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VALUE ADDED TAX COMMITTEE
(ARTICLE 398 OF DIRECTIVE 2006/112/EC)
WORKING PAPER NO 982

CASE LAW

ISSUES ARISING FROM RECENT JUDGMENTS OF THE COURT OF JUSTICE OF THE EUROPEAN UNION

ORIGIN:	**Sweden**
REFERENCES:	**Article 53 of the VAT Directive** **Article 32 of the VAT Implementing Regulation**
SUBJECT:	**Case C-647/17 *Srf konsulterna***

1. INTRODUCTION

With its letter of 21 August 2019, the Swedish delegation asked the VAT Committee to discuss certain issues linked with the judgment of the Court of Justice of the European Union (CJEU) in case C-647/17, *Srf konsulterna*[1].

The text of the letter is attached in the annex.

2. THE SUBJECT MATTER

2.1. Main elements of the judgment in case C-647/17, *Srf konsulterna*

The main points from the judgment are the following:

- The judgment for the first time examined and defined the material scope of Article 53 of the VAT Directive[2] dealing with the place of supply of services in respect of admission to cultural, artistic, sporting, scientific, educational, entertainment and similar events. According to that provision the place of supply of these services, when supplied to a taxable person, is where those events actually take place.

- The services referred to in the judgment consist of accounting and management courses in the form of seminars provided only to taxable persons in return for a fee. The training courses are given at a conference centre, some in Sweden and some in other Member States. They last 5 days with a one day break in the middle. The syllabus for the course is prepared in advance but can be modified on the spot in order to adapt it to the needs of the participants. Prior registration, confirmation of participation and payment in advance are required.

- The question was whether these services are covered by Article 44 or Article 53 of the VAT Directive. In other words, whether the essential characteristics of these services covered by Article 53 of the VAT Directive consist in granting the right of admission to an event as referred to in Article 32(1) of the VAT Implementing Regulation[3].

- The CJEU confirmed that, as follows from settled case-law, the general rule for the place of supply included in Article 44 of the VAT Directive does not take precedence over specific rules such as the one included in Article 53. Further, it was underlined that the rules for the place of supply of services aim at avoiding conflicts of jurisdiction which may result in double or non-taxation. Additionally, the CJEU stated that when two or more components or acts supplied by the taxable person are so closely linked that they form, objectively, a single, indivisible economic supply, which it would be artificial to split, the transaction is a single supply. Also the CJEU reminded that as far as possible services should be taxed at the place of consumption.

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1 Judgment of 13 March 2019, *Srf konsulterna*, C-647/17, EU:C:2019:195.

2 Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1), as amended.

3 Council Implementing Regulation (EC) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax (OJ L 77, 23.3.2011, p. 1), as amended.

- For the purposes of the application of Article 53 of the VAT Directive and in particular looking at the concept of admission to events, the CJEU stated that admission to seminars given to taxable persons for payment necessarily involves the possibility of attending and participating in those seminars. Therefore, such participation is closely linked to admission to the seminars. In those circumstances, any distinction between the right to enter a place and the right to participate in a specific training course cannot be accepted for the purposes of applying Article 53 of the VAT Directive.

- The CJEU also underlined that advanced registration and payment are irrelevant for the purposes of applying Article 53 of the VAT Directive.

- In the judgment, it was also underlined that although the need to avoid disproportionate administrative burden is an element (mentioned in the recital of Council Directive 2008/8/EC[4] that introduced Article 53) playing a role in the assessment of the VAT rules, it cannot be applied counter to the wording and to the purpose of the rules in question.

- Therefore, the CJEU ruled that the services in question were covered by Article 53 of the VAT Directive.

2.2. Issues raised by the Swedish delegation

The Swedish delegation has been considering the implications of the judgment for the application of Article 53 of the VAT Directive in Sweden. They believe that despite this judgment some issues still have not been resolved and that there is a risk that when faced with these issues Member States may apply Article 53 in a different manner. They raised the following questions:

a) For how long can a course or a seminar last and still be qualified as an event?

b) Is it an event if the course or the seminar is being adapted to the customer's wishes? In that case, the customer orders a course or a seminar the content of which is entirely based on his wishes.

c) Does Article 53 include a seminar that is provided to a single customer, being a taxable person, who allows its employees to attend the seminar?

d) Does Article 53 include a seminar that is provided to a taxable person, who in turn supplies the service to a single customer, being a taxable person, allowing his employees to attend the seminar?

e) How should the place of supply be determined when an event takes place in several Member States?

