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Deputato al Parlamento europeo

TAXATION OF CHARITABLE ACTIVITIES

Towards a European Solution?

**Speech by Mr Della Vedova, MEP, Member of the Economic and Monetary
Committee of the European Parliament, at the ECCVAT Conference in Brussels**

29 January 2003

Mr Commissioner,

Colleagues,

Ladies and Gentlemen,

I very much welcome this initiative from the European Charities' Committee for VAT and I am delighted to have been given the chance to share the views of the European Parliament on this complex, and sometimes controversial issue. I would in this context like to express the apologies of the Chair of the Committee on Economic and Monetary Affairs, Mrs Christa Randzio-Plath, who unfortunately, for unforeseen reasons was unable to be here today.

Already the title of today's programme "VAT and Charities: the options" indicates that this is not an easy question, to which there exists an easy answer. I too will therefore restrict myself to discuss what the options are, and give some tentative suggestions as to what solutions can be found. I believe that one must make a clear distinction between what can be achieved in the short term, and what can only be achieved after some time as changes must be in the processes of adopting European legislation.

What is at stake?

As the Chairman of the Charities' Committee on VAT just said in his opening remarks, the particular problem facing charities is that they are required to pay VAT on most supplies they buy as part of their pursuit of their charitable objectives, but that they - unlike businesses - are unable to recoup the often considerable amounts of

input VAT paid. This is as is well know primarily due to the specific nature of charities who, by definition, rarely provide their services for "consideration" as European VAT legislation requires. The net result of this is that that Charities effectively are treated as final customers for VAT purposes, even though they are not in practice the end user of those goods and services.

The argument here is that a substantial part of the funds raised by charities in terms of donations and other contributions from individuals, companies and organisations are not used for its intended purpose - charitable activities- but instead are paid to the state in the form of VAT. It goes without saying that this is not a minor problem given that VAT can be up to 25%. In Ireland alone, the unrecoverable VAT bill facing charities is estimated at 63 million Euro per year.

One must also be mindful of the fact that this places the charities in a sometimes difficult position as, when looking at aggregate figures, it may look as if they are not very effective in pursuing their objectives. Every charge, every tax is of course a factor that lowers the proportion of funds collected that reaches the final recipients. This is not always easy for the charities to explain. They might instead be blamed for excessive administration and the like.

It is clear, therefore, that this is a problem that somehow needs to be remedied. The question is, then, what the nature of such a remedy should be, and at which level it must be found - at the National or European level.

The European Level

Article 93 of the Treaty requires that all decisions at the European level must be taken by the Council acting unanimously. For this reason a solution at the European level would require long negotiations; therefore it is difficult to achieve in the short term. Achieving unanimity was already difficult in Europe of 9 back in the early 70s when the foundations of today's intricate VAT legislation were laid. It is even more so Europe of 15, and the situation will stay difficult in a Europe of 25.

In addition, the European Parliament only plays a minor role in the legislative process in this area.

Anyway the European Parliament raised the problem of the charities in his report on tax policy and I would like to read what it said in his resolution: " Considers that, when the Sixth VAT Directive was originally drafted, the particular needs of charities were not taken into account; therefore, despite their role as service providers in key areas of the economy, notably health, education and welfare, they are treated as consumers under existing VAT rules because their activities are either considered non-business or exempt under Article 13(A) of the Sixth Directive; urges the Commission to introduce a similar refund scheme on the grounds that it would be simple to introduce and administer and would not have an impact on the rest of the supply chain". I think that this is a strong signal for the Commission.

At present we have an extremely complex and cumbersome body of law embodied in the so called sixth VAT directive which spans over more than one hundred pages and which has been amended and modified more times than anybody cares to count.

The European Parliament, as well as the Commission, have since long argued that the current cumbersome transitional VAT system must give way to a simple, streamlined system fully based on the principle of taxation in the country of origin. Alas, there is no unanimity for such a move just yet. Even small, but significant steps to improve the system, such as the de facto abolition of the unworkable eight VAT directive on cross border deductions have been held up in Council due to national differences.

