having a common or complementary interest.

Article 3

Objectives

1. The overall objective of the programme shall be to improve the proper functioning of the taxation systems in the internal market by increasing co-operation between participating countries, their administrations and officials, and to identify and remedy areas, such as legislation and administrative practices which make this co-operation more difficult.

2. The objectives of the programme shall be:

- (a) For value added tax:

to support the European Union VAT strategy as outlined in the Communication from the Commission to the Council and the European Parliament, entitled 'A Strategy to improve the operation of the VAT system within the context of the internal market ⁽⁵⁾', or any future such strategy adopted by the Commission;

- (b) For excise duties:

to improve the co-operation between Member States, ensuring a more uniform application of existing rules and developing a common approach on legal and administrative aspects in the field of excise duties;

⁽¹⁾ OJ C 172, 18.6.1999, p. 1.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

⁽³⁾ OJ L 336, 27.12.1977.

⁽⁴⁾ OJ L 73, 19.3.1976, p. 18.

⁽⁵⁾ COM(2000) 348 final.

(c) For direct taxation:

to raise awareness of Community policies in the field of direct taxation and providing support for pooling experiences, information exchange and other administrative co-operation;

(d) For the applicant countries:

to meet the special needs of applicant countries taking the necessary measures for the accession in the field of tax legislation and administrative capacity.

3. The operational objectives of the programme shall be set out annually in accordance with the procedure referred to in Article 13(2).

Article 4

Participation of applicant countries

The programme shall be open to the participation of:

- (a) the applicant countries of central and eastern Europe, in accordance with the conditions laid down in the Europe Agreements, in the additional protocols thereto and in the decisions of the respective Association Councils;
- (b) Cyprus, Malta and Turkey, on the basis of bilateral agreements on this matter concluded with these countries.

CHAPTER II

PROGRAMME ACTIVITIES

Article 5

Communication and information-exchange systems

1. The Commission and the participating countries shall ensure that the following communications and information-exchange systems are operational in so far as their operation is necessary under Community legislation:

- (a) the Common Communications Network/Common Systems Interface (CCN/CSI) to the extent necessary to support the functioning of the other systems referred to in this paragraph;
- (b) the VAT Information Exchange System (VIES) and its messaging systems;
- (c) the excise movement Verification System;
- (d) the early warning system for excise;
- (e) the excise duty tables system.

2. New communication and information-exchange systems may be established in accordance with the procedure referred to in Article 13(2).

3. The Community components of the communication and information-exchange systems shall be the hardware, software and network connections, which shall be common to all participating countries so as to ensure the inter-connection and interoperability of the systems, whether they be installed at the premises of the Commission (or a designated sub-contractor) or at the premises of participating countries (or a designated sub-contractor). The Commission shall conclude the necessary contracts to assure the operational nature of these components in the name of the Community.

4. The non-Community components of the communication and information-exchange systems shall comprise the national databases forming part of these systems, the network connections between the Community and non-Community components and such software and hardware as each participating country shall deem appropriate for the full operation of those systems throughout its administration. The participating countries shall ensure that the non-Community components are kept operational and shall assure the interoperability of these components with the Community components.

5. The Commission shall co-ordinate, in co-operation with the participating countries, those aspects of the establishment and functioning of the Community and non-Community elements of the systems and infrastructure referred to in paragraph 1.

Article 6

Multilateral controls

Participating countries shall choose, from among the multilateral controls organised by them, those whose costs are to be borne by the Community in accordance with Article 11. The participating countries shall send annual reports and evaluations concerning such controls to the Commission.

Article 7

Seminars

The Commission and the participating countries shall together organise seminars to be attended by officials from the administrations, Commission representatives and, if appropriate, other experts.

Article 8

Exchanges of officials

1. The Commission and participating countries shall organise exchanges of officials. The exchanges may not exceed one month. Each exchange shall be targeted on a particular professional activity and shall be sufficiently prepared and subsequently evaluated by the officials and administrations concerned.

2. The participating countries shall take the necessary steps to enable exchange officials to play an effective part in the host administration's activities. To this end such officials shall be authorised to carry out the tasks relating to the duties entrusted to them by the host administration in accordance with its legal system.

3. During the exchange, the civil liability of the exchange official in the performance of his duties shall be treated in the same way as that of officials of the host administration. Exchange officials shall be bound by the same rules of professional secrecy as national officials.

Article 9

Training activities

1. In order to encourage structured co-operation between national training bodies and officials responsible for training in taxation in administrations, participating countries shall, in co-operation with the Commission:

- (a) develop existing training programmes and, where necessary, devise new programmes to provide a common core of training for officials so as to enable them to acquire the necessary common professional skills and knowledge;
- (b) where appropriate, open the training courses in taxation provided by each participating country for its own officials to officials from all participating countries;
- (c) develop the necessary common tools for taxation training.

