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(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

DECISIONS ADOPTED JOINTLY BY THE EUROPEAN PARLIAMENT AND THE COUNCIL

DECISION No 1482/2007/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 December 2007

establishing a Community programme to improve the operation of taxation systems in the internal market (Fiscalis 2013) and repealing Decision No 2235/2002/EC

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 European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

(1) Decision No 888/98/EC of the European Parliament and of the Council of 30 March 1998 establishing a programme of Community action to ameliorate the indirect taxation systems of the internal market (Fiscalis programme) ⁽³⁾ (hereinafter referred to as 'the 2002 programme') and Decision No 2235/2002/EC of the European Parliament and of the Council of 3 December 2002 adopting a Community programme to improve the operation of taxation systems in the internal market (Fiscalis programme 2003-2007) ⁽⁴⁾ (hereinafter referred to as 'the 2007 programme') have significantly contributed to the achievement of the objectives of the Treaty. It is therefore appropriate to continue the activities commenced under those programmes. The programme established by this Decision (hereinafter referred to as 'the Programme') should run for a period of six years to align its duration with that of the multi-annual financial framework contained in the Interinstitutional Agreement of 17 May 2006 between the European

Parliament, the Council and the Commission on budgetary discipline and sound financial management ⁽⁵⁾.

(2) 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 financial interests by combating tax evasion and tax avoidance, avoiding distortions of competition and reducing burdens on administrations and taxpayers. Achieving such an effective, uniform and efficient application of Community law is a matter for the Community, acting in partnership with the Member States. Efficient and effective cooperation among current and possible future Member States and between them and the Commission is a key element for the functioning of the taxation systems and the fight against fraud. The Programme should also help to identify legislation and administrative practices which may hamper cooperation and possible remedies for obstacles to such cooperation.

(3) In order to support the process of accession by candidate countries, practical means should be provided in order to enable the tax administrations of those countries to undertake the full range of tasks required under Community legislation as of the date of their accession. The Programme should therefore be open to candidate countries. A similar approach should be taken to potential candidate countries.

(4) The trans-European computerised secure communication and information exchange systems financed under the 2007 programme play a vital role in reinforcing the taxation systems within the Community and should therefore continue to be financed. In addition, it should be possible to include in the Programme further tax related information exchange systems such as the Excise Movement Control System (EMCS) established by Decision No 1152/2003/EC of the European Parliament and of the Council of 16 June 2003 on computerising the movement and surveillance of excisable products ⁽⁶⁾ and any system required for the purposes of Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments ⁽⁷⁾.

⁽¹⁾ OJ C 93, 27.4.2007, p. 1.

⁽²⁾ Opinion of the European Parliament of 20 June 2007 (not yet published in the Official Journal) and Council Decision of 22 November 2007.

⁽³⁾ OJ L 126, 28.4.1998, p. 1.

⁽⁴⁾ OJ L 341, 17.12.2002, p. 1. Decision as last amended by Council Regulation (EC) No 885/2004 (OJ L 168, 1.5.2004, p. 1).

⁽⁵⁾ OJ C 139, 14.6.2006, p. 1.

⁽⁶⁾ OJ L 162, 1.7.2003, p. 5.

⁽⁷⁾ OJ L 157, 26.6.2003, p. 38. Directive as last amended by Directive 2006/98/EC (OJ L 363, 20.12.2006, p. 129).

- (5) Experience gained by the Community from the 2002 and 2007 programmes shows that bringing officials from different national administrations together in professional activities, such as working visits, seminars, project groups and multilateral controls, contributes to the achievement of the objectives of such programmes. Those activities should therefore be continued. It should remain possible to develop new types of activities to respond even more effectively to the needs that may arise.
- (6) Experience gained from the 2002 and 2007 programmes indicates that the coordinated development and implementation of a common training programme contribute significantly to the objectives of such programmes, in particular in achieving a high standard of understanding of Community law. The opportunities offered by an electronic learning environment should be fully explored in this context.
- (7) Officials active in the field of taxation need a sufficient standard of linguistic competence to cooperate and participate in the Programme. It should be the responsibility of the participating countries to provide the necessary language training for their officials.
- (8) It is appropriate to provide for the possibility to organise certain activities with the participation of experts, such as officials, of third countries or representatives of international organisations.
- (9) The mid-term evaluation of the 2007 programme has confirmed that information resulting from programme activities should be made available to all participating countries and the Commission.
- (10) Although the primary responsibility for achieving the objectives of the Programme lies with the participating countries, Community action is needed for the coordination of the activities pursued under the Programme as well as for the provision of the infrastructure and the necessary stimulus.
- (11) Since the objectives of this Decision cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with

the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary in order to achieve those objectives.

