

## II

(Acts whose publication is not obligatory)

## COUNCIL

## COUNCIL DECISION

of 26 February 2004

**amending Decision 2002/736/EC authorising the Hellenic Republic to apply a measure derogating from Articles 2 and 28a of the Sixth Council Directive 77/388/EEC on the harmonisation of the laws of the Member States relating to turnover taxes**

(2004/227/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment<sup>(1)</sup>, and in particular Article 27 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Pursuant to Article 27(1) of Directive 77/388/EEC, the Council, acting unanimously on a proposal from the Commission, may authorise any Member State to introduce or extend special measures for derogation from that Directive in order to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance.
- (2) By letter registered with the Secretariat-General of the Commission on 10 October 2003, the Greek Government requested the extension, until 31 December 2006, of Decision 2002/736/EC<sup>(2)</sup> authorising it to apply special tax measures to the recyclable waste sector.
- (3) The other Member States were informed of Greece's request on 24 October 2003.

- (4) Decision 2002/736/EC, authorised the Hellenic Republic to apply, until 31 December 2003, the following measures:

- (a) to exempt intra-Community acquisitions and supplies of recyclable waste, such as scrap iron, waste of iron and steel, glass, paper and board, by taxable persons whose sales of such products in the previous year amounted to less than EUR 900 000;
- (b) to exempt intra-Community acquisitions and supplies of non-ferrous metal waste, regardless of the trader's gross turnover.

- (5) Taxable persons whose transactions are covered by the above exemptions may, subject to the conditions laid down by Greece, be authorised not to apply the exemptions to their transactions.

- (6) The derogating measure was needed because of the difficulty in dealing with fraud in this sector, where certain operators, mainly small dealers, did not comply with their obligations to pay to the authorities the tax they had charged for their supplies. Enforcing collection of the tax in this sector is especially difficult because of the complications of identifying and supervising the activities of non-compliant traders. Hence these arrangements constitute an effective fraud-prevention measure.

- (7) On 7 June 2000 the Commission published a strategy to improve the operation of the VAT system in the short term, in which it undertook to rationalise the large number of derogations currently in force. In some cases, however, this rationalisation could involve extending certain particularly effective derogations to all Member States. The Commission's communication of 20 October 2003 reiterates this compromise.

<sup>(1)</sup> OJ L 145, 13.6.1977, p. 1. Directive as last amended by Directive 2004/7/EC (OJ L 27, 30.1.2004, p. 44).

<sup>(2)</sup> OJ L 233, 30.8.2002, p. 36.

- (8) It therefore seems advisable to grant the Hellenic Republic an extension for the current derogation until the date of entry into force of a special scheme for the application of VAT to the recycled waste sector, but not later than 31 December 2005.
- (9) The derogation has no adverse impact on the Communities' own resources accruing from VAT, nor does it have an effect on the amount of VAT charged at the final stage.
- (10) In order to ensure the continuous application of Decision 2002/736/EC, provision should be made for this Decision to apply retroactively,

date of entry into force of a special scheme for the application of VAT to the recycled waste sector amending Directive 77/388/EEC, but not later than 31 December 2005'.

*Article 2*

This Decision shall apply from 1 January 2004.

*Article 3*

This Decision is addressed to the Hellenic Republic.

HAS ADOPTED THIS DECISION:

Done at Brussels, 26 February 2004.

*Article 1*

In Article 1 of Decision 2002/736/EC, the date '31 December 2003' shall be replaced by the following wording: 'until the

*For the Council*

*The President*

N. DEMPSEY