



European Economic and Social Committee

ECO/185
Improving the operation of
taxation systems in the internal
market (Fiscalis 2013)

Brussels, 17 January 2007

OPINION

of the
European Economic and Social Committee
on the

**Proposal for a Decision of the European Parliament and of the Council establishing a
Community programme to improve the operation of taxation systems in the internal market
(Fiscalis 2013)**

COM(2006) 202 final – 2006/0076 (COD)

On 23 June 2006 the Council decided to consult the European Economic and Social Committee, under Article 95 of the Treaty establishing the European Community, on the

Proposal for a Decision of the European Parliament and of the Council establishing a Community programme to improve the operation of taxation systems in the internal market (Fiscalis 2013)

COM(2006) 202 final – 2006/0078 (COD).

The Section for Economic and Monetary Union and Economic and Social Cohesion, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 7 December 2006. The rapporteur was **Mr Burani**.

At its 432nd plenary session, held on 17 and 18 January 2007 (meeting of 17 January 2007), the European Economic and Social Committee adopted the following opinion by 152 votes to two with three abstentions.

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1. **Conclusions and recommendations**

1.1 The EESC is broadly in agreement with the document presented by the Commission, but has a few comments to make and a few reservations about aspects it believes need to be clarified.

1.2 With regard to training, the comments concern the efficacy of the actions undertaken hitherto: it appears that holding seminars at Community level provides poor value for money, which raises the question whether it would be more appropriate to concentrate more on training efforts at national level involving experts trained by the Commission. Training the trainers should thus become the keystone of the Community programme.

1.3 The reservations concern the unclear aspects surrounding the provision of data to public bodies other than tax authorities: the conditions and arrangements for access to data by these bodies have not been clarified and give some cause for concern, in particular as regards privacy. The aspect of ownership and availability of data should also be clarified. Similarly, nothing is said about the criteria for determining the costs to be passed on to third parties who request data.

2. **Introduction**

2.1 Customs and tax administrations play a key role in carrying out checks at external borders and protecting the EU's financial and other interests. In the light of the new challenges and of the

changes that are taking place, it is essential to make improvements and promote developments, especially in IT. This communication sets out a Community programme to improve the operation of taxation systems in the internal market (Fiscalis 2013).

- 2.2 The operational costs to be borne by the Community can be broken down into two main categories: Joint Actions and IT Actions. Joint actions include seminars, project groups, working visits, multilateral controls and training, whilst IT actions cover the functioning and evolution of existing trans European systems and the development of new systems. The total amount to be borne by the Community's budget is EUR 156.9 million for the 2008-2013 period. The 2013 programme is a six year programme aligned with the duration of the financial perspectives 2007–2013.
- 2.3 The preamble of the mid-term evaluation document¹ of the 2007 programme pays particular attention both to candidate countries, who are able to benefit from practical measures to enable the tax administrations of those countries to undertake the full range of tasks required under Community legislation as of the date of their accession, and to countries participating in the European neighbourhood policy, who will be invited, under certain conditions, to participate in selected activities of the programme.
- 2.4 The said mid-term evaluation has confirmed the need for organising in a more structured way the information sharing and knowledge exchange between administrations, between administrations and the Commission as well as the consolidation of knowledge created during programme events. Therefore, particular attention should be paid to these aspects.

3. **Content of the proposal for a decision**

- 3.1 After a brief introduction to the Fiscalis 2013 programme, defining its terms and content, the document sets out the following **objectives**:
- a) in respect of value added tax, excise duties and taxes on income and on capital:
 - i) to secure efficient, effective and extensive information exchange and administrative co-operation;
 - ii) to enable officials to achieve a high common standard of understanding of Community law and of its implementation in Member States;
 - iii) to ensure the continuing improvement of administration procedures to take account of the needs of administrations and taxable persons through the development and dissemination of good administrative practice;
 - b) in respect of taxes on insurance premiums, to improve cooperation between administrations, ensuring better application of the existing rules;

¹ Commission staff working paper – Mid-term evaluation of the Fiscalis 2007 programme (SEC(2005) 1045), available in German, English and French.

- c) in respect of candidate and potential candidate countries, to meet the special needs of those countries as regards tax legislation and administrative capacity;
- d) in respect of third countries, in particular those participating in the European Neighbourhood policy, to improve cooperation with the tax administrations of those countries.

