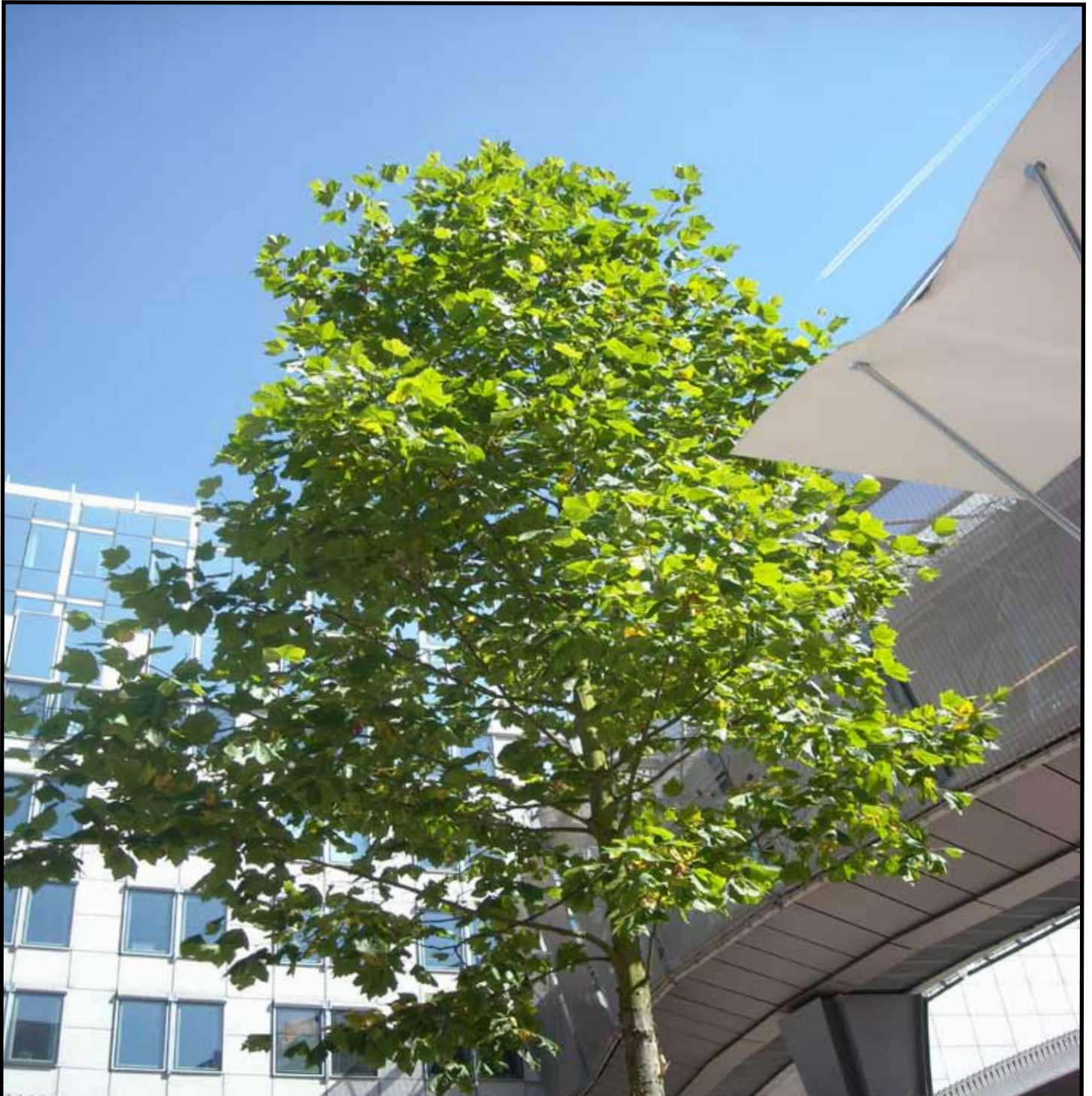




CONFEDERATION  
FISCALE  
EUROPEENNE

# CFE Newsletter

September 2009 / 2/2009



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# President's page

## Dear Colleagues

Welcome to my second President's page. After our General Assembly and Forum, I stayed on in Brussels to attend the conference and General Assembly of our Belgium member organisation, the Institut des Experts-Comptables et des Conseils Fiscaux (Instituut van de Accountants en de Belasting consulenten). I was impressed by the great enthusiasm and support that the members have for their organisation at a large and well attended event.

Incidentally prior to a very successful Forum, held in the outstanding Bauhaus designed hall at the offices of the representation of Saxony-Anhalt, I had the pleasure of presenting Professor Dr Albert Radler with a special CFE badge in recognition of his enormous contribution to the Fiscal Committee having attended the first through to the 113th meetings.

In June I travelled to Athens as a guest of P.O.F.E.E., our Greek member organisation and met representatives of the Greek Government and the Ministry of Finance in advance of the launch by P.O.F.E.E. of their campaign for a regulated tax chamber in Greece. This should help deal with the major problems of the informal economy.



I am pleased to congratulate our Professional Affairs Chairman, Henk Koller, on his election as President of the NOB for three years. More on this later in the Newsletter.

The current Lord Mayor of the City of London is a tax adviser (a partner at Grant Thornton) and as such he is entitled to host a banquet at his palace (the Mansion

House) to honour his profession and I had the privilege of being a guest at his top table as president of CFE. This goes to show that tax advisers can achieve all sorts of interesting positions and offices. For example, Commissioner McCreevy from Ireland, the Commissioner for the Internal Markets Directorate is a member of our Irish member body, The Irish Taxation Institute.

Talking of the Commission, we are expecting a new college of Commissioners later this year following on from the European election. We will have an opportunity to say our farewells to Commissioner Kovacs when he attends our conference and gala dinner in Paris this September.

I look forward to hosting our guests at our 50th Anniversary celebrations in Paris.