[4] Council Directive 2008/8/EC of 12 February 2008 amending Directive 2006/112/EC as regards the place of supply of services (OJ L 44, 20.2.2008, p. 11).

In the opinion of the Swedish delegation when a course or a seminar lasts for more than 7 days or when its content is based entirely on the customer's wishes and therefore is not addressed to the general public, the course or the seminar is not to be seen as an "event" for the purposes of Article 53 of the VAT Directive.

Further, the Swedish delegation explains that in its view a seminar bought in by an employer for his employees to use, also when it is not acquired directly from the organiser of the seminar but from another taxable person, is also covered by Article 53 of the VAT Directive. This provision should apply even though no other people than the employees themselves participate in the seminar.

Finally, the Swedish delegation believes that if an event takes place in several Member States, a division of the supply of access should be made based on the proportion carried out in each Member State.

3. THE COMMISSION SERVICES' ANALYSIS

The general question which is to be analysed in this paper is the scope of application of Article 53 of the VAT Directive, in particular in the situations identified by the Swedish delegation taking into account the judgment in case C-647/17.

This is the first CJEU judgment dealing with Article 53 and it reiterates well defined lines of the jurisprudence to be taken into account in respect of the rules regarding the place of supply of services.

Further, the judgment underlines that the notion of "admission", for the purposes of Article 53 of the VAT Directive, covers both the right of entry and the right to participate in a training course and that advanced registration and payment are irrelevant for the application of Article 53. At this juncture, it is important to note that the judgment provides for a wider interpretation of the scope of Article 53 than that advanced by the Commission services some time ago[5]. Therefore, the position of the Commission services has to be adapted accordingly.

The Swedish delegation rightly stated in its document that when examining Article 53, two key concepts should be analysed: (i) "event" and (ii) "admission". The same approach was held in the Opinion delivered by Advocate General Sharpston in the case at hand[6]. It should not be forgotten that when discussions first took place in the VAT Committee that was indeed the approach taken[7].

The concept of "event" is not defined in the VAT Directive. As cited by the Advocate General under point 38 of the Opinion, in accordance with the Oxford Dictionary "event" is 'a thing that happens or takes place, especially one of importance' and more specifically as 'a planned public or social occasion'.

5 Working paper No 660 of 22 April 2010, *Admission to cultural, artistic, sporting, scientific, sducation, entertainment or similar events – concept of admission*.

6 Opinion of Advocate General Sharpston delivered on 10 January 2019 in case C-647/17 *Srf konsulterna*, EU:C:2019:13.

7 Working paper No 660.

Further, the Advocate General remarks that:

"*39. An event for the purpose of Article 53 must therefore be planned in advance. Conceptually, I see it as an indivisible whole in terms of content, place and time. Naturally, an activity having a predefined agenda and specific subject matter is more likely to qualify as an event than an open-ended activity providing only a general framework for an educational service.*

...

41. Time is also a significant factor. The duration of a service should normally enable one to distinguish between educational events and other educational activities. A conference or seminar typically lasts from several hours to several days; whereas a university course is likely to run for a significantly longer period (for example three weeks, a month, a semester, an academic year). It seems to me that the former will be likely to fall within Article 53 whereas the latter will not. ...

42. Whether an activity is continuous or is divided into several parts or sessions may also provide an indication as to its classification for tax purposes. To me an event is, as a matter of principle, an uninterrupted activity. Where a course or training period exceeds the duration of one day, it is more likely to fall within Article 53 if it takes place over several consecutive days. However, a day's break in the middle does not to my mind automatically disqualify such an activity as an event. In contrast, a course lasting several weeks or more, divided into a number of parts including several breaks, is less likely to qualify as an event. If, additionally, such a course requires significant preparation from participants before or between each individual session — in particular where there is a test or another form of performance appraisal at the end of each such session — this would appear to fall readily within the notion of an extensive or continuing training activity and thus is even less likely to qualify as an event.

