

**Opinion of the European Economic and Social Committee on the 'Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EEC) No 218/92 on administrative co-operation in the field of indirect taxation (VAT) as regards additional measures regarding supplies of travel services'**

(COM(2003) 78 final/2 — 2003/0057 (COD))

(2003/C 220/13)

On 12 March 2003 the Council decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned proposal.

Owing to the urgent nature of the opinion, the European Economic and Social Committee decided, at its 400th plenary session of 18 and 19 June 2003 (meeting of 18 June), to appoint Mr Barbadillo López rapporteur-general and adopted the following opinion by 65 votes to none with one abstention.

## 1. Introduction

1.1. On 8 February 2002 the Commission published a Proposal for a Council Directive amending Directive 77/388/EEC as regards the special scheme for travel agents <sup>(1)</sup>.

1.2. The European Economic and Social Committee adopted its opinion on the proposal at the plenary session of 17 and 18 July 2002 <sup>(2)</sup>.

1.3. On 24 September 2002 the European Parliament adopted its report <sup>(3)</sup> on the draft Council directive, proposing two amendments. The Commission accepted one of them, concerning the introduction of the 'one-stop shop' principle for non-established suppliers supplying services to EU customers, and undertook to amend the initial draft and submit the ensuing amended proposal for a directive.

1.4. The principle of a 'one-stop shop' for non-established suppliers of travel services who supply services to customers established in the Community is based on that introduced in Council Directive 2002/38/EC of 7 May 2002 amending and amending temporarily Directive 77/388/EEC as regards the value added tax arrangements applicable to radio and television broadcasting services and certain electronically supplied services <sup>(4)</sup> and Council Regulation (EC) No 792/2002 of 7 May

2002 amending temporarily Regulation (EEC) No 218/92 on administrative cooperation in the field of indirect taxation (VAT) as regards additional measures regarding electronic commerce <sup>(5)</sup>.

1.5. The European Economic and Social Committee adopted an opinion <sup>(6)</sup> on Directive 2002/38/EC and Regulation (EC) No 792/2002 at its plenary session of 29 and 30 November 2000.

1.6. The new elements introduced by the amended Proposal for a Council Directive amending Directive 77/388/EEC as regards the special scheme for travel agents <sup>(7)</sup> make it necessary to amend Regulation (EEC) No 218/92 on administrative co-operation in the field of indirect taxation (VAT) <sup>(8)</sup> in order to regulate the procedure for exchange of information between the Member State in which the non-EC operator is identified and the other Member States.

1.7. For these reasons, the Commission has proposed a new European Parliament and Council regulation amending Regulation (EEC) No 218/92 on administrative cooperation in the field of indirect taxation (VAT) as regards additional measures regarding supplies of travel services <sup>(9)</sup>, which it has referred to the European Economic and Social Committee for an opinion.

<sup>(1)</sup> COM(2002) 64 final.

<sup>(2)</sup> OJ C 241, 7.10.2002, p. 83.

<sup>(3)</sup> Report on the proposal for a Council directive amending Directive 77/388/EEC as regards the special scheme for travel agents (COM(2002) 64 final — C5-0112/2002 — 2002/0041 (CNS)), PE 307.532, A5-0274/2002.

<sup>(4)</sup> OJ L 128, 15.5.2002, p. 41.

<sup>(5)</sup> OJ L 128, 15.5.2002, p. 1.

<sup>(6)</sup> OJ C 116, 20.4.2001, p. 59.

<sup>(7)</sup> COM(2003) 78 final.

<sup>(8)</sup> OJ L 24, 1.2.1992, p. 1.

<sup>(9)</sup> COM(2003) 78 final/2.

## 2. The Commission's proposals

2.1. The amended Proposal for a Council Directive amending Directive 77/388/EEC as regards the special scheme for travel agents<sup>(1)</sup> provides a framework for the application of VAT to non-established taxable persons, founded on establishing a series of obligations concerning registration for, and payment of VAT in any of the Member States. In order to ensure that non-established suppliers of services comply with these obligations, and given that the Member State of consumption must transmit the necessary information to the other Member States, the Commission proposes to amend Regulation (EEC) No 218/92 on administrative cooperation in the field of indirect taxation (VAT)<sup>(2)</sup>.

2.2. The Commission is proposing two amendments to Regulation (EEC) No 218/92: to insert a new Title III B introducing six new articles, and to replace the first sentence of Article 13(1) of the regulation.

2.3. Non-established taxable persons must submit information on the commencement, termination or amendment of their activities to the Member State of identification in electronic form; the Member State of identification must in turn forward this information, together with the allocated identification number, by electronic means to the competent authorities of the other Member States within ten days from the end of the month during which the information was received. The Member State of identification must also inform the other Member States by electronic means of any exclusion of a non-established taxable person from the identification register.