Stephen D G Coleclough  
CFE President  
London July 2009



**Stephen Coleclough**

2009:

**CFE President 2009**

2005 - 2009:

**CFE Fiscal Committee Chairman**

2002 - 2004

**Sub-chairman Fiscal Committee,  
Indirect Taxation**

1997 - 2001

**Member of the CFE Fiscal  
Committee**

Member of the Chartered Institute of  
Taxation

# Report

## CFE Forum 2009

The CFE Forum 2009 was held on 23 April 2009 at the Representation of the State Saxony-Anhalt to the European Union in Brussels.

### Morning session: Crossing Borders - Exit Taxes and Transfer Pricing in the European Union

**Paul Morton**, Reed Elsevier, Director of Tax, Past-President CFE, (UK), who was moderating the first session, provided the background to the topic of exit taxation in the context of business restructuring. In particular, he highlighted the importance of business restructuring for multinational enterprises and the uncertainties as to whether or not such transactions may trigger exit taxes.

**John Neighbour**, Head of UK Transfer Pricing KPMG, formerly Head of OECD's Tax Treaty, Transfer Pricing and Financial Transactions Division, (UK), provided an update on the recent OECD initiatives in the area of business restructuring and gave an assessment of the main proposals contained in the Draft Report on Transfer Pricing Aspects of Business Restructuring (the Report) issued in September 2008. The OECD work on transfer pricing issues in respect of business restructuring began in 2005 and focused primarily on (1) the application of transfer pricing and tax treaty rules on and/or after business restructuring and (2) the principles governing recognition or non-recognition of restructuring transactions. The Report raises a number of

concerns. For example, there is a lack of consensus in several areas and the role of domestic anti-abuse rules is not addressed.



Bert Zuijendorp (Head of Unit DG TAXUD)

**Bert Zuijendorp**, Head of Unit, Control of the application of community legislation and State aid/direct taxation, European Commission, gave an overview of the issues in respect of exit taxation and emphasized the need for a coordinated EU policy in this area.

The conclusions of de Lasteyrie (C-9/02), where the ECJ had held that immediate taxation of unrealized capital gains on a change of an individual's residence is, in principle, incompatible with EC law, were discussed. In the Commission's view, these conclusions also apply to companies. The two alternatives to immediate exit taxation proposed in the Commission's 2006 Communication, entitled "Exit taxation and the need for co-ordination of Member States' tax policies", were outlined. Under these alternative approaches, assets are transferred to the host state either at their book or market value established on transfer, and the taxation by the exit state of any capital gains is effectively deferred until the realization of these assets. The 2008 Council Resolution on coordinating exit taxation highlights, inter alia, the importance of exchange of information between the host

state and exit state, in order to ensure the deferral of taxation.

**Dr Achim Roeder**, Partner, Transfer Pricing, Deloitte & Touche GmbH, Germany, described the German rules on business restructuring. In particular, the definition of functions and transfer of functions, as well as the hypothetical arm's length test to establish the transfer price on transfer of functions, were discussed. It was argued that the German rules are likely to be incompatible with EC law, as they may be deemed to constitute a restriction on the freedom of establishment. It was also observed that these rules may, in certain circumstances, be inconsistent with the existing tax treaties and the internationally accepted arm's length principle.

**Prof. Isabelle Richelle**, Professor at HEC-Business School of the University of Liège, Member of the Brussels Bar, Liedekerke Wolters Waelbroeck Kirkpatrick, Deputy Judge (Belgium), gave an overview of the ECJ cases which could be relevant for exit taxation, for example, de Lasteyrie, N (C-470/04), Daily Mail (C-81/87) and CARTESIO (C-210/06). In particular, the implications of the ECJ judgment in CARTESIO were considered. It was highlighted that in that judgment the ECJ observed that the Member State of incorporation could not require the winding up or liquidation of a company that moved to another Member State in order to convert into a company form provided under the law of that second Member State. Unless justified, such a requirement would constitute a restriction on the freedom of establishment.

### Afternoon session: Cross-Border VAT Structures

**Jeremy Woolf**, Barrister, Pump Court Tax Chambers (UK), moderated the indirect tax session. Mr Woolf provided the audience with a background to the topic of cross-border VAT structures. International neutrality is guaranteed by exemption for exports and rights to deduct input tax, taxation of imports, the "place of supply rules", and VAT recovery under the Eighth (79/1072/EEC) and Thirteenth (86/560/EEC) VAT Direc-



Paul Morton (Reed Elsevier, Director of Tax), Isabelle Richelle (Professor at HEC-Business School of the University of Liège) and John Neighbour (Head of UK Transfer Pricing KPMG)

tives. One of the primary objectives of the VAT Directive (2006/112/EC) is neutrality and harmonization, but problems and trade distortions may be caused by a lack of harmonization and certainty. The ECJ case of FCE Bank (C-210/04) is significant regarding cross-border VAT structures. With regard to output tax, as a result of FCE Bank, in contrast to supplies between independent traders, the normal system of exempting exports and taxing imports does not apply to services provided between branches or between branches and head offices in the EU. Instead, no charge applies. In this respect, Art. 169(a) of the VAT Directive gives a right to deduct input tax on activities carried on outside the Member State if the VAT were deductible where the same activity was undertaken within the Member State.

**Rolf Diemer**, Head of Unit, VAT and other turnover taxes, European Commission, considered VAT groups and cost-sharing arrangements in the VAT Directive. The original objectives of the Sixth VAT Directive (77/388/EEC) are simplification and the countering of abuse. With regard to VAT groups, recent developments have exposed apparent wide divergences between VAT group schemes. A more uniform approach is therefore desirable according to Mr Diemer. The various rights of deduction with regard to VAT groups were analysed, with emphasis on the fact that a strict application is required. The anti-avoidance measures in respect of VAT were also considered, with note being taken of the ECJ Halifax case (C-255/02). Cost-sharing arrangements were then reviewed. In this respect, it is important to note that cost-sharing arrangements are totally different from VAT groups, i.e. cost-sharing arrangements do not have the effect of merging separate taxable persons into a new single taxable person but, rather, provide exemptions for certain activities in the public interest. In this regard, the proposals (Art. 137b of the VAT Directive), whereby Member States could exempt services supplied to a group of taxable persons, subject to conditions, are important. Mr Diemer highlighted the conceptual approach and technical functioning of cost-sharing arrangements.

