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Some aspects of the fight against VAT avoidance and VAT fraud in the European Union, with a special emphasis on the legal practice of the European Court of Justice

Thesis of PhD Dissertation

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I. Summary of the research task; the importance of the topic and its fundamental theoretical questions

It is in the area of value added tax (hereinafter: VAT) that law harmonisation within the European Union could have been formulated in a directive and therefore has been the most successful and complete legislation in the taxation field. Besides, this tax has proved to be one of the most stable and easy to plan component in the Member States' taxation systems, having gained an ever growing importance.

Since the EU VAT regulating system took shape, the European Commission has attempted several times to give it a final, permanent structure but these attempts failed. So a temporary solution – a transitional form of regulation, still in force – was introduced to support the internal market of the EU created on January 1st, 1993.

However in the course of the last couple of decades it was proved that the EU concept of VAT in force has clearly reached its limits and exhausted its potential; economic and technical development turns the system more and more vulnerable to tax fraud and tax avoidance. All constructions involving the payment of VAT in one Member State, whereas the costs attached to the same transaction are to be reclaimed in another Member State, may in advance imply the possibility of tax abuse.

From the late nineties on, the European Commission has attempted to work out solutions to counter VAT fraud in the European Union. Some elements of the proposed measures have been adopted but the system as a whole has not been conceptually reformulated. As a result, and also a consequence of the enlargement of the EU by the accession of new Member States, new abusive schemes have appeared and been extensively used, producing technically more and more complicated patterns. By now intra-Community VAT fraud has grown to considerable proportions. Activities related to tax abuse are pursued today on such a large scale that they threaten law-abiding behaviour as well as the healthy functioning of fair economic competition between companies in the sectors concerned, whereas dishonest commercial practice seems to benefit from the situation.

Consequently, issues regarding tax fraud, tax avoidance and possible ways to combat them both nationally and in the EU have become very timely, as well as the need to investigate the development possibilities of VAT regulations in the future, supported by a survey of international (non-EU) experience and the conclusions they offer.

The specific importance of the issue is also underlined by the fact that at the end of 2010 the European Commission decided it was time to initiate a broad based discussion with all the stakeholders – academics, business and public sectors – concerned on the future of VAT defining the possible ways of development and transformation of the EU VAT system[1].

Based on what has been said by far, I will try and find an answer to the following question: What could be the most efficient way to combat VAT fraud and VAT avoidance in the European Union? On the one hand, this means coping with the problem on a higher structural level because the transformation of the European VAT system will require the unanimous agreement of all the 27 Member States, followed by the implementation in each country of the amendments prescribed by the VAT directive[2]. However, experience has shown that the complete transformation of an already existing structure always requires a longer period of time.

As regards the long-term objectives attached to the large scale reform of the European VAT system, several conceptual questions need to be raised and answered. Such fundamental question is, for example, the one to decide in which Member State VAT should be paid in the case of cross-border transactions concerning goods and services. Should VAT be levied in the country where the services are supplied or the sales of goods take place, or is it due in the country where the provider's official seat is located? Another important question to clarify is whether these transactions should continue to fall under the 0 % tax rate - being practically exempted from VAT -, or rather they should be taxed?

It is therefore important to also consider short-term solutions, practicable within the framework of the legislation in force that already exist in some of the Member States' legislation and those existing possibilities that are offered by the VAT directive itself, or by any other field of taxation law.

Whether we choose to work out long-term or short-term solutions, we need to define first what is meant by tax fraud and tax avoidance, and what makes them differ from aggressive and lawful tax planning.

As for tax fraud, a further question has to be clarified: Based on the documents of the European Commission and the judgements of the European Court of Justice, as well as the related legal practices of the Member States, how to categorise the different forms of tax fraud and how to define their characteristics?

[1]COM(2010) 695 final, Green Paper on the future of VAT– Towards a simpler, more robust and efficient VAT system

[2]Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax

With a view to roll back tax avoidance and aggressive tax planning, the European Commission has already worked out a set of legal provisions in the area of indirect taxation, first of all regarding corporation tax. So it is quite legitimate to believe that it would be equally useful and important to formulate and introduce similar EU-level provisions to prevent tax abuse in the field of VAT. Also, we should give some thought to ways of possibly approaching approximations in the fields of direct and indirect taxation when it comes to countering tax abuse.

