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(Acts whose publication is obligatory)

**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)

THE EUROPEAN PARLIAMENT AND THE COUNCIL
OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure laid down in Article 189b of the Treaty ⁽³⁾,

- (1) Whereas in the internal market, the effective, uniform and efficient application of Community law is essential for the functioning of indirect 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;
- (2) Whereas achieving this effective, uniform and efficient application is a matter for the Community in partnership with the Member States; whereas, although the Member States bear the greater responsibility in terms of resources, there is a significant role for the Community to play in providing an infrastructure and the necessary stimulus;
- (3) Whereas in order to ensure uniform application of Community law it is essential that officials responsible for indirect taxation have a high common standard of understanding of Community law and

its implementation in the Member States; whereas such a standard can be achieved only through effective initial and continuous training provided by the Member States; whereas supplementary Community action is useful to coordinate and foster such training;

- (4) Whereas efficient, effective and extensive cooperation among Member States and between them and the Commission is important for the functioning of the indirect taxation systems of the internal market; whereas Community infrastructure for communication and information exchange is indispensable in order to achieve this objective; whereas an impetus from the Community makes it easier to reach a sufficient level of cooperation;
- (5) Whereas continuing improvement of administrative procedures is essential for the functioning of the indirect taxation systems of the internal market; whereas, although the primary responsibility for achieving this rests with the Member States, supplementary Community action is needed to coordinate and stimulate such improvement;
- (6) Whereas, therefore, in accordance with the principles of subsidiarity and of proportionality set out in Article 3b of the Treaty, the objectives of the measures laid down in this Decision cannot all be sufficiently achieved by the Member States and can therefore be better achieved at Community level; whereas this Decision does not go beyond what is necessary for this purpose;
- (7) Whereas the operation of information-exchange systems at Community level in the field of indirect taxation, in particular the system relating to VAT (VIES) referred to in Council Regulation (EEC)

⁽¹⁾ OJ C 177, 11. 6. 1997, p. 8 and OJ C 1, 3. 1. 1998, p. 13.

⁽²⁾ OJ C 19, 21. 1. 1998, p. 48.

⁽³⁾ Opinion of the European Parliament of 20 November 1997 (OJ C 371, 8. 12. 1997), Council Common Position of 26 January 1998 (OJ C 62, 26. 2. 1998, p. 38) and Decision of the European Parliament of 18 February 1998 (OJ C 80, 16. 3. 1998). Council Decision of 3 March 1998.

No 218/92 of 27 January 1992 on administrative cooperation in the field of indirect taxation (VAT)⁽¹⁾ has shown the value of information technology in protecting revenue whilst minimising administrative burdens; whereas those systems have proved to be essential tools of cooperation which have also stimulated greater cooperation among Member States;

(8) Whereas communication and information-exchange systems should be set up and their operation ensured in accordance with the changing needs of indirect taxation systems so as to ensure ongoing cooperation;

(9) Whereas the experience gained by the Community from the programme established by Council Decision 93/588/EEC of 29 October 1993 on the adoption of a programme of Community action on the subject of the vocational training of indirect taxation officials (Matthaeus-Tax)⁽²⁾ and from multilateral control exercises 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 work activities; whereas those activities should therefore be continued;

(10) Whereas seminars constitute an ideal framework for the exchange of ideas between officials of national administrations, Commission representatives and, if necessary, other indirect taxation experts; whereas suggestions may emerge from such seminars for improving the legal instruments in force and facilitating cooperation between administrations with a view to enabling national indirect taxation systems to converge;

(11) Whereas the experience gained from the Matthaeus-Tax programme has indicated that the coordinated development and implementation of a common training programme such as the one established by Commission Decision 95/279/EC of 12 July 1995 laying down certain provisions for implementing Council Decision 93/588/EEC on the adoption of a programme of Community action on the subject of the vocational training of indirect taxation officials⁽³⁾ could achieve the objectives of this programme, in particular in achieving a higher common standard of understanding of Community law; whereas training programmes should be developed further in areas to be defined by the

Commission and the Member States; whereas the Member States should therefore ensure that all their officials receive the initial training and regular continuous training envisaged by the common training programmes;

