COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 21.04.2004
COM(2004) 296 final

Proposal for a

COUNCIL DECISION

authorising the Czech Republic and Poland to apply a reduced rate of VAT on certain labour-intensive services in accordance with the procedure provided for in Article 28(6) and (7) of Directive 77/388/EEC

(presented by the Commission)

EXPLANATORY MEMORANDUM

Article 28(7) of the Sixth VAT Directive provides that the Council may authorise a new Member State that so requests to apply the reduced rates provided for in Article 12(3)(a) to certain labour-intensive services from 1 May 2004 to 31 December 2005.

Under Article 57 of the Act concerning the conditions of accession of the 10 acceding countries and the adjustments to the treaties on which the EU is founded[1], **the Czech Republic and Poland** requested authorisation to apply reduced rates to certain labour-intensive services. The basis for their request is that without this facility the labour-intensive services concerned, which were previously exempt or subject to a reduced rate, would have to go over to the normal rate, whereas this would not be the case in the current Member States, which can benefit from an extension of the reduced rate up to 31 December 2005 as provided for by the Directive of 10 February 2004[2].

By letter to the Commission dated 3 February 2004, registered by the SG under No 2004 A/2672, the **Czech Republic** requested authorisation to apply, up to 31 December 2005, a reduced rate to window cleaning and cleaning in private households, and to domestic care services, listed in Categories 3 and 4 of Annex K.

The Czech Republic informed the Commission that it currently applies a reduced rate to most labour-intensive services, including window cleaning, cleaning in private households and domestic care services, and pointed out that if these services had to be taxed at the normal rate from 1 May 2004 the prices would rise. There was the risk that an increase in rates would adversely affect small and medium-sized enterprises and the employment market, since the services are often supplied by very small enterprises. According to the Czech Republic, application of the normal rate is a very sensitive issue because often the aim of the services is to assist elderly people and families with children. The Czech Republic considers that application of the reduced rate will not create distortions of competition among Member States.

By letter dated 31 March 2004, registered by the SG under No 2004 A/3726, **Poland** wrote to the Commission to request authorisation to apply, until 31 December 2005, a reduced rate to small repair services for bicycles, shoes and leather goods, and clothing and household linen (including mending and alteration), listed in category 1 of Annex K.

Poland stated that the local market in these services had hitherto generally been supplied by small enterprises. They were exempted from VAT under the special scheme for small enterprises. Under the reform of VAT legislation in Poland in preparation for accession, the exemption was to be abolished and services would be subject to the normal rate of 22%. Poland considers that the application of a reduced rate rather than the normal rate would have a positive impact on employment in the sector and is closely linked to consumer demand for this type of services. Poland considers that application of the reduced rate to these small repair services would not create distortions of competition in the Internal Market.

1 OJ L 236, 23.9.2003.
2 Directive 2004/15/EC of 10 February 2004. OJ L 52, 21.2.2004, p. 61.

Although it has reservations as to the impact of reduced rates on employment, **the Commission** considers that the requests are justified, that they were submitted according to the procedure and that they comply with the limits and conditions provided for by the new paragraph 7 inserted into Directive 77/388/EEC.

It therefore proposes that the Council authorise the Czech Republic to apply a reduced rate to window cleaning and cleaning in private households and to domestic care services. It also proposes that Poland be authorised to apply a reduced rate to small repair services for bicycles, shoes and leather goods, clothing and household linen (including mending and alteration).

Proposal for a

COUNCIL DECISION

authorising the Czech Republic and Poland to apply a reduced rate of VAT on certain labour-intensive services in accordance with the procedure provided for in Article 28(6) and (7) of Directive 77/388/EEC

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to 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[3], and in particular Article 28(6) and (7) thereof,

Having regard to the proposal from the Commission[4],

Whereas:

(1) Under Article 28(6) and (7) of Directive 77/388/EEC, the Council, acting unanimously on a proposal from the Commission, may authorise a new Member State that has submitted an application in accordance with the procedure and conditions provided for in that Article to apply a reduced rate of VAT on certain labour-intensive services.

(2) The Czech Republic and Poland have submitted an application in accordance with the procedure and conditions provided for by the Directive.

(3) The other Member States have been notified of the applications.

(4) This Decision has no impact on the Community's own resources derived from VAT,

HAS ADOPTED THIS DECISION:

Article 1

Under Article 28(6) and (7) of Directive 77/388/EEC, the Czech Republic and Poland are authorised to apply, from 1 May 2004 to 31 December 2005, the reduced rates provided for by the third subparagraph of Article 12(3)(a) to the following services for which they submitted an application:

1) The Czech Republic for the sectors specified in categories 3 and 4 of Annex K to Directive 77/388/EEC:

---

[3] OJ L 145, 13.6.1977, p. 1. Directive last amended by Directive [....].
[4] OJ C […] […], p.[…]

a) window cleaning and cleaning in private households;

b) domestic care services.

2) Poland for the small repair services specified in category 1 of Annex K to Directive 77/388/EEC for:

a) bicycles;

b) shoes and leather goods;

c) clothing and household linen (including mending and alteration).

Article 2

This Decision shall apply from 1 May 2004, subject to the entry into force of Directive 2004/... [amending Directive 77/388/EEC by reason of the accession....], to 31 December 2005.

Article 3

This Decision is addressed to the Czech Republic and the Republic of Poland.

Done at Brussels,

For the Council
The President