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REPORT

on the Commission communication to the Council, the European Parliament and the Economic and Social Committee on tax policy in the European Union – Priorities for the years ahead
(COM(2001) 260 – C5-0597/2001 – 2001/2248(COS))

Committee on Economic and Monetary Affairs

Rapporteur: Benedetto Della Vedova

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PROCEDURAL PAGE

By letter of 30 May 2001, the Commission forwarded to Parliament a communication to the Council, the European Parliament and the Economic and Social Committee on tax policy in the European Union – Priorities for the years ahead (COM(2001) 260 – 2001/2248(COS)).

At the sitting of 28 November 2001 the President of Parliament announced that she had referred the communication to the Committee on Economic and Monetary Affairs as the committee responsible and the Committee on Employment and Social Affairs and all interested committees for their opinions (C5-0597/2001).

The Committee on Economic and Monetary Affairs had appointed Benedetto Della Vedova rapporteur at its meeting of 10 July 2001.

It considered the Commission communication and the draft report at its meetings of 10 October and 22 October 2001 and 8 January, 22 January and 20 February 2002.

At the last meeting it adopted the motion for a resolution by 34 votes to 5.

The following were present for the vote: Christa Randzio-Plath, chairman; José Manuel García-Margallo y Marfil, Philippe A.R. Herzog, and John Purvis, vice-chairman; Benedetto Della Vedova, rapporteur, Generoso Andria, Pervenche Berès, Roberto Felice Bigliardo, Renato Brunetta, Hans Udo Bullmann, Marco Cappato (for Charles de Gaulle, pursuant to Rule 153(2)), Richard Corbett (for Giorgos Katiforis), Jonathan Evans, Carles-Alfred Gasòliba i Böhm, Robert Goebbels, Lisbeth Grönfeldt Bergman, Mary Honeyball, Christopher Huhne, Othmar Karas, Piia-Noora Kauppi, Christoph Werner Konrad, Werner Langen (for Ingo Friedrich), Alain Lipietz, Astrid Lulling, Thomas Mann (for Alexander Radwan), Ioannis Marinos, Helmuth Markov (for Armonia Bordes), David W. Martin, Hans-Peter Mayer, Miquel Mayol i Raynal, Fernando Pérez Royo, Bernhard Rapkay, Olle Schmidt, Peter William Skinner, Charles Tannock (for Brice Hortefeux), Helena Torres Marques, Bruno Trentin, Ieke van den Burg (for a member yet to be nominated) and Theresa Villiers.

The Committee on Employment and Social Affairs decided on 4 October 2001 not to deliver an opinion.

The report was tabled on 22 February 2002.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

MOTION FOR A RESOLUTION

European Parliament resolution on the Commission communication to the Council, the European Parliament and the Economic and Social Committee on tax policy in the European Union – Priorities for the years ahead (COM(2001) 260 – C5-0597/2001 – 2001/2248(COS))

The European Parliament,

– having regard to the Commission communication to the Council, the European Parliament and the Economic and Social Committee on tax policy in the European Union – Priorities for the years ahead (COM(2001) 260 – C5-0597/2001[1]),

– having regard to the Commission communication to the Council, the European Parliament and the Economic and Social Committee 'Towards an Internal Market without tax obstacles – A strategy for providing companies with a consolidated corporate tax base for their EU-wide activities' (COM(2001) 582),

– having regard to the Commission communication 'A strategy to improve the operation of the VAT system within the context of the internal market' (COM(2000) 348),

– having regard to the Commission study 'Company taxation in the internal market', of October 2001,

– having regard to the conclusions of the ECOFIN Council of 1 December 1997,

– having regard to the conclusions of the Santa Maria de Feira European Council of 20 June 2000,

– having regard to the report of the working group on the Code of Conduct for business taxation submitted to the ECOFIN Council on 27 November 1999,

– having regard to the reports presented at the hearing of experts organised by the Committee on Economic and Monetary Affairs in June 2000,

– having regard to the OECD report entitled 'Project on harmful tax practices: the 2001 progress report',

– having regard to Rule 47(1) of its Rules of Procedure,

– having regard to the report of the Committee on Economic and Monetary Affairs (A5-0048/2002),

A. whereas the average figure for tax receipts, as a proportion of GDP, rose by about 11%

[1] OJ C .../Not yet published in the Official Journal.