2.4. Non-established taxable persons must submit their VAT return in electronic form to the Member State of identification. The Member State must in turn forward this return by electronic means to the competent authorities of the Member State concerned at the latest ten days after the end of the month in which the return was received. When a Member State requires that the return be expressed in a currency other than the euro, it shall convert the amounts into euro using the exchange rate published by the European Central Bank before sending them to other Member States.

2.5. The competent authorities of the Member States must maintain an electronic database to store information concerning non-established suppliers of travel services.

2.6. The Member State of identification must ensure that the amount the non-established taxable person has paid is

transferred, within ten days of the end of the month in which the payment was received, to the bank account denominated in euro designated by the Member State of consumption. If the non-established taxable person does not pay the total tax due, the Member State of identification shall ensure that the payment is transferred in proportion to the tax due in each Member State and inform them by electronic means of the transfer. The Member States must notify the competent authorities of the other Member States of the relevant bank account numbers for receiving the payments, and of any changes in the standard rate of VAT. Changes in VAT rates must also be reported to the Commission.

## 3. Comments

3.1. The Committee welcomes the Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EEC) No 218/92 on administrative cooperation in the field of indirect taxation (VAT) as regards additional measures regarding supplies of travel services.

3.2. However, the Committee would point out that the amendment to Regulation (EEC) No 218/92, which is the subject of the present opinion, can only be adopted if the amended Proposal for a Council Directive amending Directive 77/388/EEC as regards the special scheme for travel agents<sup>(1)</sup> is itself adopted, since the amendment to the regulation is only appropriate if the 'single-stop shop' principle is brought into effect for non-established suppliers of travel services with customers established in the EC in the terms currently contained in the amended proposal for a directive.

3.3. The Committee endorses the proposal to allow non-established suppliers of travel services to comply with their identification obligations, where they can, by electronic means, in keeping with the terms of the amended Proposal for a Council Directive amending Directive 77/388/EEC as regards the special scheme for travel agents<sup>(1)</sup>. It might be more reasonable to extend the methods by which operators can comply with their registration obligations to include non-electronic means, since restricting them to electronic means may be a further obstacle to them identifying themselves or submitting returns. The Committee is however aware that most Member States are unlikely to accept non-electronic procedures because of the greater administrative costs entailed.

<sup>(1)</sup> COM(2003) 78 final.

<sup>(2)</sup> OJ L 24, 1.2.1992, p. 1.

3.4. The Committee's main concern is the lack of any guarantee that third country operators supplying services to customers established in the EC will comply with the information and payment obligations set out in the proposed regulation. The directive's objectives concerning unfair competition from non-EC operators vis-à-vis their EC counterparts may therefore be frustrated.

3.5. The Committee agrees with the administrative cooperation procedure between the Member State of identification and the other Member States as set out in the regulation, but would recommend that the first paragraph of Article 9i(2) be worded more carefully with respect to the Member States to which the Member State of identification must electronically transmit the VAT returns of non-established suppliers of travel services. It is unclear whether they must be transmitted to all the Member States or only to those where consumption occurred.

3.6. [This point indicates a minor typing error in the Spanish version of the Commission document relating to Article 9j; it does not concern the English version]

#### 4. Conclusions

4.1. The Committee supports the Commission's efforts to create a proper framework for cooperation between the Member States facilitating the smooth functioning of the special scheme for travel agents which the Commission has proposed to introduce by amending Directive 77/388/EEC.

4.2. The Committee shares the Commission's concern regarding the need to remove the competitive disadvantages suffered by EC operators compared to those from third countries.

4.3. The Committee believes that the proposal for a regulation represents a step forward in regulating a system designed to remove competitive disadvantages between Community suppliers of travel services compared to their non-EC counterparts. However, the Committee would express its doubts about whether unfair competition will actually be dealt with: registration and payment depend on the willingness of non-Community operators. The reform proposed by the Commission therefore fails to guarantee the removal of unfair competition.

4.4. The Committee approves the provisions of the draft regulation regarding information exchanges the procedure for transfers between Member States arising from the special scheme for travel agents which the Commission has proposed to introduce by amending Directive 77/388/EEC.

4.5. However, in order to make the regulation clearer, the Committee recommends that the Commission expand upon or alter the wording of the first paragraph of Article 9i(2) to make it clearer to which Member States the Member State of identification must electronically transmit the VAT returns of non-established suppliers of travel services. [A minor typing error in the Spanish version of the Commission document relating to Article 9j is also indicated: it does not concern the English version].

Brussels, 18 June 2003.

*The President*

*of the European Economic and Social Committee*

Roger BRIESCH

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