3.2 In order to achieve these objectives, the Commission is annually to establish a work programme. This programme will be based on the operation of the communication and information exchange systems, which the Commission will provide to all participating countries. The communication and information exchange systems will comprise various common networks and systems (CCN/CSI, VIES, EMCS, etc.). The non-Community components of the said systems will comprise the national databases forming part of these systems, the network connections between the Community and non-Community components and such software and hardware as each participating country deems appropriate for the correct operation of those systems throughout its administration. The participating countries are to ensure that the non-Community components are kept operational and are interoperable with the Community components. For its part, the Commission is to coordinate, in cooperation with the participating countries, aspects relating to the establishment and functioning of the Community and non-Community components of the systems and infrastructure.

3.3 The Commission and the participating countries are to organise joint seminars and project groups and ensure the dissemination of the outcome of these. The participating countries, for their part, are to organise working visits for their officials. The Commission, in cooperation with the participating countries, is to develop the systematic and structured sharing of information resulting from programme activities.

3.4 The expenditure necessary for the implementation of the programme is to be shared by the Community and the participating countries.

The Community is to bear the following expenditure:

- a) the cost of the acquisition, development, installation, maintenance and day-to-day operation of the Community components of the communication and information exchange systems (set out in Article 6(3));
- b) the travel and living expenses incurred by officials from the participating countries relating to multilateral controls, working visits, seminars and project groups;
- c) the organisational costs relating to seminars, as well as travel and living expenses incurred for the participation of external experts and participants (referred to in Article 11);
- d) the cost of the acquisition, development, installation and maintenance of training systems and modules insofar as they are common to all participating countries;
- e) the costs of any other activity referred to in point f of Article 1(2).

The participating countries are to bear the following expenditure:

- a) cost of the development, acquisition, installation, maintenance and the day-to-day operation of the non-Community components of the communication and information exchange systems (set out in Article 6(4));
- b) costs relating to the initial and continuing training, including linguistic training, of their officials.

3.5 As regards monitoring, it is mentioned – without any details being given – that the programme is to be subject to continuous joint monitoring by the participating countries and the Commission. Mid-term and final evaluations of the programme are also provided for.

4. **Introduction: main guiding principles of the programme**

4.1 The document put forward by the Commission is simply the fulfilment of the commitment made to the European Parliament and the Council under Article 15(4)(a) of the Fiscalis 2003-2007 decision. On the basis of that commitment, the Commission adopted a communication (COM(2005) 111, 6 April 2005), which stated that it would be appropriate to launch two programmes, Fiscalis 2013 and Customs 2013, both aimed, under the respective competences, at continuing the two existing programmes Fiscalis 2003-2007 and Customs 2007. This EESC document comments on the Fiscalis programme; a separate opinion deals with the Customs programme.

4.2 The 2013 programme, which runs for the period 2008-2013, does not introduce anything significantly new in comparison with the current programme. Instead, it is aimed at improving its efficiency along lines inspired by the relaunch of the Lisbon strategy; thus, its purpose is to **continue and develop cooperation among tax authorities** of Member States (and those about to accede) in pursuing the goals set in the initial programme:

- ensuring common application of *Community* tax legislation;
- the protection of *national* and *Community* financial interests;
- the smooth functioning of the internal market through the combating of tax avoidance and evasion;
- the avoidance of distortions of competition;
- reducing the burden of compliance on authorities and taxpayers.

4.3 The Commission document was drawn up following in-depth analyses of the current situation, based inter alia on visits to various Member States and contacts with authorities, experts and taxpayers. The result is that the 2013 programme is set up as **an extension of the 2007 programme reinforced with additional financial resources** "to support new policy initiatives on the one hand and to foresee a marginal increase of the budget of all other sub-headers on the other hand". The EESC agrees with this decision.

4.4 **As stated in point 2.2, the total cost** of the 2008-2013 programme is EUR 168.47 million; the **operating costs** to be covered by the EU budget make up the bulk of this (EUR 156.9 million). These latter are subdivided into two main categories: Joint Actions and IT Actions. Joint Actions cover seminars, project groups, working visits, multilateral controls, training, and any other activities necessary to achieving the objectives. IT actions cover the functioning and evolution of existing trans-European systems and the development of new systems.