- (12) This Decision lays down, for the entire duration of the Programme, a financial envelope constituting the prime reference, within the meaning of point 37 of the Inter-institutional Agreement of 17 May 2006 on budgetary discipline and sound financial management, for the budgetary authority during the annual budgetary procedure.
- (13) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾,

HAVE ADOPTED THIS DECISION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Fiscalis 2013 programme

1. A multiannual Community action programme (Fiscalis 2013) (hereinafter referred to as the 'Programme'), is hereby established for the period from 1 January 2008 to 31 December 2013 to improve the operation of the taxation systems in the internal market.
2. The Programme shall consist of the following activities:
 - (a) communication and information-exchange systems;
 - (b) multilateral controls as defined in Article 2(4);
 - (c) seminars and project groups;
 - (d) working visits;
 - (e) training activities; and
 - (f) other similar activities required to achieve the objectives of the Programme.

Participation in activities referred to in points (b) to (f) shall be on a voluntary basis.

⁽¹⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

Article 2

Definitions

For the purposes of this Decision the following definitions shall apply:

1. 'taxation' shall mean the following taxes applied in the participating countries, as defined in Article 3(1):

- (a) value added tax;
- (b) excise duties on alcohol and tobacco products, as well as taxes on energy products and electricity, as provided for in Directives 92/83/EEC ⁽¹⁾, 95/59/EC ⁽²⁾ and 2003/96/EC ⁽³⁾, respectively;
- (c) taxes on income and on capital as described in Article 1(2) of Directive 77/799/EEC ⁽⁴⁾;
- (d) taxes on insurance premiums as defined in Article 3 of Directive 76/308/EEC ⁽⁵⁾;

2. 'administration' shall mean the public authorities and other bodies in the participating countries which are responsible for administering taxation or tax-related activities;

3. 'official' shall mean a member of an administration;

4. 'multilateral control' shall mean the coordinated control of the tax liability of one or more related taxable persons organised by two or more participating countries with common or complementary interests, which include at least one Member State.

Article 3

Participation in the Programme

1. Participating countries are the Member States and the countries referred to in paragraph 2.

- ⁽¹⁾ Council Directive 92/83/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages (OJ L 316, 31.10.1992, p. 21). Directive as last amended by the 2005 Act of Accession.
- ⁽²⁾ Council Directive 95/59/EC of 27 November 1995 on taxes other than turnover taxes which affect the consumption of manufactured tobacco (OJ L 291, 6.12.1995, p. 40). Directive as last amended by Directive 2002/10/EC (OJ L 46, 16.2.2002, p. 26).
- ⁽³⁾ Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003, p. 51). Directive as last amended by Directive 2004/75/EC (OJ L 157, 30.4.2004, p. 100).
- ⁽⁴⁾ Council Directive 77/799/EEC of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation and taxation of insurance premiums (OJ L 336, 27.12.1977, p. 15). Directive as last amended by Directive 2006/98/EC.
- ⁽⁵⁾ Council Directive 76/308/EEC of 15 March 1976 on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures (OJ L 73, 19.3.1976, p. 18). Directive as last amended by the 2003 Act of Accession.

2. The Programme shall be open to the participation of the following:

- (a) candidate countries benefiting from a pre-accession strategy, in accordance with the general principles and general terms and conditions for the participation of those countries in Community programmes established in the relevant framework agreement and association council decisions; and
- (b) potential candidate countries, in accordance with provisions to be determined with those countries following the establishment of framework agreements concerning their participation in Community programmes.

3. Participating countries shall be represented by officials.

Article 4

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 cooperation between participating countries, their administrations and officials.

2. The specific objectives of the Programme shall be the following:

- (a) in respect of value added tax and excise duties:
 - (i) to secure efficient, effective and extensive information exchange and administrative cooperation;
 - (ii) to enable officials to achieve a high standard of understanding of Community law and its implementation in Member States; and
 - (iii) to ensure the continuing improvement of administrative procedures to take account of the needs of administrations and taxable persons through the development and dissemination of good administrative practice;
- (b) in respect of taxes on income and on capital:
 - (i) to secure efficient and effective information exchange and administrative cooperation, including the sharing of good administrative practices; and
 - (ii) to enable officials to achieve a high standard of understanding of Community law and of its implementation in Member States;

- (c) in respect of taxes on insurance premiums, to improve cooperation between administrations, ensuring better application of the existing rules; and
- (d) in respect of candidate and potential candidate countries, to meet the special needs of those countries so that they take the necessary measures for accession in the field of tax legislation and administrative capacity.