**Dr Ruud Zuidgeest**, ING Group Tax, Amsterdam, (The Netherlands), discussed relevant issues for financial concerns and alternatives to cross-border VAT groupings. With regard to cross-border VAT groupings, in this respect, the cash flow, financial

and administrative advantages of cross-border VAT groupings are important. Territorial restrictions with regard to cross-border VAT groups are a disadvantage. The relevant theory related to two aspects, i.e. (1) issues

concerning a head office to branch structure and (2) domestic VAT groupings. The practice of financial concerns is also relevant, especially with regard to the internal supply of goods and services. Alternatives to cross-border VAT groupings were then considered. In this regard, Netherlands case law suggests various potential solutions, in the form of head office-branch structures, cost-sharing exemptions and the zero-rating of internal supplies. All of these potential solutions are, however, either not genuine solutions or, in the case of the zero rating of internal supplies, not acceptable. In conclusion, it was argued that the territorial restriction of VAT groups conflicts with the freedom of establishment (Art. 43 and Art. 48 of the EC Treaty) and could not be justified as it distorted competition and was not proportional. Cross-border VAT groupings are possible without a distortion of competition provided that there is a mandatory application of VAT groups in all Member States, the application of a pro-rata VAT recovery rate in respect of the VAT group as a whole and exchange of information between the Member States. Any other alternatives do not provide a genuine solution.

**Werner Widmann**, Head of Section Taxation, Ministry of Finance, Rhineland-Palatinate, Mainz, (Germany), explained how the issue of VAT groups is dealt with in the Rhineland-Palatinate. First, the example of a Brussels window manufacturer wishing to establish a presence in Lille by the transfer of two machines. This would be a movement under Art. 17 of the VAT Directive. It would be a potential supply depending on the payment made. There would be no non-taxable internal supply. The ECJ FCE Bank case, however, has implications



Jeremy woolf (Barrister, Pump Court Tax Chamber), Rolf Diemer (Head of Unit, DG TAXUD) and Dr Ruud Zuidgeest (ING Group Tax, Amsterdam)

for the supply of services. This all contrasts with the German use of the Organschaft. Neutrality with regard to VAT is, therefore, achieved in Germany, but not outside Germany in respect of cross-border transfers. In addition, Mr Widmann argued that there is a conflict between primary (freedom of establishment) and secondary (VAT Directive and internal - only VAT groups) EC law.

**Prof. Dr Pierre-Marie Glauser**, Oberson Avocats, Professor of Taxation, University of Lausanne, (Switzerland), considered the issue of cross-border VAT structures from a third country perspective. In this respect, the ECJ case of FCE Bank is again important. Various examples of non-taxation and double taxation in respect of Switzerland were noted. Prof. Dr. Glauser believes that it is necessary to analyse the advantages and disadvantages of the EU (single entity) versus the Swiss (no VAT groups) approach to find out which system was more effective. The general principles of VAT in the EU were considered together with the provisions regarding the place of supply of services and the deduction of input tax. Prof. Glauser's conclusions considered the advantages of the Swiss approach. These were that the Swiss approach corresponds to economic reality, guarantees greater VAT neutrality, permits taxation in the State of consumption where exempted services are performed, reduces the risk of double taxation linked to the place of supply of services, has greater simplicity, reduces the necessity for worldwide pro rata, and corresponds more closely to the general principles regarding the supply of goods.

# Viewpoint

## OECD consultation on Transfer Pricing Aspects of Business Restructurings

**On 9-10 June 2009, the OECD held a consultation with business commentators on its discussion draft on the transfer pricing aspects of business restructurings. During the two-day meeting, participants discussed a broad range of complex transfer pricing issues in relation to business restructurings.**

**Jean-François Blouet**, member of the CFE Fiscal Committee and the CFE OECD Taskforce represented the CFE at the meetings in Paris.

### Meeting report by Jean-François Blouet

As evidenced by a roundtable organized by the OECD in 2005, Business Restructurings (BR) raise difficult Transfer Pricing (TP) and Treaty issues for which OECD guidance is insufficient. Working parties were created and in 2007 working party No 6 was asked to deal with this point.

In September 2008 the OECD released for public comment a discussion draft on the transfer pricing aspects of BR that was produced by working party No 6. The OECD received 37 comments by organizations, including the CFE.

As a number of issues were still relevant, working party No 6 organized a consultation in Paris on June 9 and 10 with the organizations that provided comments.

*“The objectives of the consultation are for business commentators to be given the opportunity to orally explain some of their arguments to working party No 6 delegates and for the latter to obtain clarification of the arguments raised to the extent needed”*

A 195 page document was given to the participants which included a number of issues each presented by working party No

6 delegates and discussed by business commentators. In the near future it is expected that the OECD will issue its guidance on this subject.

The discussions were mainly about how to tax or not tax a BR specifically when no comparables are available. Is documentation needed? Are actual transactions binding? What is meant by “control” in an MNE which is highly centralized by nature? How to take into consideration business “options” for the MNEs in their decision making? Is “commercial rationale” a valid element to take into consideration? How to appreciate “profit/loss potential”, “goodwill” and “on-going concern” in a BR? Is an indemnification in a restructured entity necessary? In an arm’s length risk allocation without comparables, are “control over risk” and “financial capacity to bear the risk” the relevant factors? How far can “economic substance” and “commercially rational behavior”, which are subjective, be relied upon?