It is therefore my firm conviction, which is shared by the European Parliament, that the Treaty must be changed in order to prevent that enlargement - which we all very much support - results in a complete standstill when it comes to tax co-ordination in Europe. In my opinion unanimity could be maintained only in important strategic issues, such as the level of imposition.

This is also in fact one of the areas in which the Convention on the future of Europe has yet to give its opinion and I would like to take this opportunity to urge the Convention and its members to support the introduction of rights of co-decision for the European Parliament. This would send a strong signal to the next Intergovernmental conference on reforming the Treaties which, to my mind, would be impossible for the Heads of State and Government to ignore.

Anyway, as I said earlier, I see considerable difficulties in arriving at a truly European solution to this issue.

The reason to this is that the treatment of Charities, but also their role in society as whole differs considerably from one Member State to another. I thus think that it might be difficult to devise a model which all Member States would and could agree to.

In addition, one could also argue that it may be desirable for this to be left to the Member States to regulate in accordance with the principle of subsidiary as the different Member States may have different approaches to this issue.

In a nutshell, VAT relief to Charities is essentially a form of public aid to Charities. In supporting Charitable activities, Member States may decide whether to either give direct aid, or forgo some form of revenue such as VAT. One should also be mindful of the fact that the concept of a charity or charitable activities may have a very different meaning in one Member State compared to another.

I therefore believe that a possible solution in the medium-term could be to allow - but not oblige - Member States to give preferential treatment as regards VAT.

Consequently, in the short term, probably we should look for solutions at the national level.

National level

As you are probably well aware, current European and National VAT rules already provide charities with a number of options and possibilities allowing them to recoup at least part of the input VAT they pay. The problem is of course that charities

generally are ill-equipped to undertake the relatively complex financial management necessary in order to guarantee that the organisation does not pay too much, or too little in VAT.

Here, I believe a lot can be done by the Member States in order make life as easy as possible for the charities and organisations. I think that action should be taken at three levels:

First, Member States should take a critical look at the rules they currently apply vis-à-vis charities and see if they could be simplified or otherwise improved. I would also in this context urge the European Commission to give technical advice to the Member States in order to ensure that their rules are compatible with EU law. I would suggest, in fact, that the Commission comes forward with a Communication clarifying the implications of European VAT legislation for charities. This would help Member States to determine what scope there is for national relief measures.

This brings me on to my *second* course of action that remains open at this stage, and that is for the Member States to enact whatever relief measures that are possible and permissible as the law stands at present. There are a number of options open to Member States, and they should make the most of them even in these times of budgetary rigour. Apart from the guidance that could be provided by the Commission, Member States should also try to exchange best practice in this field.

Third and last, given the enormous complexities of the rules and the often corresponding lack of financial expertise available in those organisations that they

govern, the Member States need to do much, much more by way of information and support activities. They must ensure that comprehensive, yet easy to understand materials are made available to Charities. This is a minimum requirement in order to prevent that they have to spend even more of their precious funds on hiring tax experts and the like. In addition, Member States should also set up of national phone help lines, as well as interactive web sites, which not only disseminate information, but also allow charity finance workers to pose direct questions to the tax authorities.

Conclusion

I think that few people dispute the merits of the case put forward by the charities, namely that they do deserve some sort of special treatment in terms of VAT. It is indeed true that an arrangement for charities and NGOs would allow them to distribute more of the resources they collect from individuals, companies and organisations to their beneficiaries.

But, as I have touched upon, and which I am sure that the following speakers will agree with, what form such relief should take, and how it should be achieved in practice is less obvious.

One could favour some sort of European solution to this issue as VAT - after all - is to a large extent a harmonised tax. But we must be aware that this may be difficult to achieve because any such change must be agreed unanimously by all fifteen Member States; and this of course it's not easy. Given the sensitivity of this matter - we are as you know talking about national tax revenues here - it is unlikely to

be achieved in the short term. Pragmatic and practical solutions must instead, for now, be found at the national level.

I do, however, very much welcome the work of the European Charities Committee on VAT for their work in raising awareness at of the issues at stake here. Its contribution to the debate at the European level is certainly useful. I very much hope that it will result, in the not too distant future, in a Commission proposal for a directive allowing certain favourable VAT measures in favour on charities, as demanded by the European Parliament in his resolution on tax policy.