



Malta-EU Steering & Action Committee

## COMPETITIVENESS AND CONSUMER AFFAIRS

Sectoral Committee  
Weekly Update  
**30.07.10**

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**Malta-EU Steering & Action Committee**

**COM (2010) 382 - REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT Protection of the European Union's financial interests-Fight against fraud-Annual Report 2009**

The protection of the EU's financial interests and the fight against fraud are areas in which responsibility is shared between the European Union and the Member States. Each year the Commission, in cooperation with the Member States, produces a report presenting statistics and the new measures they have taken to meet their obligations in this field. This year's report also analyses two special topics that the Commission and the Member States have agreed to present in the 2009 report and to which Member States have contributed via a questionnaire. These topics are 'Cooperation between the Commission and the Member States concerning on-the-spot checks' and 'Measures taken by the Member States for the recovery of irregular amounts'. Both topics are of particular relevance for the EU institutions as well as to the national competent authorities.

The most interesting and useful part of the report for Member States is the first part because it presents statistics on irregularities reported by the Member States in those areas where Member States implement the budget and for the collection of the EU's traditional own resources. It also gives an estimate of irregularities in the field of expenditure managed directly by the Commission and an overview of the operational activities of the European Anti-Fraud Office.

Part 2 of the report focuses on the international dimension of the protection of the EU's financial interests; whilst in part 3 the report deals with administrative measures taken by the Commission to fight fraud and irregularities in the customs area. Part 4 gives an overview of the results of the questionnaire regarding cooperation between the Commission and the Member States concerning on-the-spot checks; and the final part of the report deals with recoveries made in 2009 in all budget areas and presents the measures that Member States take for securing the recovery of irregular amounts.

To effectively combat fraud, corruption, smuggling of cigarettes and other illegal activities detrimental to its financial interests, the EU on its behalf and on behalf of the Member States is negotiating anti-fraud agreements with third countries and takes part in multilateral agreements or conventions.

<http://register.consilium.europa.eu/pdf/en/10/st12/st12393.en10.pdf>



## Malta-EU Steering & Action Committee

### **COM (2010) 381 - Proposal for a COUNCIL DIRECTIVE amending Directive 2008/9/EC laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State**

Council Directive 2008/9/EC (the Refund Directive) allows for non-established taxable persons to reclaim VAT on business expenses incurred in another Member State via an electronic web portal set up in their own home country. This electronic system replaced the old paper based system and simplifies the process for businesses and provides greater legal certainty via the imposition of strict deadlines together with interest on late payments by the Member State of refund. The refund applications should be submitted to the Member State of establishment no later than 30 September of the calendar year following the refund period.

Following a number of problems incurred in the practical application of the procedure at the level of several Member States, it is proposed to amend the Refund Directive in order to give taxable persons more time to submit applications relating to refund periods in 2009. Therefore, exceptionally, the deadline of 30 September 2010 for the submission of applications relating to refund periods in 2009 is being suggested to be extended to 31 March 2011.

The Commission has held informal consultations with business organisations which made it possible to collect feedback. Business representatives notably expressed their strong concerns with the deadline of 30 September 2010 for applications relating to 2009.

The Commission is therefore proposing to extend the deadline for submission of a refund application under Directive 2008/9/EC to 31 March 2011 exceptionally for applications concerning refund periods in 2009, and provide for certain implementing measures to be adopted under the procedure provided for in the Regulation.

<http://register.consilium.europa.eu/pdf/en/10/st12/st12391.en10.pdf>



## Malta-EU Steering & Action Committee

### COM (2010) 370 - WHITE PAPER On Insurance Guarantee Schemes

Insurance Guarantee Schemes (IGSs) provide last-resort protection to consumers when insurance undertakings are unable to fulfil their contractual commitments. They thus protect people against the risk that claims will not be met if their insurance company becomes insolvent. Of the 30 EU-EEA countries, only 12 operate one or more general insurance guarantee schemes. This means that, measured in terms of gross written premiums, one third of the entire EU-EEA insurance market is not covered by any IGS in the event of an insurance company going bankrupt. Some 26 % of all life insurance policies and 56 % of all non-life insurance policies are unprotected.

This White Paper sets out a coherent framework for EU action on IGS protection for policyholders and beneficiaries, in order to guard against the need for taxpayer involvement. In particular, it proposes introducing a Directive to ensure that all Member States have an IGS that complies with a minimum set of design requirements. Evidence suggests that a coherent approach at EU level is the best way to provide an adequate remedy for the existing shortcomings and inequalities in policyholder protection. This White Paper does not intend to propose harmonising insurance products. Nor does it intend to disadvantage insurance products that are sold only on the domestic market.

This White Paper raises a number of issues in relation to the introduction of a legally binding EU solution for IGS. The Commission's preferred options are clearly set out in Sections 3 and 4. The Commission calls upon all interested parties to provide their views on these options. The Commission will then proceed to evaluate the feedback received and take it into account when coming forward with a legislative proposal. Contributions to this consultation process should be sent to the Commission at the following address, [MARKT-H2@ec.europa.eu](mailto:MARKT-H2@ec.europa.eu), by 30 November 2010.

<http://register.consilium.europa.eu/pdf/en/10/st12/st12360.en10.pdf>



## Malta-EU Steering & Action Committee

### **COM(2010)348 - Green Paper from the Commission on policy options for progress towards a European Contract Law for consumers and businesses**

The internal market is built on a multitude of contracts governed by different national contract laws. Differences between national contract laws may entail additional transaction costs and legal uncertainty for businesses and lead to a lack of consumer confidence in the internal market. Divergences in contract law rules may require businesses to adapt their contractual terms. Furthermore, national laws are rarely available in other European languages, which imply that market actors need to take advice from a lawyer who knows the laws of the legal system that they are proposing to choose.

Partly for these reasons, consumers and businesses, in particular SMEs, may be reluctant to engage in cross-border transactions. This reluctance would in turn hinder cross-border competition to the detriment of societal welfare. Consumers and businesses from small Member States might be particularly disadvantaged.

Various international and regional organisations, recognising that diverging contract law rules create obstacles to international trade, have been working to reduce such obstacles by providing uniform model rules. The United Nations Commission on International Trade Law (UNCITRAL) has created an almost worldwide standard for business-to-business sales of goods which applies by default whenever the parties have not chosen to apply another law. The International Institute for the Unification of Private Law (UNIDROIT) has developed the Principles of International Commercial Contracts, which represent model rules on sales of goods and provision of services. These instruments have created standards which have served as model rules for legislators around the, however their scope is limited to business-to-business contracts and sale of goods. Moreover, there is no mechanism to ensure their uniform interpretation in the Member States. Finally, these instruments cannot restrict the application of national mandatory rules.

The purpose of this Green Paper is to set out the options on how to strengthen the internal market by making progress in the area of European Contract Law, and launch a public consultation on them. Depending on the evaluation of the results of the consultation, the Commission could propose further action by 2012.

<http://register.consilium.europa.eu/pdf/en/10/st11/st11961.en10.pdf>