If no decisions were to be made at this consultation, the business commentators strongly recommended a significant amendment of the draft in order to eliminate subjective and ambiguous elements or considerations like “control”, “business options”, “commercially rational behavior” and an emphasis on the need to stick to facts, to test the outcomes. These problems, if not addressed, will increase uncertainty, tax litigation and make it more likely that double taxation will occur. In addition tax notions and issues should be clarified to avoid misinterpretation that will lead to an increasing number of conflicting positions of the Tax Administrations. Finally there was also a recommendation to limit the administrative burden of the documentation which is now different in each jurisdiction and to take into consideration the situation of MNEs. As a last word I would like to quote one of the commentators who regarding risk approach said that “*substance and common sense are needed*”. He was also referring to absence of comparables that could be dealt with by analyzing the situation and the need to compare with more or less similar issues.



## Lustrumcongres NOB 1954-2009 “The triangle”

**De Nederlandse Ordre van Belastingadviseurs (NOB) is one of the founding Member Organisations of the CFE. On the occasion of the 55th anniversary of the NOB, the Dutch tax adviser organisation organised a “Lustrumcongres” in Amsterdam on 3 June 2009.**

**Susanne Metzler**, Director CFE Brussels Office, represented the CFE at the congress.

### Congress report by Susanne Metzler

With regard to the triangular relationship between tax adviser, client and tax administration, over 500 participants discussed interactively the position of tax advisers within the triangle. The congress was divided into 3 parts. One part dealt with the position of the tax administration. Chris Davidson from the HMRC (the leader of the study group of the “OECD study into the role of tax intermediaries” (published in 2008) discussed with the participants the pros and cons of the “Horizontal approach”. Theo Poolen from the Dutch Ministry of Finance stressed once again the results of the OECD study and the crucial role of tax advisers in the tax system. Another part of the congress embraced the effective tax rate for the client; the last part covered the issue of diversity (pros and cons for a mandatory percentage of women in a tax firm).



The interactive part of the congress was highly appreciated by the participants

# Interview

## Pervenche Berès, Member of the European Parliament

**Pervenche Berès has been a Member of the European Parliament since 1994. She was the Chairwoman of the French Socialist delegation in the European Parliament from 1997 to 2004. Mrs. Berès was chairing the Committee on Economic and Monetary Affairs from 2004 to 2009. Since the elections in June 2009 Pervenche Berès now chairs the Employment and Social Affairs Committee.**

The Economic and Monetary Affairs committee decides on financial services legislation as well as holding regular hearings on European monetary policy with the president of the European Central Bank and the president of the Eurogroup.

[You have been working in the European Parliament \(EP\) since 1994. Can you briefly describe some of the biggest changes the EP has experienced during these years?](#)

First of all, when I started to work as a Member of the European Parliament (MEP) there were fewer Member States in the EU, which of course made the work different from now. The European Parliament also had less visibility and influence back then. The power of the European Parliament has increased in relation to the other institutions during this period and the European Parliament is today firmly established as a co-legislator. However, one regrettable paradox, which we need to reflect upon today, is why the more we try to democratize the European level, the less involved the citizens become.

Regarding the work in the Econ committee when I started to work as an MEP we focused mainly on the accession to the Euro and just before the crisis, it was very much concentrated on EU Financial market integration.

[A report by the Centre for European Policy Studies \(written by Julia De Clerck-Sachsse\) says that the EP has become more](#)

[efficient during the last mandate but that it simultaneously is facing a legitimacy crisis due to its efforts to streamline decision-making and maintain efficiency, which have moved more decisions to committees and cut down the amount of time for debate between MEPs in the plenary chamber. What is your opinion regarding this matter?](#)

I do not really see decision making in committees as a big problem. The European Parliament is a complex institution and on all issues we need to try to reach agreement in the end. Since the final decision is taken by a vote in the plenary session the procedure is open and transparent. However, it is true that this of course is only the visible part of the iceberg and that there is a lot of consensus building and negotiation work before the final vote. But otherwise we would never be able to reach any decisions. However, I believe that the negative side of this coin is that the work carried out in committees is more difficult to explain to EU citizens, which means that the MEPs must work on being accessible to citizens all the time. Finally, I would say that the European Parliament has better managed to adapt to functioning in an enlarged EU than the other European institutions and that we cope with growth best because we go to the vote. The truth is also that if you want EU legislation to be implemented by Member States you really need to go for a strong majority and this brings you to a negotiation attitude that is sometimes not so relevant at national level. It makes the EP look very technical and much less political than national parliaments.

[What do you think has been the most important work in relation to taxation that has been undertaken in the European Parliament?](#)

It is hard to say, and I am afraid that I will focus too much upon the later years. Nevertheless there are some issues which I believe are of special importance. First, the adoption of the legislative resolution to amend Directive 2003/96/EC on the adjustment of special tax arrangements for gas oil used as motor fuel for commercial purposes and the coordination of taxation on unleaded petrol and gas oil used as motor fuel, which was prepared by Olle Schmidt



(ALDE, se), on behalf of the Committee on Economic and Monetary Affairs. Another important matter was the approval of the report on further measures to tighten up the European Union Savings Tax Directive. The report proposed to end the transitional period with a finite date, rather than by reference to the behavior of third countries. Additionally, under this proposal, the transition period would end three years from the levying of the withholding tax at a rate of 35%, i.e. in 2014. I also believe the EP's support for reduced VAT rates to be of great importance.

In all these issues the European Parliament shows that it can reach consensus over political party borders on important issues. The EP can additionally achieve more than the Council since we are not hindered by any unanimity requirement.

What I regret the most and which is also my biggest disappointment is that we were not able during the last period to discuss the CCCTB. This is crucial if we really want to achieve a strong Internal Market and we therefore need some progress in this area. However, since the debate is public within the EP I believe that we can be the best forum for further public debate on this issue.

[Is it hard to reach compromise solutions regarding tax issues within the Econ committee?](#)

Yes it is, but we have to do it. It is important to show the Council that common ground can be achieved on these issues to show that there is a spirit of cooperation in Eu-

rope. But of course, it is not easy. This does not only refer to left-right differences but also to some differences between the Member States and the split is not only between old and new ones. In 2002, for example, the Parliament rejected the Commission's proposals for changes in tobacco excises. One of the objections was the projected impact on the enlargement countries, where rates were significantly below even the then existing EU minima.