43. It follows logically that it is not possible to specify a single criterion fixing an exact maximum duration for an event within the meaning of Article 53. Rather, a number of features need to be assessed together on a case-by-case basis.

44. I therefore consider that Article 53 of Directive 2006/112 covers indivisible educational activities planned in advance that take place at a specific place and over a short period of time and that concern a predefined subject matter. Conversely, educational activities lacking one or more of those characteristics, such as a series of separate meetings or workshops taking place at different dates or locations, courses scheduled over a prolonged period of time or open-ended cycles of meetings, especially if their programme or agenda are not defined in advance, fall outwith that notion."

It is the view of the Commission services that some of the elements of that Opinion can be useful with a view to assessing the questions raised by the Swedish delegation.

3.1. How long can a course or a seminar last and still be qualified as an event?

As set out above, there are various elements that have to be taken into account in assessing whether a course/seminar qualifies as an event.

Therefore, the duration of a course or of a seminar cannot be seen as the only decisive factor when qualifying it as an event or not for the purposes of Article 53 of the VAT Directive.

On the point of the length of a course/seminar/conference, it should be reiterated in line with what is expressed by the Advocate General (point 41 of the Opinion) that a course/seminar/conference typically lasts from several hours to several days contrary to university courses which are likely to run for a significantly longer period. Further, the Advocate General in point 44 of her Opinion underlined that the duration of the course/seminar/conference has to be, in any case, "short". Therefore, in the opinion of the Commission services, the longer the period of a course/seminar/conference, the less likely it is that this may be considered as an "event".

It seems correct to conclude that although one precise rule (for example 6, 7 or 8 days) cannot be established, it appears reasonable to assume that in the majority of cases a course/seminar/conference, within the meaning of what is an "event" under Article 53 of the VAT Directive could rarely last longer than 6, 7 or 8 days. Therefore, when a course or a seminar would last more than a week the supplier, in order to assess whether it is still an event in the sense of Article 53 and not an activity, has to assess all the relevant elements in order to verify if they form "…*an indivisible whole in terms of content, place and time* …".

3.2. Is it an event if the course or the seminar is adapted (partially or entirely) to the customer's wishes?

In its judgment, the CJEU opted for a wider interpretation of Article 53 than the one presented originally by the Commission services in 2010.

The CJEU stated that advanced registration and payment are irrelevant for the purposes of applying Article 53 of the VAT Directive. In other words, the fact that the supplier knows the identity of all the participants in advance is immaterial in this situation. Obviously, knowing in advance who the participants are allows the supplier, if needed or requested, to adapt the content of the course (partially or fully) to the customer's needs. Therefore, the interpretation provided by the CJEU does not seem to exclude the possibility that a course or a seminar is adapted to the customer's wishes without it losing its status as an event.

The interpretation provided by the Advocate General strengthens this approach as it refers to the predefined agenda or programme of a seminar as an indicator that it might be considered as an event for the purposes of Article 53 of the VAT Directive. The fact that the supplier knows the wishes of the customer may allow him to better/more precisely prepare the programme of the course or the seminar for his customer.

3.3. Does Article 53 apply to a seminar that is provided to a single customer, being a taxable person, allowing his employees to attend it?

When a company (a legal person) buys a seminar it is obvious that the participants will be physical persons representing the company that has acquired the seminar.

The question seems to deal with the situation where the employer buying a seminar for his employees does so in the context of his taxable activities i.e. the employer is a taxable person acting as such. For example, the employees of an accounting company attend a

seminar on accountancy, which has been acquired by the accounting company-employer from a third party. In such a case, there seems to be no doubt that such a supply should be considered as made to a taxable person for the purposes of Article 53 of the VAT Directive, which will fall under the scope of the provision if, account taken of all the circumstances, the seminar in question can be considered as an "event".

A situation might occur where the subject matter of the seminar is not directly related to the activities of the employer - the taxable person which buys the service, but instead is intended for his private use or for that of his staff.