between 1970 and 2000, from 34.4% to 45.5%, growing steadily over the last 30 years, and slowing down but not stopping in more recent years; whereas this growth is due in large part to increases in direct taxes, especially income tax, and increases in social security charges,

B. whereas the largest increase in tax pressure on labour (both for taxes and social charges) was in the 1970s, during the period of highest growth in the ratio between tax receipts and GDP, which demonstrates a very close correlation between tax pressure on labour and tax pressure *tout court;* whereas, on the other hand, there is no evidence of a trade-off between tax pressure on labour and that on capital,

C. whereas no significant progress has so far been made in the transition to a VAT system which will apply, in full, the country-of-origin principle, and the current system, as well as lacking transparency, being excessively onerous for individuals and companies and highly vulnerable to fraud, is a barrier to the completion of the internal market,

D. whereas EMU and the associated centralisation of monetary policy, although involving greater coordination of economic policies, does not entail EU-wide harmonisation of tax policies,

E. whereas differing policies regarding the setting of levels of duties do not in themselves constitute a barrier to the internal market, except when they are invoked to justify exceptions to the free movement of goods,

F. whereas it is necessary to remove obstacles to cross-border operations by EU companies which, if they operate on a pan-European scale, must comply with 15 different sets of tax legislation,

G. whereas, although the tax sovereignty of the Member States is important, the integration and globalisation of markets has resulted in a situation where efficient tax raising within the borders of the nation state has become difficult;

1. Welcomes the affirmation in the Commission's communication that the general priorities of fiscal policy include the removal of obstacles to the internal market, a reduction in the overall tax burden and associated administrative burdens, the modernisation of the European social model, environmental protection and greater competitiveness;

2. Believes that tax competition between EU Member States, in the context of rules preventing improper conduct, can contribute to the attainment of these objectives and encourage a positive approach by the Member States, helping to prevent tax pressure reaching excessive levels;

3. Stresses that tax competition is not at odds with the completion of the internal market, which does not entail a total levelling-out of competitive conditions in each country and certainly not those relating to taxation; emphasises that the taxation dimension is an issue which is internal to each country, but does demand the intensified removal of discrimination, double taxation and administrative barriers;

4. Calls on the Commission to submit a report on whether it is possible to introduce a most-

favoured treatment clause for fiscal treatment within the EU in order to achieve competition neutrality within the internal market;

5. Believes that tax competition may in itself be an effective instrument for reducing a high level of taxation;

6. Stresses the need to include among the priorities for EU tax policy the transition to a definitive VAT system which will apply, in full, the country-of-origin principle; therefore calls on the Commission and the Council to renew their commitment to identifying, together with Parliament, a programme for transition to a definitive system;

7. Considers that, when the Sixth VAT Directive was originally drafted, the particular needs of charities were not taken into account; therefore, despite their role as service providers in key areas of the economy, notably health, education and welfare, they are treated as consumers under existing VAT rules because their activities are either considered non-business or exempt under Article 13(A) of the Sixth Directive; urges the Commission to introduce a similar refund scheme on the grounds that it would be simple to introduce and administer and would not have an impact on the rest of the supply chain;

8. Urges the Commission to provide in its proposal for a definitive VAT system for charitable organisations to be exempted from paying VAT or to be entitled to refunds of VAT already paid;

9. Is concerned that the current system, which was originally a transitional one, is increasingly becoming definitive; nevertheless welcomes the Commission's pragmatic approach aiming to improve the operation of the current VAT system and urges that top priority be given to combating fraud when making such improvements;

10. Deplores the fact that the considerable increase in tax pressure seen over the last three decades in many Member States has particularly affected labour revenue;

11. Emphasises that there is a correlation between excessively high taxes and lack of economic growth and that the Member States with a level of taxation substantially above the average in the Union should lower relevant taxes, particularly those on labour as well as others that are negative in growth terms;

12. Does not agree with the Commission's policy with regard to duties on tobacco and alcoholic products, particularly with regard to upwards harmonisation, through the constant raising of minimum taxation levels; stresses the serious law and order problems associated with smuggling; originating, in particular, in non-EU countries, this is attributable less to the different levels of taxation obtaining in the various Member States than to the high absolute level of taxation;