2. Participating countries shall also ensure that their officials receive the initial and continuous training necessary to acquire the common professional skills and knowledge in accordance with the common training programmes and the linguistic training necessary for those officials to attain a sufficient standard of linguistic competence.

CHAPTER III

FINANCIAL PROVISIONS

Article 10

Financial framework

The financial framework for the implementation of the programme for the period 1 January 2003 to 31 December 2007 is hereby set at EUR 56 million. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

Article 11

Expenditure

1. The expenditure necessary for the implementation of the programme shall be shared by the Community and the participating countries in accordance with paragraphs 2, 3 and 4:

2. The Community shall bear expenditure as follows:

- (a) the cost of the development, purchase, installation, maintenance and the cost of the day-to-day operation of the Community components of the communication and information-exchange systems described in Article 5 unless the Commission, in accordance with the procedure referred to in Article 13(2), decides otherwise;
- (b) the cost of the travel and subsistence expenses relating to multilateral controls and exchanges of officials;
- (c) the cost of the travel and subsistence expenses and other costs relating to seminars and training activities;
- (d) such proportion of the cost of other activities as shall be decided on a case-by-case basis in accordance with the procedure referred to in Article 13(2).

3. The Commission shall, in accordance with the Financial Regulation applicable to the general budget of the European Communities, determine the rules relating to the payment of expenses and shall communicate them to the participating countries.

4. The participating countries shall bear expenditure as follows:

- (a) 100 % of the development, purchase, installation, maintenance and the cost of the day-to-day operation of the non-Community components of the communication and information-exchange systems described in Article 5 unless the Commission, in accordance with the procedure referred to in Article 13(2), decides otherwise;
- (b) the difference, if any, between the expenditure paid by the Community in accordance with paragraph 1, and the actual cost of the activity;
- (c) the costs relating to the initial and continuing training, including linguistic training, of their officials.

Article 12

Financial control

Financing decisions and any agreements or contracts resulting from this Decision shall be subject to financial control, and if necessary, on-the-spot audits by the Commission, including the European Anti-fraud Office (OLAF), and by the European Court of Auditors. Any grants made pursuant to this Decision shall be subject to agreement in writing, in advance, by the beneficiaries. This agreement shall contain the acceptance of the beneficiaries to an audit by the European Court of Auditors into the use made of the financing granted.

CHAPTER IV

OTHER PROVISIONS*Article 13***Committee**

1. The Commission shall be assisted by a committee, called the 'Fiscalis Committee', composed of representatives of the Member States and chaired by a representative of the Commission.

2. Where reference is made to this paragraph, the management procedure laid down in Article 4 of Decision 1999/468/EC shall apply, in compliance with Articles 7 and 8 thereof.

3. The period provided for in Article 4(3) of Decision 1999/468/EC shall be three months.

*Article 14***Follow-up**

1. The programme shall be subject to continuous joint monitoring by the participating countries and the Commission.

2. Each year the Commission shall submit to the Committee referred to in Article 13(1) a follow-up report setting out the progress of all the programme's activities in terms of implementation and results.

3. The administrations of the participating countries shall send the Commission all the information necessary for follow-up reports to be drawn up as efficiently as possible.

*Article 15***Interim and final evaluation**

1. Mid-term and final evaluations of the programme shall be carried out under the Commission's responsibility using the reports drawn up by the participating countries. The programme's effectiveness and efficiency shall be evaluated in terms of the objectives set out in Article 3. Evaluations shall be conducted using the reports referred to in paragraph 2.

— The mid-term evaluation shall review the initial results and impact of the programme's activities. It shall also assess the use of funding and the progress of follow-up and implementation.

— The final evaluation shall assess the effectiveness and efficiency of the programme's activities.

2. The participating countries shall send the Commission:

(a) by 31 December 2004 at the latest a mid-term evaluation report on the programme's effectiveness and efficiency;

(b) by 31 December 2007 at the latest a final evaluation report on the programme's effectiveness and efficiency.

3. The Commission shall present to the European Parliament and the Council:

(a) by 30 June 2005 at the latest a mid-term evaluation report on the programme's effectiveness and efficiency and a communication on the desirability of continuing the programme, accompanied, where relevant, by a suitable proposal;

(b) by 30 June 2008 at the latest an evaluation report on the programme's effectiveness and efficiency.

These reports shall also be sent to the Economic and Social Committee and the Committee of the Regions for their information.

4. The evaluation reports referred to in paragraph 3 shall be based on the reports referred to in paragraph 2, the follow-up reports referred to in Article 14(2) and any other relevant information.

*Article 16***Repeal**

Decision No 888/98/EC is hereby repealed.

*Article 17***Entry into force**

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

The Decision shall apply from 1 January 2003.

*Article 18***Addressees**

This Decision is addressed to the Member States.