*In your opinion; should there be a European tax base?*

Yes, without any doubt. This should be the base of the EU budget. I also believe that the CCCTB is needed as a base for an integrated EU approach. It is not that I per se want to bring everything to the European level but I want to prevent tax competition, and I believe that a European tax base is a means to avoid "the race to the bottom". It is a way to maintain the European social security system.

*What are the most important tax issues today in Europe and globally in your opinion?*

As I mentioned before I believe that the CCCTB is one of the most important issues. This would reduce the tax-related compliance costs and effectively tackle most of the tax obstacles that are currently still hindering companies in developing their EU-wide activities, e.g. obstacles in respect of transfer pricing rules, the lack of cross-border loss-compensation etc. It should not be the case that more than fifty years after the creation of the European Community we only have bilateral agreements between Member States and no agreed model for EU tax agreements.

Additionally I consider the fight against tax havens to be of great importance. When we now address structural changes of the financial market it is important that we also consider the impact of tax havens. I believe that there is a relationship between the financial crisis and tax havens and thus that they have to be addressed together, since tax havens are characterized by a completely disproportionate relationship between the amount of capital passing through and the level of regulation or supervision. Therefore the measures taken regarding tax havens have to be considered at the same time as the creation of the architecture of the financial supervisory system. Hence,

tax questions play an important role in addressing the current financial crisis. In dealing with tax havens, as always, we have to act by trying to combine economic efficiency with social justice.

It is therefore important to make sure that the promises made by countries to meet OECD standards will be kept, especially in relation to the exchange of information and the conditions necessary to enable this exchange to take place. It is consequently also important that the European Commission has a strong mandate to integrate the principles of good governance in the negotiations between third countries and the EU. Accordingly I believe the Commission proposal on administrative cooperation, which will abolish bank secrecy in respect of contacts between EU tax authorities is an important one. Hopefully this should oblige Member States to overcome their national patriotism and to start to cooperate more closely on a European basis. If they are not serious about combating tax fraud then that also weakens their budget capacity.

*Astrid Burhöi*

*Communications officer, CFE*



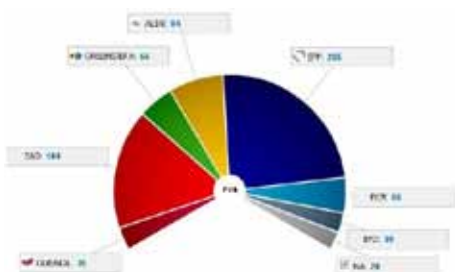
# European Politics

## European Parliament - Elections 2009

The European Parliament is the only EU institution directly elected on a strictly European mandate.

The 2009 European elections, the 7th edition, were held simultaneously in 27 countries for the first time in history. The turnout in the June elections for the European Parliament was 43%, which was the lowest turnout ever. A Europe-wide publicity campaign urging people to vote appears not to have arrested the trend of an ever declining turnout. In 2004 when there were 25 countries in the EU, turnout was 45.7% and in 1999 it was 49.8%.

### Party groups



The European People's Party (EPP) confirmed its position within the European Parliament. With its 265 seats, the EPP remains the Parliament's dominant group. The Party of European Socialists had its worst ever European elections. In total, they will have 184 Members of the European Parliament (MEPs), considerably fewer than the 217 of the outgoing parliament. Its main losses were in France, Portugal, the United Kingdom and Hungary. The Socialist group in the European Parliament re-branded itself after June's European elections in order to absorb the liberal component of Italy's main opposition party, the Partito Democratico (PD). The new name of the group is the Progressive Alliance of Socialists and Democrats in the European Parliament (S&D).

The Alliance of Liberal and Democrats for

Europe (ALDE) obtained 84 seats, which is considerably below the 100 in the previous legislature. The same observation also applies for the Confederal Group of the European United Left – Nordic Green Left (GUE/NGL), which goes from 41 MEPs to just 33. The Greens and their regional allies are the only ones to increase their numbers, rising from 43 MEPs in the outgoing Parliament to 55. They did well in France, Belgium, the Netherlands, Germany and Finland and scored their first ever representatives in Greece.

### Incoming Party Groups

The Union for Europe of the Nations group (UEN), which had 44 members in the last legislature, does not feature in the new EU assembly. Following the departure of the Tories from the EPP, the new centre-right, antifederalist group European Conservatives and Reformists Group (ECR) was created. The parties which form the core of the group are from the UK, Czech Republic and Poland. The Eurosceptic Independence-Democracy group (IND/DEM), which previously had 24 members, is replaced in the new Parliament by the far-right Europe of Freedom and Democracy Group (EFD), with 32 members. The group campaigns against the "bureaucratisation" of Europe and the construction of a European state, for the respect for national differences and traditions, and against new "anti-democratic" treaties. Each national delegation may vote according to their own party line. It is probable that it will not have much legislative impact, due to its political positioning.

### EP President and committees

The Members of the European Parliament (MEPs) have elected Jerzy Buzek (EPP) to be the new European Parliament President. The 69-year-old Polish MEP will lead the European Parliament for two and a half years (until January 2012). President Buzek is the first President of the European Parliament to come from Central and Eastern Europe following the EU's enlargement

in 2004. Jerzy Buzek replaces the outgoing President Hans-Gert Pöttering (EPP, Germany). Since his nomination, Mr Buzek has pointed out the major dossiers which the Parliament should work on: jobs, energy security, climate change, international peace and stability, and citizens', notably women's, rights. He will present his detailed programme at the next plenary session, which takes place from the 14th to 17th September in Strasbourg.

The new list of vice-presidents shows a strong southern European bias (2 Italian, 2 Greek and 2 Spanish), and a complete absence of French MEPs. While the French Socialist Party managed to obtain a certain number of key posts in the last Parliament, this time they were marginalized by their refusal to support Jerzy Buzek for the presidency. There are also 3 Germans, 2 MEPs from new Member States (Czech Republic and Hungary), a Belgian and 2 from the UK.