13. Believes that the 'polluter pays' principle needs to be applied more widely, particularly in the energy products sector, but points out that it should be implemented not only through taxation but also through regulation; considers that the serious competitive distortions afflicting the energy sector, which are specifically linked to variations in national markets' degree of liberalisation, represent an obstacle to the application of this principle; notes with concern that, as revealed by an OECD study, the implementation of environmental

tax policies intended to safeguard the competitiveness of energy-intensive sectors has so far had regressive effects, by affecting almost exclusively families and the transport sector;

14. Considers it vital for tax policy to encourage the development of a knowledge-based society, in particular by means of tax regimes favouring the most innovative sectors, or temporary tax holidays benefiting them; regards it as essential, with regard to the e-commerce sector, which is characterised by its necessarily global dimension and by as yet unresolved technical and legal issues, for tax policy options to be determined through close cooperation with the countries most concerned, and with their agreement;

15. Regrets the lack of progress towards the introduction of fiscal instruments for environmental protection, e.g. CO2 and energy taxes as agreed by all Member States under the Kyoto Protocol;

16. Calls on the Council to adopt the framework directive on the taxation of energy products (COM(97)0030) without delay;

17. Hopes that progress towards full implementation of the measures in the 'tax package' can be completed as quickly as possible, and especially the removal of those rules which discriminate between residents and non-residents or leave loopholes for fraud and are thus not compatible with a single market;

18. Welcomes the agreement reached on the taxation of savings interest, and stresses the need for the adoption of the directive to be accompanied by equivalent measures in non-EU financial centres towards which EU savings will otherwise be drawn;

19. Calls on the Commission, on the basis of the OECD model tax agreement, to frame a multilateral tax agreement for the EU in order to increase the hitherto minimal legal certainty and overcome the problems confronting companies and tax administrations by virtue of the existence of over 100 very different bilateral tax agreements resulting in unsatisfactory double taxation in the EU;

20. Supports, with a view to restricting the distortions produced by tax havens, the initiatives taken within the OECD to identify practices which facilitate fraudulent or criminal conduct and can therefore be considered harmful or unfair; in particular backs the 'information coordination' approach;

21. Calls on the Member States to use a special common printed form for transfers to tax havens in order to increase transparency;

22. Considers that there is an urgent need for the Commission to tackle the main tax obstacles to cross-border activity by European firms, particularly those linked to the fiscal treatment of intra-group transfer pricing, cross-border loss relief and cross-border flows of income between associated companies; therefore welcomes the Commission's preliminary announcement of immediate action in the company taxation field;

23. Shares the Commission's opinion that, with a view to reducing the legal costs of complying with 15 different tax systems and reconciling their existence with the internal

market, it ought to be possible for EU companies with Community-wide operations – including those which in future are constituted as European Companies – to have a consolidated corporate tax base, or one calculated on the basis of a single set of rules, as well as a mechanism for distributing the consolidated tax base across the various Member States; specifically, is interested in the idea of Home State Taxation, perhaps as an intermediate stage in moving towards a common tax base, i.e. towards new harmonised EU rules, existing in parallel to national rules, available to European companies as an optional scheme;

24. Emphasises that the subsidiarity principle should guide EU taxation policy; agrees with the Commission in firmly emphasising that, whatever approach is taken to establishing a European consolidated tax base, decisions on levels of tax must remain within the exclusive competence of the Member States; therefore considers that the harmonisation of tax on company revenue makes no sense, even in the form of the introduction of a minimum level of tax;

25. Points out that top priority should be given in this field to establishing uniform definitions for the basic concepts, e.g. basis of tax assessment, profit, loss, taxable income, depreciation rules, transfer to reserve, etc.;

26. Points out that the tax bases that are easily mobile, e.g. capital, require by their very nature that the future tax debate is conducted from a perspective that also looks to the situation outside the Union;

27. Acknowledges that completion of the internal market and the introduction of the euro will lead to increased competition which may, in the long run, lead to more uniform taxation within the Union; points out, however, that the final decisions on the form and level of taxation rest with the individual Member States;

28. Does not believe that gaps in corporate taxation run counter to the goal of increasing the European economy's competitiveness and dynamism; points out that differences in other factors of production in individual countries also affect decisions about where investments are made;

29. Congratulates the Commission on its efforts to identify non-legislative instruments to coordinate tax policies (political instruments including soft legislation, recommendations and infringement proceedings) and notes that these have already borne fruit in the 'Code of conduct';

30. Considers that Parliament should be given co-decision powers in the taxation area;

31. Considers it advisable that, while the principle of unanimity should be retained whenever tax bases or rates of taxation are at issue, qualified majority voting should be adopted for decisions concerning mutual assistance and cooperation between tax authorities;

32. Instructs its President to forward this resolution to the Council and Commission and the parliaments and governments of the Member States.