(12) Whereas a sufficient standard of linguistic competence on the part of indirect taxation officials has proved to be essential to facilitate cooperation; whereas Member States should therefore provide the necessary language training for their officials;

(13) Whereas the programme should be open to the participation of the associated countries of central and eastern Europe; whereas the programme should also be open to the participation of Cyprus;

(14) Whereas the financing of the programme should be shared between the Community and Member States, and the Community contribution should appear in the general budget of the European Communities (Part two, section III, Commission);

(15) Whereas 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 1 of the Declaration by the European Parliament, the Council and the Commission of 6 March 1995 on the incorporation of financial provisions into legislative acts⁽⁴⁾, for the budgetary authority during the annual budgetary procedure,

HAVE ADOPTED THIS DECISION:

Article 1

Fiscalis programme

A multiannual Community action programme (Fiscalis) hereinafter referred to as 'the programme', is hereby established for the period 1 January 1998 to 31 December 2002 to ameliorate the functioning of the indirect taxation systems of the internal market. It shall comprise the areas of action referred to in Articles 4, 5 and 6.

Article 2

Definitions

For the purposes of this Decision:

(a) 'indirect taxation' means those indirect taxes which come within the scope of Community legislation;

⁽¹⁾ OJ L 24, 1. 2. 1992, p. 1.

⁽²⁾ OJ L 280, 13. 11. 1993, p. 27.

⁽³⁾ OJ L 172, 22. 7. 1995, p. 24.

⁽⁴⁾ OJ C 102, 4. 4. 1996, p. 4.

- (b) 'administration' means the public authorities in Member States responsible for indirect taxation;
- (c) 'official' means an official of an administration responsible for the application of Community or national law, regulations or procedures relating to indirect taxation;
- (d) 'exchange' means a working visit organised under the programme in the Community interest of an official from an administration in another Member State;
- (e) 'multilateral controls' means collaboration of at least three administrations to integrate and coordinate their controls of taxable persons having indirect tax obligations in the Member States concerned, within the Community legal framework for cooperation;
- (f) 'the Community legal framework for cooperation' means the body of Community legislation which provides for mutual assistance and administrative cooperation between Member States on indirect taxation.

Article 3

Objectives

The objectives of the programme shall be to reinforce, through Community action, the efforts of Member States:

- (a) to enable officials to achieve a high common standard of understanding of Community law, in particular in the field of indirect taxation, and of its implementation in Member States ;
- (b) to secure efficient, effective and extensive cooperation among Member States and between them and the Commission;
- (c) to ensure the continuing improvement of administrative procedures to take account of the needs of administrations and taxpayers through the development and dissemination of good administrative practices.

Article 4

Communication and information-exchange systems, manuals and guides

1. The Commission and Member States shall ensure that such existing communication and information-exchange systems, manuals and guides as they consider necessary are operational. They shall establish and keep operational such new communication and information-exchange systems, manuals and guides as they consider necessary.

2. The Community components of the communication and information-exchange systems shall be the hardware, software and network connections, which must be common to all Member States so as to ensure the interconnection and interoperability of the systems, whether

they be installed at the premises of the Commission (or a designated subcontractor) or at premises of Member States (or a designated subcontractor).

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

Article 5

Exchanges, seminars and multilateral controls

1. The Commission and Member States shall organize exchanges of officials. The exchanges may vary in length, depending on the case, but may not exceed six months. Each exchange shall be targeted on a particular work activity and shall be sufficiently prepared and evaluated afterwards by the officials and administrations concerned.

The Member States shall take the necessary steps to enable exchange officials to play an effective part in the host administration's activities and 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.

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.

2. The Commission and the Member States shall organise seminars to be attended by officials from the administrations, Commission representatives and, if necessary, other indirect taxation experts.

3. The Commission and the Member States may, within the Committee referred to in Article 11, choose, for experimental purposes, from among the multilateral controls organised by the Member States within the Community legal framework for cooperation those whose costs are to be borne by the Community in accordance with Article 8. The participating Member States shall send reports and evaluations concerning such controls to the Commission and to the Member States.

Article 6

Common training initiative

1. In order to encourage structured cooperation between national training bodies and officials responsible for training in indirect taxation in administrations, Member States shall, in cooperation 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 indirect taxation provided by each Member State for its own officials to officials from all Member States;
- (c) develop the necessary common tools for indirect taxation training, including linguistic training tools.