5. **General comments**

5.1 The EESC can only agree that there is a need to continue the Fiscalis programme along the same broad lines as before; it therefore supports the Commission's initiative, not least because it is confident that **some aspects will be improved**, in particular those relating to the efficacy of joint training courses and to the use of languages. Moreover, the Commission itself has highlighted these deficiencies in a document² that also contains suggestions as to how to resolve them.

5.2 There are two main types of **training**: one at Community level, financed out of the EU budget, and the other at national level, generally financed by the individual Member States concerned. The term "training" includes training in the strict sense of the word (i.e. instruction in clearly specified subjects of a technical, legal or administrative nature under the guidance of specialists in each subject), **seminars** (generally of a multi-disciplinary nature and with the participation of officials from more than one country), and **staff exchanges** (of individuals or in groups).

5.3 In the document mentioned in point 5.1 above, the Commission provides a detailed report on the initial results of the **training programmes**. The picture that emerges from this is fairly satisfactory; the document is honest enough not to gloss over various **gaps and deficiencies**, and sketches out possible ways to eliminate or reduce the problems. That said, things could not really be otherwise if everything is taken into consideration: the complexity of the programme, the number of Member States involved, the diversity of existing systems, the varying levels of experience and organisation of national authorities, and not least the large number of languages – this latter being an obstacle that is common to all EU programmes and is often underestimated. The main problem remains that of **setting a common minimum standard of knowledge and professional skills** measurable within minimum parameters acceptable and applicable to all Member States.

5.4 As stated in point 3.5, **the Commission will monitor the proper implementation of the programmes**; the EESC believes that **it is especially important that the proper implementation of common standards** and full awareness of Community values are monitored. **Such checks are essential**, not just because it must be ensured that Community

² See footnote 1.

funds have been properly spent in accordance with the general principles of public accounting, but also because it cannot be left to the Member States alone to determine the standard of training for their own officials.

5.5 **Given the complexity of the subject matter, the EESC will refrain from making suggestions, but will simply express a few - hopefully objective - thoughts**, without worrying about whether or not these are politically correct.

5.5.1 First of all, it is well known that the level of professional skills and experience of national officials varies considerably from one Member State to another. It is therefore extremely difficult to envisage a common training module using **seminars** open to a wide range of participants. Linguistic diversity adds a further concern: the impression gleaned from listening directly to the speaker in his own language is one thing; the effectiveness of hearing the message via an interpreter is quite another. Moreover, audiovisual aids (slides, diagrams, acetates, etc.) cannot be seen in the participants' languages – and the importance of visual memorisation of messages is well known. In conclusion, one might wonder whether such seminars – whose organisation is expensive in terms of human and financial resources – should perhaps be **reduced to a minimum** or at least postponed until the programme is more mature. The savings this would bring, in terms of money and human resources, could perhaps be used to **finance** – at least in part – **training at national level** in relatively disadvantaged countries, in particular those that recently joined the EU.

5.5.2 In the Commission's evaluation document, there is no mention of what appears to be a fundamentally important element: **training at EU level of national trainers**. This should be the **keystone of the whole system**: only a trainer who speaks the participants' language can ensure that the message gets across efficiently, and above all that the *discussions*, a key part of the training, are effective. Above all, however, *only* a national trainer is able to adopt a *teaching method for the transition of his own national system*, of which he needs an in-depth knowledge, *to the Community system*. The selection of persons qualified for this task should be left to individual national authorities. A high level of expertise and teaching ability should be essential prerequisites; the same applies to the people who will have to take care of EU training of national trainers. Finally, experts believe that this kind of training cannot be done through short seminars: there need to be courses lasting at least a couple of months.

5.6 An important and entirely different aspect is that of **connecting the Fiscalis system** – in particular the part concerning VAT and excise duties – **with the Customs 2013 system**. In its opinion on the *Proposal for a Decision of the European Parliament and of the Council on the implementation of a paperless environment for customs and trade programmes*³, the EESC drew attention to the second recital of the proposal for a decision of the EP and the Council⁴:

³ EESC opinion on Paperless environment for customs and trade , OJ C 318, 23.12.2006, p. 47, point 2.5.

⁴ Proposal for a Decision of the European Parliament and of the Council on the implementation of a paperless environment for customs and trade programmes (COM(2005) 609 final).