It can be argued that one can determine the strength of the different political groups by looking at which presidencies of the Parliamentary committees they obtained. As such, the ALDE will chair the powerful Economic and Monetary Affairs Committee (ECON), which deals with taxation. Sharon Bowles (UK, ADLE) is the new President of the committee, which previously was held by PES. The EPP, traditionally favourable to business interests, will oversee the Budget and Industry, Research and Energy (ITRE) committees. The socialists obtained the presidencies of the Employment and Social Affairs committee (EMPL) and the Civil Liberties committee (LIBE). The ECR obtained the powerful Internal Market and Consumer Protection committee (IMCO).



Jerzy Buzek (EPP) is the new European Parliament President

## The Swedish EU Presidency



From 1 July to 31 December 2009, Sweden will hold the six-month rotating presidency of the European Union, chairing EU summits and meetings of the Council of Ministers.

Under the motto 'Taking on the challenges', Sweden is taking the EU's helm in difficult times, with uncertainty hanging over the Union's new institutional setting as Europe battles its worst economic recession since the 1930s.

Responding to the economic and financial crisis and preparing for the Copenhagen conference on climate change in December will be the main priorities of the Swedish Presidency during the second half of this year. During the Swedish Presidency, the EU will have to continue to manage the crisis and its immediate effects, and put in place measures for the long-term recovery of the European economy. The Swedish Presidency will give priority to restoring functioning financial markets and the confidence in them. Sweden believes that EU must enhance financial market supervision and that the de Larosière report and the Commission proposal provided a "good basis for work". Sweden aims to discuss legislative proposals in the autumn and to reach a political agreement. The Swedish Presidency would also like to launch a debate on fiscal policies in member states. With the economic recovery plans adopted having considerably increased member states' budget deficits and public debt, Sweden believes that there is a need to return rapidly to the rules of the Stability and Growth Pact. Sweden also wants actively to prepare for the reform of the Lisbon Strategy so that this "new" strategy could be adopted by the Spring European Council in 2010.

## Taxation

The Swedish Presidency intends to work intensely on the Commission's proposals for new or amended Directives in the areas of savings taxation, administrative cooperation and recovery, as well as on the Code of Conduct for business taxation.

The Swedish presidency will also focus upon reducing the administrative burden within the EU. According to Sweden the VAT invoicing proposal has the potential to reduce the administrative burden on business and includes measures to help tax authorities tackle tax fraud. The aim of the Presidency is therefore to reach a political agreement on the proposal. Also, work will be pursued on the proposal regarding VAT on financial services and the fight against VAT fraud.

Furthermore, the ambition of the Presidency is to reach an agreement on the Tobacco Tax Directives.

Finally, the Swedish Presidency believes that the use of cost-effective economic instruments, such as a carbon dioxide tax and emissions trading, has a key role in climate policy. The Presidency will therefore initiate a discussion of how economic instruments can best be used to that end. The Presidency supports the ongoing work by the Commission to revise the Energy Taxation Directive. The Swedish Presidency believes that an essential part of such a revision is the introduction by Member States of a carbon dioxide tax in sectors not covered by the EU Emissions Trading Scheme.

### Provisional Agenda during the Swedish Presidency

#### 20 October Luxembourg:

- Invoicing Directive (General approach)
- Anti-fraud agreements with Liechtenstein (Adoption of Anti-fraud agreement)
- Other third countries (Adoption of negotiating mandate)

#### 10 November Brussels:

- Taxation / Good governance
- New recovery directive (General approach/Progress report)
- Administrative cooperation (General approach/Progress report)

#### 2 December Brussels:

- Code of Conduct for Business Taxation (Council conclusions on the report of the Code of Conduct Group)
- Good Governance
- Savings Directive (Political agreement)
- VAT fraud (Progress report)



Anders Borg, Sweden's Finance Minister (left), and Jean-Claude Trichet, President of the European Central Bank

## General News

### European financial supervisory system

On 7 July, Commissioner for the Internal Market, Charlie McCreevy, declared, during a public debate at the Ecofin Council on the Swedish Presidency's priorities in economic and financial affairs, that they would ensure that the proposals on developments in the European financial supervisory system be adopted on Wednesday 23 September. In compliance with the European Council's conclusions, these will introduce:

- a European Committee on systemic risk in charge of raising the alarm about macro-economic risks impacting on financial stability;
- a European Financial Supervisors Committee, made up of the three European supervisory authorities in the banking, insurance and the transferable securities sectors.

## New Irish referendum on the Treaty of Lisbon

The next Irish referendum on the Treaty of Lisbon will take place on Friday 2 October, Irish Prime Minister Brian Cowen announced on Wednesday 8 July. The European Council has given Ireland legal guarantees on neutrality, abortion and tax, which the Irish government hopes will pave the way for a majority in favour of the new treaty.

## Treaty of Lisbon compatible with German law

Germany's highest court has said the Lisbon treaty is compatible with the country's constitution but that additional legislation is needed before the treaty can be ratified. The ruling removes one remaining obstacle to the Lisbon treaty but will delay its final approval in Germany.

German law does not provide parliament with a sufficient say in the transfer of competencies to the EU, the court said, adding that until the law is changed, Germany cannot ratify the treaty. "The ratification document of the Federal Republic of Germany may not be adopted until the sufficient legal groundwork for parliamentary participation as foreseen in the constitution has been laid,"

The German parliament has already ratified the treaty but the President Horst Köhler was waiting for the court judgment before signing it.

José Manuel Barroso, President of the Commission, welcomed the judgment and said that the court has cleared the way for a swift conclusion of the German ratification. Commissioner Barroso is confident that the process of ratification of the Treaty of Lisbon in all countries can be completed by the autumn 2009.