EXPLANATORY STATEMENT

The implementation in practice of the objectives laid down in Lisbon, the outcome of the IGC opening the way to enlargement, the launch of the third stage of EMU, and the increasing integration of international markets are the recent developments in the light of which the objectives of tax policy must be determined. In particular, the Commission singles out the following:

- supporting the success of the internal market,
- reducing the overall tax burden in the European Union, thereby consolidating public finances,
- making the European Union economy more competitive and dynamic, increase employment, protect health and the environment, and modernise the European social model.

The average figure for tax receipts, as a proportion of GDP, rose from 34.4% in 1970 (EU-9) to around 45.5% in 2000 (EU-15); the increase was particularly marked in the decade from 1970 to 1979 (4.2%), with more modest, but steady, growth thereafter.

With regard to changes in the different types of taxation (1970-1997), the picture is as follows:

- indirect taxes remained relatively stable, rising from 13% to 13.9% of GDP; within that figure, over the same period, VAT increased from 5.1% to 7%, while excise duties remained stable, at around 3.5%;
- direct taxation rose steadily, from 8.9% to 13.7% (most of the growth was seen in the 1970s, from 8.9% in 1970 to 12.7% in 1980; within the category of direct taxes, personal income tax increased from 5.5% to 9.3% of GDP, while company taxation increased from 2.2% to 3%);
- there was also a comparable increase in social security charges, which rose from 11.7% to 15%.

However, where the structure of taxation in relation to its role in the economy is concerned (1970-1997), the picture is as follows:

- the taxation of consumption remained stable at around 11% of GDP; however, its share of the total tax take declined from 33.1% to 26.7%, mostly in the 1970s;
- the taxation of labour rose from 14.6% to 21.2% of GDP (the biggest increase was seen between 1970 and 1980, from 14.6% to 19.8%), and its share of the total tax take rose from 43.4% to 49.9%;
- the taxation of capital rose from 5.4% to 7.5% of GDP.

In stressing that 'some degree of tax competition … may be inevitable and may contribute to lower tax pressure', the communication acknowledges the positive role of tax competition in the context of rules which prevent unfair practices. As our experience in recent years shows, tax competition is compatible with the ongoing coordination of tax legislation to remove the barriers to the completion of the internal market, discrimination and double taxation, and to simplify administrative procedures.

Tax competition is compatible with the completion of the internal market because this entails 'an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured' (Articles 14 and 3, EC Treaty), and hence not a total levelling-out of competitive conditions, and in particular those relating to taxation, in each country. Taxation is one of the characteristics of the system of production to which firms and workers have to adjust. It reflects the characteristics of the system, its preferences in terms of the size of the State, the scale of production of public goods, and the use of taxation rather than regulation.

The objection to the effect that tax competition would deprive States of resources needed to perform their functions seems to be unfounded. Sometimes the criticism of the effects of competition shifts from the tax take to how it is made up, and in particular to the level of taxation of labour by comparison with the other factors of production: the Commission shows that, between 1970 and 1999, the implicit level of taxation of labour increased by around 12%, while that of capital rose by some 5%. It needs to be asked, however, whether the increase resulted from a shift in tax pressure from one factor to another, or was a consequence of increased tax pressure *tout court*.

Given the impossibility of moving towards a system which would apply, in full, the country-of-origin principle, the Commission is gearing up to put forward proposals to improve the way in which the current system operates. While this pragmatic approach has undoubted advantages, we cannot but deplore the fact that a system which came into existence as a transitional arrangement is becoming increasingly a definitive one. The Commission states that 'an origin based definitive system remains a long term Community goal', but no strategy is spelled out, even a long-term one, for achieving the transition to the definitive system. It is essential to affirm, however, that the transition to a VAT system which will apply, in full, the country-of-origin principle must also be included among the priorities for EU tax policy. It is also essential to explore more thoroughly the original statement of the problem, according to which the transition to the definitive system should go hand in hand with further harmonisation of rates: the question is whether this is necessary for the operation of the internal market, or whether it is just a concession which is intended to overcome national vetos.