In such a scenario, Article 28 of the VAT Directive would apply. The employer would be deemed to have received and supplied (on the basis of Article 26(1)(b) of the VAT Directive) the service himself. Assuming that what is being supplied to the employer is admission to an event which encompasses, in accordance with the judgment, the right to enter and the right to participate in a specific training course/seminar, the conclusion would be that both services would be located for VAT purposes at the place where the event takes place.

3.4. Does Article 53 apply to a seminar that is provided to a taxable person who in turn supplies the service on to a single customer, being a taxable person, allowing his employees to attend the seminar?

The VAT Committee, on the basis of Working paper No 737[8], already discussed certain aspects linked with an intermediary supplying tickets for an event. The focus of that paper was on the situation where an intermediary sells tickets directly to non-taxable persons.

The Commission services believe that, even after the CJEU judgment in case C-647/17, the conclusions from this Working paper which are included in guidelines subsequently agreed by the VAT Committee[9] are still relevant for the question raised by the Swedish delegation.

In particular, the guidelines state the following:

"…

*2. Where … tickets [*granting a right to access a cultural, artistic, sporting, scientific, educational, entertainment or similar event*] are distributed through an intermediary acting in his own name but on behalf of the organiser, the VAT Committee unanimously agrees that in that case, for VAT purposes:*

(i) the organiser is deemed to make a supply of services to the intermediary consisting of granting access to the event, the place of supply of which is the place where the event actually takes place, as provided for in Article 53 of the VAT Directive;

(ii) the intermediary is, according to Article 28 of the VAT Directive, deemed to make a supply of services consisting of granting access to the event through the sale of the

[8] Working paper No 737 of 27 June 2012, *Tickets for sports events supplied by an intermediary acting in his own name and on his own behalf.*

[9] Guidelines resulting from the 97th meeting of 7 September 2012, Document A – taxud.c.1(2012)1453230 – 743 (p. 164).

ticket to the purchaser, the place of supply of which is the place where the event actually takes place, as provided for in Articles 53 and 54 of the VAT Directive.

3. Where such tickets are distributed through a third party, other than the organiser, acting on his own behalf, or acting in his own name and on his own behalf, the VAT Committee unanimously agrees that in selling those tickets the third party shall be regarded as having supplied a service consisting of granting access to the event, the place of supply of which is the place where the event actually takes place, as provided for in Articles 53 and 54 of the VAT Directive.

…"[10].

The analysis of the wording of Article 53 of the VAT Directive seems to confirm this approach. The provision focuses on the type of services (services in respect of admission to events) that are covered by it and not on the type of taxable person supplying them. Article 53 covers supplies of services between taxable persons but at the same time it has to be recognised that the right of entry and the right of admission can only be exercised by a physical person who can act as a taxable person or can represent such a person.

Further, in the opinion of the Commission services also the wording of Article 33 of the VAT Implementing Regulation does not exclude the possibility that "*a person* [physically] *attending an event*" is not a taxable person himself, but represents that taxable person as for example his employee.

Therefore, it is correct to assume that a seminar provided to a single taxable person who in turn supplies the service to another single taxable person, an employer who allows his employees to attend the seminar, should be covered by Article 53 of the VAT Directive. Here it can be only added that Article 28 of the VAT Directive would apply in respect of the first taxable person deemed to have received and supplied further the service in question.

3.5. How should the place of supply be determined when an event takes place in several Member States?

In principle a single supply of a service can only have one place of supply identified on the basis of a single provision. In almost all cases envisaged by the VAT Directive it means that taxation can only take place in one country. An exception to this is to be found in the provisions dealing with transport. Articles 48 and 49 of the VAT Directive state that *"the place of supply of … transport … shall be the place where the transport takes place, proportionate to the distances covered."*.

Looking at the wording of Article 53 of the VAT Directive (*"The place of supply of services in respect of admission to … events … shall be the place where those events actually take place")*, one might have as a reflection that in the case where a course or a seminar takes place in several Member States, it could be taxed in all those Member States (option 1).

[10] Here the Commission services can only add that regarding the analysed question the approach taken by these guidelines does not follow the reflections of the Advocate General on this particular issue (see point 54 of the Opinion) but those are any way not taken over in the judgment of the CJEU.