## Barroso officially nominated as President of the European Commission

After having expressed their political support for José Manuel Barroso as president

of the next European Commission during the June summit, the 27 Member States formally decided on 9 July, by written procedure, to nominate Mr Barroso as candidate of the European Council for this post between 1 November 2009 and 31 October 2014. The decision was immediately transmitted to the European Parliament, which will vote on his candidacy in September. In a letter to the president of the EP, Mr Barroso stated, "*the challenges we face - from the economic and financial crisis to climate change and energy security - call for a clear vision, a strong EU and a sustained cooperation between strong EU institutions. I believe that I have the vision and the experience to lead the Commission as it tackles these challenges*".



José Manuel Barroso is now officially nominated by the Member States' governments as candidate for President of the European Commission

## Banking sector regulations

### Capital Requirements Directives

Banks may face fines or extra capital requirements if their remuneration policy for managers and traders is too risk-prone, according to draft EU rules put forward by the European Commission to stabilise financial markets.

On 13 July the European Commission proposed a comprehensive review of capital requirements for banks, aimed at limiting risks related to directors' bonuses, re-secured products and trading books.

The proposal will need approval from both

the European Parliament and EU governments before becoming law, with officials predicting that the process will take at least two years to be concluded.

A report on the financial impact of the measures proposed is expected by the end of the year, and could lead to a few modifications.

### Re-securitisations

Brussels also proposed to amend existing rules in order to increase capital requirements for banks dealing with re-secured financial products. These are complex instruments linked to asset-backed securities, which multiply banks' risk and losses. They were at the root of the current financial crisis.

In order to discourage banks from investing in these complex and often misunderstood instruments, the proposed new rules raise capital requirements for re-securitisation. The capital a bank would be required to hold as protection against the risks of re-secured products can be three times higher than for securitisation positions.

### Bank stress tests

Banks in need of state aid to face the crisis will have to undergo stress tests in order to assess the viability of their restructuring plans. In return, they will be able to receive public support for a longer period than usual, according to new guidelines issued by the European Commission.

The new framework announced on 23 July will be applied only to institutions which obtained financial aid "exceeding 2% of the total bank's risk weighted assets," reads a note from the Commission.

Banks which have received only light aid but with a wide exposure to impaired and toxic assets will also be subject to the new rules. The EU executive has already approved 10 restructuring plans since the crisis hit Europe in October 2008, and another 30 banks are currently in the pipeline.



# CFE Intern

## Events

### CFE Forum 2009



The CFE Forum 2009 was held at the Representation of the State Saxony-Anhalt to the European Union.



Alexander Wiedow, Director Indirect Taxation and Tax Administration at the European Commission, Gottfried Schellmann, CFE Fiscal Committee Chairman, Michael Tumpel, CFE Fiscal Committee delegate and the opening speaker Peter Chrenko, Czech Republic Deputy Minister of Finance, during the lunch break.



Thomas Wobben, Head of the Representation of the State Saxony-Anhalt to the EU, and Jens Bullerjahn, Minister of Finance of the State of Saxony-Anhalt, welcomed the audience to the CFE Forum. Here they are pictured together with the CFE Secretary General Dr. Heinrich Weiler and the President of the Steuerberaterkammer Sachsen Anhalt, Wolfram Kurch.



Gottfried Schellmann, CFE Fiscal Committee Chairman, provided the audience with a summary of the CFE Forum.



The Forum speaker Prof. Dr. Pierre-Marie Glauser together with Christian Amand, Sub-Chairman Indirect taxation CFE Fiscal Committee during the coffee break.



CFE Vice-President Dr. Herbert Becherer together with CFE Professional Affairs delegate Nora Schmidt-Kessler and CFE Fiscal Committee delegate Prof. Dr. Christian Schmidt.



Alena Zabojska, CFE Fiscal Committee delegate, together with Erika Kláric, CFE delegate and Petra Pospisilova, CFE Fiscal Committee delegate.



Ian Young, Sub-Chairman Direct taxation CFE Fiscal committee and the Forum speaker Bert Zuijden-dorp, Head of Unit Control of the application of community legislation and state aid/ direct taxation at the European Commission.

# Events

## CFE Badge of honor to Professor Dr Albert Rädler

During the CFE Forum on 23 April 2009 **Professor Dr. Albert Rädler** was awarded the CFE badge of honor for his outstanding services to the CFE and in particular to the Fiscal Committee.

Professor Dr. Albert Rädler was honoured for his long and loyal commitment to the Fiscal Committee, where he took part in meetings 1 to 113!



Stephen Coleclough, CFE President, awarded Prof. Dr. Albert Rädler the CFE badge of honour during the CFE Forum 2009

## POFEE promotes the foundation of a Greek Tax Advisor Chamber

The **P.O.F.E.E.** (Pahnellenic Federation of self-employed Tax Advisors) President, Mr. Abraham Panidis, stated that POFEE wants to create a Chamber of Tax Professionals in Greece during his opening speech, which was followed by key note speakers, a press-conference and a discussion on 2 July in Athens.

This event took place during the official visit to Greece of the CFE President Mr Stephen Coleclough. Mr Coleclough supports the Greek initiative and spoke about a number of current tax issues in Europa and also important developments in CFE Member Organisations.

Mr Panidis explained that the establishment of a Tax Advisor Chamber did not abolish nor replace the Economic Chamber of Greece and its role as legal adviser of the State, but filled a gap in the area of jurisdiction and operations.

In response to questions on the anti-fraud measures announced by Finance Minister,

Mr Papanthasiou, POFEE President Mr Panidis stressed that «there can be no objection to a demarcation of responsibilities of the profession as to what can be legitimately undertaken in the name of the profession and the re-definition of services we can offer».



Mr Theo Vassilopoulos, Mr Nikolaos Papanthasiou (POFEE Vice President), Mr Stephen Coleclough (CFE President), Mr Abraham Panidis (POFEE President), Mr Athanasios Deligiannis (POFEE PR Mgr)

## Tax Week in Russia

**The Chamber of Tax Advisers of Russia**, supported by the Ministry of Finance of the Russian Federation, arranged a TAX WEEK IN RUSSIA where over 1000 professionals took part.