"The pan-European eGovernment action ... requires measures to increase the **efficiency ... to help combat fraud, organised crime and terrorism**". That opinion emphasised that a structural link between the files of customs and VAT administrations could be useful for detecting fraud concerning goods imported from third countries, in particular counterfeiting of origin marking.

- 5.6.1 In the Fiscalis programme, there is no mention of any structural link between Fiscalis files and those managed by other authorities: only in the fifth recital of the proposal for a decision does it say that "it should be possible to include in the programme further tax related information exchange systems such as the Excise Movement Control System (EMCS)", but this obviously only refers to information exchanged between tax authorities.
- 5.6.2 In the opinion mentioned in point 5.6, the EESC also mentioned the recommendation by the EP and the Council⁵, which set out a series of measures "securing police, *customs* and judicial cooperation" so as to facilitate the implementation of the **Hague Programme**⁶ on **EU security**, including the fight against trafficking in restricted or prohibited goods. The link mentioned in the previous point would make possible, via customs services, checks that are currently not possible. This would be a way for tax authorities to make an indirect contribution to the Hague Programme. The EESC is well aware that, with the programmes already in progress and with procedures that are now well established, it is no longer possible to carry out a project of that kind. All that remains is to recommend that it should be borne in mind that **structural links between the EU's and Member States' various databases** should be part of the EU's *strategic programmes*, not just for the purposes of security, but also for those of numerous other economic and social policy objectives.

6. **Specific comments**

- 6.1 **Article 3: Participation in the programme.** The programme is open to Member States, candidate countries and "potential" candidates, as well as to certain partner countries of the European neighbourhood policy, on the condition that these have reached a sufficient level of approximation of the relevant legislation. The aim of that provision is certainly laudable and consistent with the objective of creating as large a "tax area" as possible. However, the EESC does wonder whether the project might be too ambitious, given the resources available and the difficulties in implementation already encountered, which would increase if more participants were included.
- 6.2 **Article 6: Communication and information-exchange systems.** The **Community components** of the system are limited to hardware, software and network connections shared by all the participating countries. Everything else (databases, network connections between

⁵ Communication from the Commission to the Council and the European Parliament: Area of freedom, security and justice: Assessment of the Tampere programme and future orientations COM (2004) 401 final.

⁶ Communication from the Commission to the Council and the European Parliament: The Hague Programme: Ten priorities for the next five years – The Partnership for European renewal in the field of Freedom, Security and Justice (COM(2005) 184 final)

the Community and non-Community components, hardware and software for the operation of individual systems) is considered as constituting the **non-Community components**.

- 6.2.1 The classification mentioned in the previous point seems proper; however, some concern is aroused by the rule in **Article 6(6)**, according to which "the Commission may make the communication and information exchange systems available to other public services for tax or non-tax purposes provided that a financial contribution is paid to the programme budget". **The word "other" seems somewhat ambiguous: the Commission has a duty to specify which public administrations would be authorised to obtain information, with what guarantees and what checks. The EESC suggests that, in order to eliminate any doubt, it should be specified that information can only be supplied within the scope of the plan for judicial cooperation and with the guarantees provided by the applicable rules, and always in accordance with the rules on privacy.**
- 6.2.2 The EESC believes that this provision should be made clearer: at first reading, it does not appear that the Commission has the power to disclose to third parties – whoever they may be – information that is certainly the property of each Member State if said information is contained in the databases of that country; on the other hand, if we are talking about information that is in the Commission's immediate possession, this raises the question of whether the Commission can make use of it freely without the consent or knowledge of the Member States. In other words: do data sent to the Commission, or collated by it on the basis of communications from Member States, automatically become the property and the business of the Commission? **What criteria are used to determine the costs to be passed on to requesting third parties, and to whom does the money thus acquired belong? And, in any case, can the data in the Commission's possession be passed on to third parties without the relevant Member States being informed, either beforehand or afterwards? The EESC believes that these questions are of fundamental importance, and that the Commission should answer them in a way that clarifies its position without leaving any room for doubt.**

Brussels, 17 January 2007.

The President
of the
European Economic and Social Committee

The Secretary-General
of the
European Economic and Social Committee

Dimitris Dimitriadis

Patrick Venturini