

6. CASE LAW – ISSUES ARISING FROM RECENT JUDGMENTS OF THE COURT OF JUSTICE OF THE EUROPEAN UNION

- 6.1 Origin:** Sweden
References: Article 53 of the VAT Directive
Article 32 of the VAT Implementing Regulation
Subject: Case C-647/17 *Srf konsulterna*
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1. The VAT Committee **almost unanimously** agrees that for the purposes of the application of Article 53 of the VAT Directive, the duration of a course/seminar/conference cannot be seen as the only decisive factor when qualifying it as an event.

However, the VAT Committee **almost unanimously** acknowledges that the longer the duration, the less likely it is for a course/seminar/conference to qualify as an event. In the majority of cases, a course/seminar/conference, in order to qualify as an “event”, shall not, according to the **large majority** view of the VAT Committee, last longer than a week.

In this context, the VAT Committee is of the **almost unanimous** opinion that in order to assess whether a course/seminar/conference shall be seen as an event, one must look at all its relevant elements, namely content, place and time.

2. The VAT Committee **almost unanimously** confirms that, following the judgment in case C-647/17 *Srf konsulterna AB*, advance registration and payment for a course/seminar/conference shall be irrelevant for the purposes of applying Article 53 of the VAT Directive. Therefore, as acknowledged **almost unanimously** by the VAT Committee, the fact that the supplier knows the identity of all the participants in advance of the course/seminar/conference taking place and as a consequence can adapt it to the customer’s needs or wishes, shall be immaterial for the application of this provision.
3. The VAT Committee **almost unanimously** recognises that when a company (a legal person) acquires a service qualifying as “admission to an event”, the fact that the event is attended by participants who are physical persons representing that company shall not hinder the application of Article 53 of the VAT Directive.

4. The VAT Committee **almost unanimously** confirms that the wording of Article 53 of the VAT Directive shows that the provision shall be seen as focusing on the type of services provided (services in respect of admission to events) and not on the type of taxable person supplying them.

Therefore, the VAT Committee **almost unanimously** supports the view that where a service consisting of “admission to an event” is supplied to a single taxable person (“service A”) who in turn supplies the same service to another single taxable person (“service B”), an employer whose employees are allowed to attend the event, both service A and service B shall be covered by Article 53 of the VAT Directive.

5. The VAT Committee, with a **large majority**, recognises that in cases where an event takes place in several Member States, taking into account the wording of Article 53 of the VAT Directive and the VAT system having as its purpose to tax at the place of consumption, the service shall be seen as located in each of the Member States concerned. In such a case, the supply shall be divided between all the Member States where the event is taking place proportionally to the duration (i.e. the number of days) of each part in every Member State concerned.

However, the VAT Committee, with a **large majority**, agrees that where the essential part of an event (i.e. the part that fulfils the main purpose of an event, communicated by the organiser) takes place only in one Member State and the other parts, taking place in other Member States, are purely ancillary/additional/of a secondary importance to that essential part, the service will be located only in the former Member State.