Article 5

Work programme and indicators

The Commission shall, in accordance with the management procedure referred to in Article 17(2), establish a work programme annually. The work programme shall be based on a schedule of activities envisaged for the budgetary year concerned and the expected breakdown of the funds. The work programme shall be published on the Commission's website.

The work programme shall contain indicators for the specific objectives of the Programme set out in Article 4(2), which shall be used for the mid-term and final evaluations of the Programme in accordance with Article 19.

CHAPTER II

PROGRAMME ACTIVITIES

Article 6

Communication and information exchange systems

1. The Commission and the Member States shall ensure that the communication and information exchange systems referred to in paragraph 2 are operational.
2. The communication and information exchange systems shall comprise the following:
 - (a) the Common Communications Network/Common Systems Interface (CCN/CSI);
 - (b) the VAT Information Exchange System (VIES);
 - (c) excise systems;
 - (d) the Excise Movement and Control System (EMCS); and
 - (e) any new tax-related communication and information exchange systems, established under Community legislation and provided for in the work programme referred to in Article 5.

3. The Community components of the communication and information exchange systems shall be the hardware, software and network connections which are common to all Member States.

The Commission shall, on behalf of the Community, conclude the necessary contracts to ensure the operational nature of those components.

4. The non-Community components of the communication and information exchange systems shall comprise the national databases forming part of those systems, the network connections between the Community and non-Community components and such software and hardware as each Member State deems appropriate for the full operation of those systems throughout its administration.

The Member States shall ensure that the non-Community components are kept operational and are interoperable with the Community components.

5. The Commission shall coordinate, in cooperation with the Member States, those aspects of the establishment and functioning of the Community and non-Community components of the systems and infrastructure referred to in paragraph 2 which are necessary to ensure their operability, interconnectivity and continuous improvement. The Member States shall comply with the schedules and deadlines established for that purpose.

Article 7

Multilateral controls

Participating countries shall choose from among the multilateral controls organised by them those the costs of which are to be borne by the Community in accordance with Article 14. After each such control, an evaluation report shall be submitted to the Commission.

Article 8

Seminars and project groups

The Commission and the participating countries shall together organise seminars and project groups.

Article 9

Working visits

1. Participating countries may organise working visits for officials. The working visits shall not exceed one month. Each working visit shall target a particular professional activity and shall be sufficiently prepared, monitored and subsequently evaluated by the officials and administrations concerned.

2. Participating countries shall enable visiting officials to play an effective role in the activities of the host administration. To this end, visiting 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 working visit, the civil liability of the visiting official in the performance of his duties shall be treated in the same way as that of officials of the host administration. Visiting officials shall be bound by the same rules of professional secrecy and transparency as officials of the host administration.

Article 10

Training activities

1. Participating countries, in cooperation with the Commission, shall facilitate structured cooperation between national training bodies and officials responsible for training in taxation administrations, and in particular by the following means:

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

2. Participating countries shall, where appropriate, integrate the jointly developed training programmes referred to in paragraph 1(a) into their national training programmes.

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

Article 11

Participation in activities under the Programme

Experts, such as representatives of international organisations and officials of third countries, may take part in activities organised under the Programme whenever that is essential to achieve the objectives set out in Article 4.

Article 12

Information sharing

Information resulting from the activities referred to in Article 1(2) shall be shared between participating countries and the Commission insofar as it contributes to the achievement of the Programme's objectives.

CHAPTER III

FINANCIAL PROVISIONS

Article 13

Financial framework

1. The financial envelope for the implementation of the Programme for the period from 1 January 2008 to 31 December 2013 shall be EUR 156 900 000.

2. Annual appropriations shall be authorised by the budgetary authority within the limits of the multiannual financial framework, in accordance with point 37 of the Inter-institutional Agreement of 17 May 2006 on budgetary discipline and sound financial management.

Article 14

Expenditure

1. The expenditure necessary for the implementation of the Programme shall be borne by the Community and the participating countries in accordance with paragraphs 2 to 6.