The Commission points to the differences in the rates of duty applied in the different Member States as constituting a serious barrier to cross-border trade, and proposes a greater degree of harmonisation (see the proposal for a directive on tobacco duty). In fact, all this appears to go much further than what is required by Article 93 of the EC Treaty, with the aim of pursuing other (non-tax) policies, not always with positive results.

It is essential to think hard about the advisability of pursuing further harmonisation with regard to minimum rates of excise duty.

The Commission has relaunched its proposal for harmonised taxation not only of oil, but also of energy products in general. While it is true that the 'polluter pays' principle should be applied to a greater extent, this debate also needs to be put in context; it relates to a field (the electricity and gas sectors) where there are still very serious competitive distortions, which are attributable more to asymmetries with regard to the degree of liberalisation than to divergent tax policies. Apart from applying the 'polluter pays' principle, regulation is another possible

instrument; however, consideration has to be given to the advisability of leaving States some room for manoeuvre to take account of specific situations.

The argument that the harmonisation of energy taxes should be used to lighten the burden of taxation on earned income is not convincing, either, because it starts from the assumption that fiscal pressure must not be reduced, and that the only way to reduce the tax pressure on labour is to shift it to other tax bases.

In recent years we have seen growing cooperation between States, across the OECD and the European Union, to curb harmful tax practices. The 'Monti package', which has many positive aspects in terms of its approach, is one of the most important steps that have been taken towards tax coordination where direct taxes are concerned. The Code of Conduct, in particular, has the merit of giving harmful tax competition (a concept which is frequently blown up out of all proportion) a very precise definition: practices which discriminate between residents and non-residents, removing tax bases from other countries. One of the most important recent proposals is that concerning coordination of the taxation of compensatory pensions.

The Commission has just put forward a strategy on corporate taxation, the aim of which is to ensure compatibility between the existence of different tax systems and the removal of various major tax barriers standing in the way of the full completion of the internal market, particularly for companies operating on a Europe-wide scale.

The strategy, in addition to proposing a number of measures designed to eliminate specific obstacles, sets out possible ways of creating a consolidated tax base for companies operating on a Europe-wide scale, and excludes any hypothetical harmonisation of rates of tax. This is a very interesting approach, in particular where it suggests using a 'Home State Taxation' system.

Where tax havens are concerned, cooperation between States, in particular within the OECD, must be supported in order to curb practices which may encourage tax evasion; this approach must be tempered by the right of States to define their methods and level of taxation autonomously, and to use tax incentives to attract investment and firms; in this context, the path of 'information coordination' suggested by the OECD might prove beneficial, and avoid the problems associated with the idea of 'regulatory coordination'.

The European Parliament should take this opportunity to make its own voice heard in the debate which was recently launched by the President of the Commission and the current Council Presidency on the question of direct financing of the Union through a European tax.

In particular, the European Parliament should affirm that this remains a distant prospect as long as some stringent conditions are not met: 1. in accordance with the principle of 'no taxation without representation', the democratic deficit which afflicts the European institutions must be overcome, by strengthening both Parliament, which represents European citizens, and the Commission; 2. the possible creation of a 'European tax' should not increase the tax burden on individuals and on companies. Alongside the many objections to this (including rational ones), the positive aspects of such an idea should not be undervalued: greater transparency in the financing of the Union, and greater accountability on the part of

the European institutions to the citizen/taxpayer; this would be an affirmation of the very principle of federalism, which provides both for taxes raised by the individual federated States and for federal taxes.

One very important aspect of the communication is its identification of the possible instruments for achieving the priority objectives which are set out. An appreciable effort has been made to identify non-legislative instruments.

The first instrument referred to springs from the Commission's own role as the guardian of the Treaties, which enables it to bring infringement proceedings against the Member States before the Court of Justice in respect of those fiscal measures which prevent the internal market functioning smoothly. The second group of instruments indicated by the Commission comprises non-legislative instruments based on measures which are non-binding, but on which it is possible to develop a strong political consensus (soft legislation). The third instrument is closer cooperation. The Commission proposes using this where energy taxation is concerned (and, more recently, it appears to suggest it for the creation of a consolidated tax base for companies).