While combating tax fraud and tax avoidance, the European Court of Justice has adopted several decisions in the area of value added tax, elaborating in the process a number of legal instruments employable against certain forms of tax abuse. However, cases of tax fraud may vary to such a great extent that it would be probably wise to inflict different legal consequences on them. We may also ask whether the Court, having expounded on the facts of individual cases, have always interpreted the law with the same undiminished consistency when passing judgements in subsequent legal transactions? We may also need to clarify in what ways the objective criteria and circumstances underlying the VAT directive can be supported by subjective elements in practice, and to what extent taxpayers can be expected to proceed with due care.

When analysing the legal practice in the fight against tax avoidance, it is important to note that the European Court of Justice has also created the legal foundations for the concept of abuse of law to back up this very fight. Although in court decisions references to the concept of abuse of law have been made only for the past couple of years, it has recently become central to relevant judgements. One may also ask to what extent this concept is useful for the Member States when it comes to counter tax abuse in the legislative field, and whether it can be relevant when combating tax fraud?

Concerning the transformation of the VAT system, several concepts have been formulated by scientific and business circles, some components of which were adopted by the European Commission in its legislative recommendations and action plans. Some of these schemes however may continue to be relevant since no decisive steps have been taken yet in order to restructure the European VAT system.

Finally, it is appropriate to wonder whether the practices of certain third countries (outside the EU) can be regarded as models? The idea is not new; it was raised already in the past when the VAT reform was discussed.

II. The method applied during research

VAT falls within the category of indirect taxes, which constitutes a smaller group of taxes, and as a value added type of tax represents one of the most complex and peculiar taxation forms among the indirect taxes. Therefore the deeper analysis of the subject matter requires that the present study dedicates part of its introduction to describe the most important characteristics of VAT and the relevant EU legal concepts and principles.

VAT is the most fully harmonized of all EU taxes, so the field of VAT can be considered as the one having the longest past and history. Legal harmonization however has taken place through a directive, which has inevitably produced differences – to the extent the EU law allows – in the Member States' VAT legislation practice.
For that reason, the study envisaged to present a historical analysis of the relevant legal sources, both Hungarian and European, in order to make it easier for the reader to understand the basic functional difficulties of the system and the nature of more recently proposed suggestions to transform it.

The study also aimed at surveying the legislative proposals, communications and action programmes worked out by the European Commission that have influenced European legislation in force in the fields of tax fraud and tax avoidance, and are expected to have a decisive influence on VAT laws in the future. A good reason to survey these EU documents today is the fact that it was only in late 2010 that the European Commission formally proposed a communication to transform the VAT-system, so the elaboration of all drafts regarding the revision of the VAT directive, as well as the preliminary impact studies and the all-European exchange of views are still in full swing.

In the field of value added tax there have been relatively few scholarly papers on issues like combating tax fraud, tax avoidance and abuse of law, and even those few papers were written mainly by international academics. These academic papers predominantly focus on possible ways of transforming the VAT-system and have been elaborated on the subject in the form of different studies.
Literature on the subject affecting the overall conceptual problems of the VAT-system is more extensive abroad, therefore the articles and books used as sources when composing the study had

originally been published in foreign languages. Their main concern was how to tackle certain tax fraud and tax avoidance techniques and the anomalies relevant to them.
However, the European Court procedures concerning the topic represent a considerable amount of practical experience, so the study relies on them in the first place – besides certain legal sources originating from the European Commission – and while working them up, it aims to outline the development of legal practice too. Having reviewed several individual court cases, it is appropriate to establish that judgments seem to be fairly consistent as far as VAT fraud is concerned. Some legal transactions however present contradictions, especially with regard to the legal consequences different tax fraud practices entailed.

On the other hand, EU court decisions concerning tax avoidance represent a remarkable example of how the application of law may contribute to the development of tax laws. The Court here introduced and improved a new legal concept that had been applied only in civil law and later, in the field of direct taxation. This new concept, the doctrine of abuse of law, is very young in VAT-related law enforcement, being basically around only for the last couple of years. For this reason, the European Court of Justice has not worked out yet each element of it in the field of VAT and, when contrasting it with the arguments underlying in the different EU court decisions more doubts and questions may arise.

