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Working session III

Presidency Issues Note

Harmonisation in the area of direct taxation within the EU: where do we stand and what is the most efficient way forward?

Direct taxation has become an increasingly important topic over the last few years at all levels: in the G7, the G20 and the OECD, at EU level and also for individual EU Member States. Citizens and businesses have been observing closely how legislation at these levels has evolved in response to various challenges e.g. BEPS, digital taxation, tax fraud, etc.

The European Commission has put forward important legislative proposals in this context, some of which have been adopted within a very short period of time by the Council. Others are still on the table – such as the proposed Directive on minimum taxation, which aims to implement the agreements reached at OECD level ('pillar 2') – and these are being taken forward by presidencies as rapidly as possible. Other legislation is expected to be put forward by the Commission in the coming months.

Without prejudice to progress already made on the legislative side on these important proposals, the Presidency takes the view that it would be useful to discuss the way forward with regard to how much further harmonisation of rules in the area of direct taxation is required or whether soft law can be an advantage in certain circumstances. These could be interesting questions for a ministerial debate against the background of an increasing number of directives being prepared within the EU framework in the area of direct taxation.

This legislation should aim to remove tax obstacles and should simplify the functioning of the internal market, which would significantly benefit taxpayers and contribute to combating fraud and harmful tax competition. At the same time, proposals introducing unnecessary restrictions for companies and increasingly interfering with the sovereignty of Member States should be considered very carefully and – ideally – avoided.



Recent experience shows that it can be very difficult at times to find one common system of rules that would suit the economies of all Member States.

The Presidency is aware that the tax systems in individual EU Member States are based on different principles. The tax base is calculated using different parameters in each Member State, and even their accounting systems do not follow the same rules. Indeed, it has emerged from repeated discussions in the ECOFIN Council and the Council Working Party on Tax Questions (High Level) that Member States' tax systems have differing needs. Put simply, what is considered necessary in one Member State may not be relevant for another Member State. It is also a question of national sovereignty and the competitiveness of the business sector in different Member States. Problems arising from different tax systems seem to vary as well (e.g. different schemes used for tax evasion and tax avoidance, etc.).

Improving the business climate in the European Union is an important objective to which tax policy can certainly contribute.

Against this background, the Presidency invites ministers to exchange views on possible developments in the area of direct taxation within the EU, and especially on whether they see harmonisation as the only way forward or whether complementary legislative work through soft-law activities might be an interesting avenue too. A positive precedent has been set by efficient non-legislative activities in the Council, as well as by work in the Code of Conduct Group (Business Taxation): through soft law and tax coordination in the Council, we have been able to make a real difference when it comes to tax regimes in the EU Member States and in jurisdictions around the globe.

Questions for discussion:

- *What are the ministers' views on further developments in the area of direct taxation?*
- *Are there any other complementary options beyond regulation through directives?*
- *Do ministers think that a pragmatic and result-oriented approach to Council work, based on soft law and tax coordination (e.g. recommendations), could add value in the area of direct taxation?*