EUROPEAN COMMISSION

Brussels, 06/10/2009
C/2009/ 6982

Dear Mr Sobotka,

The European Commission would like to thank the Czech Senate for having examined and discussed the proposal for a Council Directive on administrative cooperation in the field of taxation {COM(2009)29 - hereafter "the proposal"} and for having provided a resolution on the proposal.

This responds to the invitation by the Commission to National Parliaments to react to all new proposals and consultation papers so as to improve the process of policy formulation.

The Commission appreciates the support expressed by the Czech Senate as regards the need to have an effective and functional cooperation of Member States' tax authorities in the fight against tax fraud. It also shares the view of the Senate that this cooperation should not only be conditioned by a legislative framework but also by the willingness to cooperate.

The Commission recalls that recent tax evasion cases reported in the press have clearly demonstrated the importance of international cooperation in the fight against tax fraud or evasion. Current arrangements for administrative cooperation in the assessment of taxes date from the seventies. At that time, mobility of persons and capital did not exist in the same way as now. Nowadays, fraudsters take advantages of the territorial limitations in the powers of national tax authorities to hide income obtained in other countries or organise insolvencies in countries where they have tax debts.

Member States cannot take measures in isolation. Without stronger form of tax administrative cooperation, they will not be able to protect effectively their financial interests. The economic literature estimates that tax fraud accounts for approximately € 200 and 250 billion a year. It is therefore urgent to act and to improve the fight against tax fraud through a reinforced administrative cooperation.

Mr. Přemysl Sobotka
President of the Senate
of the Parliament of the Czech Republic

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The proposal does not constitute a step towards harmonization of direct taxes at EU level. It introduces new instruments in order to create more confidence between Member States by setting up the same rules, obligations and rights for all Member States in the field of administrative cooperation. As such it does not impact on the national tax rules to be applied to assess the amount of tax due. It simply improves the way tax authorities should cooperate in order to assess taxes due on their territory.

The Commission proposes to set up a Committee in order to monitor the functioning of the Directive. Fraud and tax evasion being facilitated by the relative slowness of reaction of tax administrations towards new fraud mechanisms, the Commission considers that the most effective way to quickly adopt new working methods will be done via the new Committee. This Committee will not introduce new legislation. Its powers will be limited to implementing the Directive.

The Commission recognizes that powers of foreign tax administrations to operate on the territory of another Member State should be delimited. For this reason, the Commission proposes to authorize presence and participation of tax officials of one Member State in enquiries carried out in another Member State solely after agreement of the latter. In addition, officials of the first Member State may not exercise powers of inspection that are not conferred to officials of the other Member State. They must exercise the powers of inspection in accordance with the laws, regulations or administrative provisions of the Member State hosting the enquiry.

Finally, the Commission points out that rules of non disclosure of information should not hamper a full exercise of exchange of information. Better cooperation cannot be achieved if there is no willingness to disclose information received from one Member State, which could be useful to another Member State or if this information cannot be used for other purposes than tax purposes.

Yours sincerely,

Margot WALLSTRÖM
Vice-President of the European Commission