Representatives of legislative, executive and judicial bodies of business community and professional tax specialists discussed topics relating to the current economic situation in Russia, anti-crisis fiscal measures and the state of Russian tax law. Based on the results of the TAX WEEK IN RUSSIA resolutions expressing the opinion of the professional community on the existing problems were adopted.

The main events of the week were:

- International scientific-practical symposium addressing current questions regarding tax policy "*Anti-crisis tax mechanisms: what has been done and what remains to to be done*",
- International scientific-practical conference named "*Tax Law in 2008 Decisions of the Constitutional Court of the Russian Federation*".

There has also been a series of seminars for tax payers on current issues.

In Russia the year 2008 was distinguished by a range of legislative initiatives aimed at lowering the tax burden and enhancing the incentive role of taxation in the contemporary economic environment. At the beginning of 2009 a legislative regulation providing an oblig-

atory pre-trial settlement of tax disputes came into effect. Along with the changes listed, the Constitutional Court of the Russian Federation adopted 1 resolution and over 30 court rulings on tax related issues.



TAX WEEK IN RUSSIA

# Upcoming Events

## CFE 50th Anniversary Conference

The CFE celebrates its 50th Anniversary in 2009. To highlight this event the CFE, together with the **Institut des Avocats Conseils Fiscaux (IACF)** and **Union Professionnelle des Sociétés d'Avocats (UPSA)**, will organize an Anniversary Conference on Friday 25 September 2009 in Paris. The topic of the Conference is "Making Europe more competitive - Where are we after 50 years?".

The CFE is delighted to announce that **Christine Lagarde**, French Minister for the Economy, Industry and Employment, will be the opening speaker of the Conference.



CFE 1959



CFE 2009

[Please click here for more information about the conference](#)

### CFE - ECJ SEMINAR

Luxemburg,  
Tuesday 20 October 2009

The number of taxation issues that are being brought to the ECJ by the national courts is significant

The central purpose of this seminar is to address a key question which the European tax professionals are increasingly confronted with: "How do I ensure to advise my clients efficiently on tax dossiers which are (or are liable to be) affected by an ECJ decision?"

The participants will have an exceptional opportunity to find themselves in the EU decision making process by assisting an audience at the Grand Chamber. The functioning of the ECJ, the proceedings of the legal cases, the requisites and guidelines for the building up of effective taxation dossiers will be expanded upon in presentations made by professionals who are dealing with these issues on an almost daily basis. The afternoon session will be dedicated to an open discussion with a panel of experts from the tax advice profession and from the EU institutions.

[Please click here for more information](#)

### CFE General Assembly

The CFE General Assembly and the CFE Technical Committee Meetings will take place in Paris on 24 - 26 September 2009.

A Gala Dinner will be held on Friday 25 September in the *Automobile Club de France* to celebrate the 50th anniversary of the CFE. The CFE is happy to announce that **László Kovács**, Commissioner for Taxation and Customs Union will be a speaker at the dinner.



# Block-Notes

## Henk Koller - New President for the NOB



De **Nederandse Orde van Belastingadviseurs (NOB)** has elected the CFE Professional Affairs Chairman **Henk Koller** as President. Henk Koller

is a senior tax partner in the Amsterdam office of Deloitte. Before he became NOB President he served as executive board member of the NOB, and chaired the NOB Professional Affairs Committee.

NOB is the professional association of university educated tax advisers in the Netherlands. It has 4,000 members (including 1,000 prospective members).

## Fellowship for services to indirect tax

The **Institute of Indirect Taxation (IIT)** has awarded the CFE President **Stephen Coleclough** a fellowship, which he received in recognition for his services to indirect tax. It is a reflection of Mr Coleclough's commitment as an adviser to businesses.

The IIT is the only professional body in the UK whose members practice solely, or on a very regular basis, in indirect taxes.

When asked about his fellowship, Stephen said: *"I was thrilled to be awarded the fellowship and I hope that I can continue to raise the profile of indirect tax."*



## The CFE Web portal



### The new CFE web portal is ready to be used !

As of March the CFE has a new web portal which provides detailed information about the CFE, the European Register of Tax Advisers and offers a number of brand new functionalities not only for CFE delegates but also for other users.

The portal is an integral part of the CFE presentation and plays an important role in its public relations. The main menu copies the previous system and integrates information about the CFE, its activities, events, publications, members and the register. All the information has a unified design with the aim of having a user-friendly system which is easy to navigate.

One of the main changes is a brand new developed **internal area** supporting the internal work of the CFE bodies and delegates. Frequently asked questions should help all users to work with it in a short time period. Each body of the CFE has its own section in the internal area. The delegates can find invitations and agendas for all meetings there as well as the archive of documents from previous meetings. The content is searchable, which helps to find the right document quickly. A new function of the internal area is **electronic discussion**. In the first period, all comments will be sent by e-mail with a notice that there is a new contribution on the system.

CFE delegates are invited to fill in their own **profiles** or find their colleagues' profiles in the internal area. A personal picture and other contact details can be added. This service is available only for the delegates at the moment.

How is it possible to enter the internal area? Simply insert your username and password, which was sent by the CFE Brussels's office after the launch. The username and password are easy to remember. The username is your e-mail address. The password is easily changeable. The Brussels office is ready to help with any possible problems or questions.

The Portal is **multilingual**, which will make the Portal content more attractive for tax advisers in the different member countries. If member organisations translate and deliver particular texts related to their activities, the CFE is able to incorporate them in the website.

As a part of the Portal a **new photo gallery** has been developed. It is available in a limited version for all users for public relations purposes on the homepage and in an extended version for registered delegates.

The next important section of the portal is the upgraded **European Register of Tax Advisers**. All portal users will find the improved search engine which enables multiple search for tax advisers. The Register helps the task manager more effectively with operations and records and furthermore provides the CFE office with an overview of all registered tax advisers.

The aim of the portal development team is to encourage all delegates and Member Organisations to promote the portal among tax advisers and support the awareness of this new CFE tool.

*Radek Neuzil,*  
The Czech Chamber of Tax Advisers

# Impressum

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