A survey of the sources of law in other EU Member States may contribute fruitfully to the analysis and better understanding of this field. Since the VAT directive allows for a certain scope of action as far as legislation against tax fraud and tax avoidance is concerned, the individual Member States have found different – though mostly easily classifiable – solutions to tackle them. Therefore, the study strives to present anti-abuse of law measures by surveying and comparing the relevant legislation in different EU countries.

The survey of VAT affairs and legislation in third (non-EU) countries could be regarded as another glance at the international field from a comparative outlook and form also an important feature of the study.

III. Research findings (results)

The presentation of the concept, characteristics and basic principles of VAT in the EU and in Hungary aims at introducing the findings of the study. This part deals with fundamental provisions, such as the system of tax payment and tax deduction, as well as the principle of net accounting, and it also offers an interpretation of what is meant by defining VAT as a general and indirect tax on consumption.

One important feature of the EU common budget is that it draws its income from different sources, not exclusively taxes. Consequently, there is no uniform system of taxation, so tax policy basically falls within the competence of the Member States, conceived as entities of national sovereignty.

However, since the financial contribution calculated on the basis of the Member States' revenues from VAT forms also part of the total paid in by Member States to the EU community budget, considerable efforts have been made to urge legal harmonization in the field of VAT. That is why Community VAT has been regulated by a directive for a long time whereas the same does not apply to other tax categories. In order to achieve a more uniform regulation, EU law sources draw on several basic principles. EU legislation bans taxes that directly or indirectly would give preferences to national production at the disadvantage of other Member States, and it equally bans double taxation. In order to achieve the latter principle and in line with the territorial scope of VAT legislation based on sovereignty, the only taxable transactions are the ones that take place in the territory of a given Member State. In the case of cross-border transactions, they principle of taxation in the Member State of destination applies, meaning that VAT is due in the buyer's country of residence.

The chapter overviewing the EU and Hungarian legal sources of VAT legislation provides a kind of historical perspective to the paper, though the same chapter also presents the relevant laws in force. It is a distinguishing feature of the VAT-related area of law that several EU directives have already been approved and, a few years ago, as a summary of the amendments the VAT directive was also codified. The section on the EU legal sources highlights the last amendments to the Directive which aim at action against tax fraud and tax avoidance.

Another section of the historical overview focuses on the ever changing proposals and strategies the European Commission has proposed to combat tax fraud and avoidance, showing the way its present standpoint has developed. In fact, the European Commission called attention, as early as back in 2000, to the weaknesses of the temporary VAT-system – at the time in force for 6 years –

in its report[3] on the administrative cooperation of national tax authorities in the field of VAT. In the report new forms of VAT fraud were pointed out, all of which had to do with intra-Community transactions exempt from VAT, occurring with increasing frequency. The Commission also worked out documents with the view to promote cooperation between Member States' tax authorities in order to prevent abuse of VAT. Besides this, the Commission issued technical recommendations to the Member States with the intention to provide some useful tools for them and their tax authorities to combat tax fraud.

In the third part of the paper an attempt is made to define the notion of tax fraud, as well as to specify its national and EU characteristics.

VAT fraud within the EU has grown to alarming proportions. The fact that typically occurring VAT fraud trends are so numerous is due first of all to the specific indirect nature of tax. In the case of cross-border transactions, their current nature renders tax audit even more difficult: while VAT on acquisition – levied in advance on the domestic purchase of goods – attached to the intra-Community supply of goods is levied in the country where the seller is based, VAT on the intra-Community supply is paid to the tax authority of the Member State where the buyer is based.

Tax abuse schemes are facilitated also by the fact that the existing system ensures that in the case of intra-Community supply of goods above the tax exemption defined as a 0 % VAT rate also the right to tax deduction on the acquisition of goods – input VAT – attached to the sale of goods is enabled by law. So, fraudsters handling cross-border transactions do not need to pay VAT in advance and are able to minimise their expenses.