The opposite approach would be to see Article 53 of the VAT Directive as allowing taxation in respect of admission to events in accordance with this provision to be only in one Member State regardless of the fact that the course or the seminar takes place in several Member States (option 2).

The main argument for option 1 is the general aim of the VAT system which is to ensure taxation at the place of consumption. For example, if the seminar lasts 4 days in total with 2 days in Member State A, 1 day in Member State B and 1 day in Member State C one may see it as being consumed in three different places.

In this respect it should be mentioned that in case C-111/05 *Aktiebolaget NN*[11] the CJEU dealt with the place of supply of an undersea fibre-optic cable which was supplied and installed between two Member States separated by international waters. In this case, the CJEU decided that what was being supplied was a good the place of supply of which, because of the nature of the good, could be divided according to its location.

Further, Article 47 of the VAT Directive dealing with the place of supply of services connected with immovable property can also be mentioned here. It identifies the place of supply of such services to be at the place where the piece of immovable property to which the services relate is located. Therefore, one cannot exclude that a service connected with a piece of immovable property located in two different Member States would have to be split into two. In other words, a single service would be divided for VAT purposes because of the applicable place of supply rule regarding VAT.

In respect of admission to events, the practical question of how to divide one service between several Member States arises because we do not have any indications included in the VAT legal provisions on this issue. Should it be according to the duration of each part of the service taking place in every Member State or should one rather look at the value, or the cost of each part of a service performed in different Member States? In the situation where one service is divided between several Member States there should be a common understanding on how such a division should be made. Otherwise there is a genuine risk of double or non-taxation.

Should the VAT Committee be inclined to choose option 1, it should be kept in mind that the same approach would likely have to be taken in respect of restaurant and catering services covered by Article 55 for which the place of supply is where those services are physically carried out.

Turning now to option 2, there are several elements that should be taken into account.

In accordance with recital 6 of Council Directive 2008/8/EC *"In certain circumstances, the general rules as regards the place of supply of services for both taxable and non-taxable persons are not applicable and specified exclusions should apply instead. These exclusions should be largely based on existing criteria and reflect the principle of taxation at the place of consumption,* ***while not imposing disproportionate administrative burden upon certain traders****."*.

This recital was analysed by the CJEU in the judgment in the context of the scope of Article 53 of the VAT Directive. In paragraph 32 of its judgment the CJEU stated that:

[11] Judgment of 29 March 2007, *Aktiebolaget NN*, C-111/05, EU:C:2007:195.

"… , it is settled case-law that the preamble to an EU-law act has no binding legal force and cannot be relied on either as a ground for derogating from the actual provisions of the act in question or for interpreting those provisions in a manner that is clearly contrary to their wording".

However, this recital should not be disregarded where there is no contradiction with the wording of the legal provision. In such a case, it should help to arrive at the right interpretation. In other words, the imposition of disproportionate administrative burden should be avoided as far as this is possible taking into account the purpose of the provision and its construction. Dividing one service between several Member States could in fact be seen as a disproportionate administrative burden.

Exceptional situations should not, in principle, be decisive when it comes to arriving at the general interpretation of Article 53 of the VAT Directive. Therefore, where an exceptional situation occurs, i.e. a course or a seminar takes place in several Member States, the place of supply might still be identified as being only in one of these Member States. In each individual case, it has to be assessed on the basis of all available information, in which Member State the place of supply would be located.

Anyway, the Commission services consider that a common understanding on how such a decision is to be taken would be necessary in order to avoid situations of double or non-taxation occuring in practice.

Finally, it should be underlined that the legislator, during discussions in Council, did not anticipate, at the time of adoption, to divide the place of supply of a single service of admission to an event[12].

To sum up, the VAT Committee should agree on a common approach on this issue. The decision should be made taking into account that in accordance with settled case-law the rules for the place of supply of services aim at avoiding conflicts of jurisdiction which may result in double or non-taxation. Additionally, recital 27 of the VAT Implementing Regulation states that the purpose of introducing a special rule for admission to events was to ensure the uniform treatment of the concerned services[13].