2. Member States shall 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. In accordance with Article 12(2), they shall inform the Commission of the content and amount of training that they provide for their officials.

Article 7

Participation of the associated countries

The programme shall be open to the participation of the associated countries of central and eastern Europe in accordance with the conditions laid down in the Europe Agreements and the Additional Protocols relating to their participation in Community programmes and insofar as Community law on indirect taxation so permits. The programme shall also be open to the participation of Cyprus insofar as Community law on indirect taxation so permits.

Article 8

Expenditure

1. The expenditure necessary for implementation of the programme shall be divided between the Community and Member States in accordance with paragraphs 2 and 3.
2. The Community shall bear the following:
 - (a) the travel and subsistence expenses of officials participating in another Member State in the activities provided for in Article 5, the travel and subsistence expenses of the other indirect taxation experts participating in the seminars provided for in Article 5(2), and likewise the costs relating to the organisation of the seminars;
 - (b) the cost of the development of the indirect taxation training tools provided for under Article 6(1)(c) and the manuals and guides provided for under Article 4(1);

- (c) the cost of the development, purchase, installation and maintenance of the Community components of the communication and information-exchange systems provided for in Article 4(2) and the cost of the day-to-day operation of the Community components installed at the premises of the Commission (or a designated subcontractor);
- (d) the cost of studies to be carried out, if necessary, by third parties on the impact of the programme, while guaranteeing the confidentiality of the data.

3. Member States shall bear the following:

- (a) the costs relating to the initial and continuing training of their officials and to the linguistic training of their officials as provided for in Article 6. Member States shall bear the costs relating to the participation of their officials in any extra activities organised pursuant to Article 5, over and above those borne by the Community;
- (b) the costs relating to the establishment and functioning of the non-Community components of the communication and information-exchange systems provided for in Article 4(3) and the cost of the day-to-day operation of the Community components of those systems installed at their premises (or those of a designated subcontractor).

Article 9

Financial framework

The financial framework for the implementation of the programme for the period 1 January 1998 to 31 December 2002 is hereby set at ECU 40 million. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

Article 10

Implementation

The measures necessary for carrying out this programme shall be adopted by the Commission in accordance with the procedure laid down in Article 11. The implementing measures shall not affect Community provisions governing collection and control and administrative cooperation and mutual assistance in the field of indirect taxation.

Article 11

Committee

1. The Commission shall be assisted by the Standing Committee on Administrative Cooperation in the field of Indirect Taxation established by Article 10 of Regulation (EEC) No 218/92.

2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time-limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The Chairman shall not vote.

3. (a) The Commission shall adopt measures which shall apply immediately.

(b) However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith. In that event:

— the Commission shall defer application of the measures which it has decided for a period of three months from the date of communication,

— the Council, acting by a qualified majority, may take a different decision within the time limit referred to in the first indent.

4. In addition to the measures referred to in Article 10, the Committee shall consider matters raised by its Chairman, either on his own initiative or at the request of the representative of a Member State, concerning the application of this Decision.

Article 12

Evaluation

1. The programme shall be subject to continuous evaluation, carried out jointly by the Commission and Member States. The evaluation shall be effected on the basis of the reports referred to in paragraphs 2 and 3.

2. Member States shall forward to the Commission:

(a) by 30 June 2000 at the latest, an interim report and
(b) by 31 December 2002 at the latest, a final report on the implementation and the impact of the programme.

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

(a) by 30 June 2001 at the latest a communication, drawn up on the basis of the Member States' interim reports, on the desirability of continuing the programme, accompanied, if necessary, by a suitable proposal;

(b) by 30 June 2003 at the latest, a final report on the implementation and impact of the programme.

The reports shall also be forwarded to the Economic and Social Committee and to the Committee of the Regions for information.

Article 13

Entry into force

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

This Decision shall apply from 1 January 1998.

Article 14

Addressees

This Decision is addressed to the Member States.

Done at Brussels, 30 March 1998

For the European Parliament

The President

J.M. GIL-ROBLES

For the Council

The President

Lord SIMON of HIGH-BURY