2. The Community shall bear the following expenditure:

- (a) the costs of the acquisition, development, installation, maintenance and day-to-day operation of the Community components of the communication and information exchange systems referred to in Article 6(3);
- (b) the travel and living expenses incurred by officials from the participating countries relating to multilateral controls, working visits, seminars and project groups;
- (c) the organisational costs of seminars;
- (d) the travel and living expenses incurred by experts participating in activities as referred to in Article 11;
- (e) the costs of the acquisition, development, installation, maintenance of training systems and modules insofar as they are common to all participating countries; and

(f) the costs of other activities referred to in Article 1(2)(f), up to a maximum of 5 % of the overall cost of the Programme.

3. The participating countries shall cooperate with the Commission to ensure that appropriations are used in accordance with the principle of sound financial management.

The Commission shall, in accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽¹⁾ (hereinafter referred to as 'the Financial Regulation'), determine the rules relating to the payment of expenses and shall communicate them to the participating countries.

4. The Commission shall, in accordance with the management procedure referred to in Article 17(2), adopt any necessary measures for the budget management of the Programme.

5. The financial allocation for the Programme may also cover expenses relating to preparatory, monitoring, control, audit and evaluation activities which are required directly for the management of the Programme and the achievement of its objectives, and in particular, studies, meetings, information and publication actions, expenses linked to IT networks focusing on information exchange, together with all other technical and administrative assistance expenses that the Commission may incur for the management of the Programme.

The share of administrative expenditure shall, in general, not exceed 5 % of the overall cost of the Programme, including administrative expenditure attributed to the Commission.

6. The participating countries shall bear the following expenditure:

(a) the costs of the acquisition, development, installation, maintenance and day-to-day operation of the non-Community components of the communication and information exchange systems referred to in Article 6(4); and

(b) the costs relating to the initial and continuing training, including linguistic training, of their officials.

Article 15

Applicability of the Financial Regulation

The Financial Regulation shall apply to all grants within the meaning of Articles 108 to 120 thereof which are awarded

⁽¹⁾ OJ L 248, 16.9.2002, p. 1. Regulation as amended by Regulation (EC, Euratom) No 1995/2006 (OJ L 390, 30.12.2006, p. 1).

pursuant to this Decision. In particular, a prior written agreement, within the meaning of Article 108 of the Financial Regulation and its detailed implementing provisions, shall be concluded with the beneficiaries, who shall state their agreement to audits by the Court of Auditors into the use made of the financing granted. Such audits may be carried out without prior notice.

Article 16

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, in particular the European Anti-Fraud Office (OLAF), and by the Court of Auditors.

CHAPTER IV

OTHER PROVISIONS

Article 17

Committee

1. The Commission shall be assisted by the Fiscalis Committee.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at three months.

Article 18

Follow-up

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

Article 19

Mid-term and final evaluations

1. Mid-term and final evaluations of the Programme shall be carried out under the responsibility of the Commission using the reports referred to in paragraph 2 and any other relevant information. The Programme shall be evaluated in terms of the objectives set out in Article 4.

The mid-term evaluation shall review the results obtained at the mid-term of the duration of the Programme in terms of effectiveness and efficiency, as well as the continued relevance of the objectives of the Programme and impact of its activities. It shall also assess the use of funding and the progress of follow-up and implementation.

The final evaluation shall concentrate on the effectiveness and efficiency of the activities of the Programme. The mid-term and final evaluations shall be published on the Commission's website.

2. The participating countries shall submit the following evaluation reports to the Commission:

- (a) by 31 March 2011, a mid-term evaluation report on the Programme's relevance, effectiveness and efficiency; and
- (b) by 31 March 2014, a final evaluation report focusing on the Programme's effectiveness and efficiency.

3. On the basis of the reports referred to in paragraph 2 and any other relevant information, the Commission shall submit to the European Parliament and to the Council the following reports:

- (a) by 31 July 2011, a mid-term evaluation report and a communication on the desirability of continuing the Programme, accompanied, where appropriate, by a proposal; and
- (b) by 31 July 2014, the final evaluation report.

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

Article 20

Repeal

Decision No 2235/2002/EC shall be repealed with effect from 1 January 2008.

However, financial obligations related to actions pursued under that Decision shall continue to be governed by that Decision until their completion.

Article 21

Entry into force

This Decision shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2008.

Article 22

Addressees

This Decision is addressed to the Member States.

Done at Strasbourg, 11 December 2007.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

M. LOBO ANTUNES