4. DELEGATIONS' OPINION

The delegations are invited to give their opinion on the questions raised in the Working paper, with a view of preparing possible VAT Committee guidelines.

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[12] See the explanations provided in Working paper No 604 of 27 January 2009, *Follow-up to the VAT package - cultural, artistic, sporting, scientific, sducation, entertainment or similar events, in particular an admission to such events.*

[13] Recital 27 of the VAT Implementing Regulation: *"In order to ensure uniform treatment of supplies of cultural, artistic, sporting, scientific, educational, entertainment and similar services, admission to such events and ancillary services which are related to admission need to be defined"*.

ANNEX

Questions from Sweden

Court of Justice of the European Union Case C-647/17, Srf konsulterna, application of Article 53 of the VAT Directive

BACKGROUND

In its judgment, the CJEU ruled that the expression 'services in respect of admission to events' in article 53 of the VAT Directive[1] should be interpreted as meaning that this provision include a five-day course on accountancy and management which is supplied solely to taxable persons and requires advance registration and payment. The CJEU also stated that article 53 must not be regarded as an exception to a general rule, which must be narrowly construed.

In view of this judgment, some issues have now been resolved regarding the interpretation of article 53. Firstly, the supply of "services in respect of admission to events" requires that there is an opportunity to attend and participate in the event. The fact that an event is subject to advance registration and payment is irrelevant for the purposes of the application of article 53. Secondly, it is clear that a course lasting for five days, with one day's break in the middle, constitutes an educational event in accordance with article 53.

QUESTIONS FROM SWEDEN

The Swedish delegation has been considering the implications of the judgment for the application of article 53 in Sweden. In our opinion, there are still some issues that have not been resolved by the judgment. We believe that there is a risk that these issues are being applied in a different manner in the Member States. This applies to the following issues.

a) For how long can a course or a seminar last and still be qualified as an event?

b) Is it an event if the course or the seminar has been adapted to the customer's wishes? In that case, the customer has ordered a course or a seminar whose content is entirely based on the customer's wishes.

c) Does article 53 include a seminar that is provided to a single customer who allows its employees to attend the seminar?

d) Does article 53 include a seminar that is provided to a single customer who in its turn supplies the service to a single customer who allows its employees to attend the seminar?

e) How should the place of supply be determined when an event takes place in several Member States?

[1] The place of supply of services in respect of admission to cultural, artistic, sporting, scientific, educational, entertainment or similar events, such as fairs and exhibitions, and of ancillary services related to the admission, supplied to a taxable person, shall be the place where those events actually take place (Article 53 of the Council Directive 2006/112/EC).

The length of an event has been discussed before in the VAT committee, for example at the 97th meeting[2]. However, the outcome of this meeting did not lead to any guidelines.

OUR POSITION

Article 53 of the VAT Directive only covers admission to events which are cultural, artistic, sporting, scientific, educational, entertainment or similar.

Recital 27 of the Council Implementing Regulation (EU) nr 282/2011 states that in order to ensure that the provision of such services is treated in a uniform manner, admission to such arrangements needs to be defined. Article 32 of the Implementing Regulation states that services relating to admission to such arrangements include services consisting of the right to admission an event in exchange for a ticket or payment, including a subscription, a seasonal ticket or a periodic fee. The Implementing Regulation provides conferences and seminars as examples of educational or scientific events.

The European Court of Justice has ruled that Article 53 of the VAT Directive applies to a five-day course in accounting which is only provided to taxable persons and which requires registration and payment in advance. According to the European Court of Justice, the concept of admission to events should not be interpreted restrictively[3].

Apart from what has been said above, there is no interpretation to be found of the concept of admission to events within EU law. In the absence of a definition in the VAT Directive the concept of admission to events must be interpreted in the light of its context within the VAT Directive[4].

The supply of "services in respect of admission to events" means that two conditions must be fulfilled. Firstly, it should be an event of a certain kind and, secondly, it should be an admission to the event in question.

Event of certain kind

In our opinion, the term event refers to an arrangement which, seen from the perspective of the average visitor, takes place at a certain point in time and in a particular place[5]. This means that those attending the event are physically present.

