



## EUROPEAN COMMISSION

*Brussels, 3.5.2021  
C(2021) 3254 final*

*Dear Chair,*

*The Commission would like to thank the Assembleia da República for its Opinion on the proposal for a Council Directive amending Directive 2006/112/EC as regards conferral of implementing powers to the Commission to determine the meaning of the terms used in certain provisions of that Directive {COM(2020) 749 final}.*

*This proposal was announced by the Commission in its Communication on an Action Plan for Fair and Simple Taxation supporting the Recovery Strategy {COM(2020) 312 final}. An amendment of the Directive 2006/112/EC (hereinafter: ‘the VAT Directive’) has thus been proposed in order to create a committee that would oversee the adoption of implementing acts in certain areas of VAT by the Commission.*

*The functioning of the internal market is hampered by non-uniform application of certain provisions of the VAT Directive among the Member States. Such discrepancies are likely to lead to issues of non-taxation, or double taxation, and consequently – to a distortion of competition and additional costs for businesses. Currently, the Commission has no implementing powers in respect of the VAT Directive. The only existing tool for the Commission to promote the uniform application of EU VAT rules is an advisory Committee set up under Article 398 of the VAT Directive – the ‘VAT Committee’. This body can issue non-binding guidelines on the application of the VAT Directive, whereas binding implementing measures may only be adopted by the Council, based on a Commission proposal (Article 397 of the VAT Directive). Experience shows that these non-binding guidelines do not always ensure uniform application of the EU VAT legislation. In many instances, the uncertainty only ends after a considerable period of time, with a ruling of the Court of Justice of the European Union (CJEU), sometimes leading to an interpretation not desired by a majority of the Member States.*

*To remedy this situation, the proposal envisages the creation of a committee that would oversee the adoption of implementing acts in certain areas of VAT by the Commission. The comitology procedures would only apply in relation to a limited set of rules implementing the provisions of the VAT Directive, for which a uniform application of the*

*Mr Luis CAPOULAS SANTOS  
Chair of the European Affairs Committee  
of the Assembleia da República  
Palácio de S. Bento  
P – 1249-068 LISBOA*

*cc. Mr Eduardo FERRO RODRIGUES  
President  
of the Assembleia da República  
Palácio de S. Bento  
P – 1249-068 LISBOA*

*concepts in the EU VAT legislation is required. Any change to the VAT Directive will require, as it is currently the case, a unanimous agreement in the Council. The Council will, in turn, retain its implementing powers insofar as they do not fall within the strictly delimited scope of the Commission's competences, and particularly on substantial matters especially sensitive for the Member States.*

*The Commission is pleased that the Assembleia da República shares the view that action at the EU level as envisaged in the proposal is required to tackle the problem of discrepancies in the application of certain provisions of the VAT Directive. Furthermore, the Commission takes note of the Assembleia da República's conclusions indicating that the Commission proposal is proportionate to its objectives and complies with the principle of subsidiarity.*

*The Commission looks forward to continuing the political dialogue with the Assembleia da República in the future.*

*Yours faithfully,*

*Maroš Šefčovič  
Vice-President*

*Paolo Gentiloni  
Member of the Commission*