If the course is conducted remotely, the service is in our opinion covered by Article 44 of the VAT Directive if the buyer is a taxable person[6]. But if Article 53 of the VAT Directive is still to be applied, we believe that the place of supply is where the supplier's fixed establishment is located or, in the absence of such place, the place where the supplier has his permanent address or usually resides in accordance[7].

An event is more limited than an activity. An activity has an element of continuity in itself while an event is lasting for a limited time and lacks continuity[8]. It usually lasts, in our

2 Working Paper No 738.
3 C-647/17, Srf konsulterna.
4 For a similar reasoning C-114/05 Gillian Beach paragraph 21 and C-3/09 Erotic Center paragraph 14.
5 C-568/17, Geelen, paragraph 53.
6 Working Paper No 738, section 3.2.
7 C-568/17, Geelen, paragraph 53.
8 Working Paper No 738, section 3.1.

opinion, a few hours and in some cases a few days but not more than seven consecutive days. The Commission has also stated that a period of seven consecutive days is a reasonable time limit[9].

An event is addressed to the public. Those who has the opportunity shall be given access to the event against payment. This also applies if the event is aimed at a specific target group, such as people with a special professional competence. An arrangement that has been adapted to the customer's wishes is not addressed to the public. In that case, Article 53 of the VAT Directive is not applicable. The provision of such arrangements must be assessed on the basis of the main rule.

In order for it to be an event, both the content and the duration must be determined in advance. If, for example, an organizer offers a number of one-day seminars with different content that the customer can choose from, such an arrangement should be seen as different events.

Admission to the event

A service in respect of admission involves the possibility of attending and participating in an event. That means that someone is given the opportunity to attend an event such as a visitor, audiences or as a participant in exchange for a ticket or payment. The payment can also be made in the form of a subscription, a seasonal ticket or a periodic fee. The way in which the payment is submitted to the supplier is of no importance.

How the sale of tickets takes place - on site in connection with the event taking place or in advance – is also of no importance in the assessment of whether it is a question of admission. It can thus be a provision of admission even if a certain event presupposes registration and payment in advance[10].

Article 53 of the VAT Directive applies regardless whether all tickets for a particular event are sold to multiple customers or to just one single customer as it is irrelevant how tickets are sold. In our opinion, the provision cannot be interpreted in any other way.

An event could take place in several Member States. In our opinion, the VAT Directive does not indicate that any other provision other than Article 53 of the Directive is applicable in such a situation. Therefore, a division of the access should be made. If a certain part of the event takes place in e.g. Sweden, the place of supply for that part is Sweden. If, for example, a ticket to a football tournament allows the customer to access several football matches taking place in different Member States, a division of the access shall be made. Such a division can be made on the basis of how many matches that take place in each Member State.

Summary

According to the Swedish delegation, the above questions should be answered in the following way.

9 Working Paper No 738, section 3.1.
10 C-647/17 Srf konsulterna.

a) A course or a seminar can at the most last as long as seven consecutive days in order to be covered by the term "event".

b) A course or a seminar whose content is based entirely on the customer's wishes is not covered by the term "event". Such an arrangement is not addressed to the public.

c) A seminar where the single costumer lets its employees participate in can be covered by the expression "a service in respect of admission to events". This applies even if no other people participate than these employees. The fact that an arrangement presupposes that registration take place in advance is irrelevant in the application of Article 53 of the VAT Directive.

d) A seminar where the single customer in turn supplies the service to another single customer that lets its employees participate in can also be covered by the expression "a service in respect of admission to events". This applies to both of these transactions and even if no other people participate than these employees. The fact that an arrangement presupposes that registration take place in advance is irrelevant in the application of Article 53 of the VAT Directive.

e) If an event takes place in several Member States, a division of the access should be made based on the proportion carried out in each Member State.

CONSULTATION OF THE VAT COMMITTEE

As stated above, the Swedish delegation believe that there is a risk that these issues regarding the expression 'services in respect of admission to events' in article 53 are being applied in a different manner in the Member States. Given the risk of double taxation or non-taxation, we consider that it would be essential that this subject will be discussed in the VAT Committee at the earliest possible opportunity.