There seems to be no accurate and generally accepted definition of tax fraud in present-day legal literature, and there is even less agreement on how to classify VAT fraud types into universally acceptable categories. However, based on the legal practice of the European Court of Justice and taking into account a few important studies on the subject, it is not impossible to assign them into certain types. First of all, tax fraud schemes must be clearly distinguished from tax defaulters' unintentional omissions, and the latter be given a chance to meet their liabilities. Legislators in fact make sure defaulters can correct their mistakes.

We also have to distinguish between normal, general tax frauds schemes that may occur both in internal and cross-border transactions, and missing trader frauds that occur exclusively in cross-border transactions.

[3]COM(2000) 28 final report from the Commission to the Council and the European Parliament

In intra-Community transactions, many of which acquire an international character as more and more taxpayers from third countries participate, missing trader fraud is considered the most serious form of VAT fraud constructions. These fraud schemes are almost as old as the EU VAT-system itself. Missing trader frauds fall into different categories but they all have in common the fact that the budget income loss equals to the amount of VAT levied on the sale and duly paid by a company to a missing trader, who in turn ends up not paying it into the budget. The most frequent sort of missing trader fraud is the so-called "acquisition fraud", which involves a transaction started in one Member State and concluded in another, while another frequently occurring form is the "carousel fraud" scheme, which takes the chain of fraudulent transactions back to the country of the original supply. In this case the same goods may make the same trip several times in the fraud chain.

This chapter also strives to define the notion of tax avoidance, pointing out what distinguishes it from tax fraud and aggressive or lawful tax planning, respectively.
Until very recently, action programmes, directives and other legal provisions against tax avoidance and aggressive tax planning were worked out by the European Commission mainly in the area of indirect taxation. European Court cases however have revealed very similar facts and situations in the field of VAT, producing similar results – namely, the lack of payment of tax – as in the case of aggressive tax planning. Nevertheless, until present times the Commission has put forward no proposals or communications with respect to VAT, in order to attempt to define certain forms of tax avoidance or aggressive tax planning, or to formulate a general anti-abuse clause. Therefore it is legitimate to ask, on the one hand, whether elaborating provisions aiming to prevent tax abuse on the Union level could not have relevance in the VAT field as well, and, on the other hand, whether it would not be useful or even necessary to approach – at least on the conceptual level – anti-tax abuse provisions in the fields of direct and indirect taxation.

The concept of tax avoidance needs to be equally distinguished from lawful tax planning related to solutions expressly allowed and encouraged by the VAT directive. As a general rule, the same amount of VAT can be rightfully reclaimed as was devolved on the taxpayer. To this end, the purpose of the VAT system is to transfer VAT to the end buyer, who represents the very last station in the sales chain. For all other participants, VAT obviously should not cost anything until they find themselves in the position of the final buyer[4].

[4]Shima Heydari and Simon Cornielje: The Brittle Reincarnation of VAT Saving Schemes, in:Derivatives & Financial Instruments, 2011 (Volume 13), No. 2, p.47.

The VAT directive, however, determines tax exemptions related to certain activities. But while these transactions are exempt from payment of VAT, the deduction of tax previously levied on costs related to them is also not allowed. That is to say, the supplier of services or goods has to bear the costs of VAT in spite of not being at the end of the sales chain, in the position of the final buyer.

So in all these cases it is a great help for taxpayers if their acquisitions related to tax exempt transactions can take place in the form of regulated tax structures free from VAT, such as the cost sharing arrangements, or a VAT group assured by the Directive.

The fourth section of the study focuses on the different means of action against tax abuse and tax avoidance as defined in the provisions of the Directive, and the tools that have already been made available by the laws of certain Member States.

In legal literature some authors seriously doubt that the provisions of the VAT directive alone – without special dispositions targeting the abuse of law – are able to cope with the task of effective action against tax fraud and tax avoidance[5]. In spite of this, the study strives to survey all the provisions of the VAT directive that – based on the recent legal practice pursued by the European Commission and the European Court of Justice – seem to help combating tax fraud and tax avoidance.

The means already introduced in the EU Member States to counter tax fraud and tax avoidance are divided into two groups by the study. In the first one there are provisions that can be considered technical, procedural instruments to prevent or reveal tax abuse – like auditing the VAT-payers' registration, or cancelling their VAT numbers –; while in the second group there are more substantial, material tools aiming to prevent or reveal tax abuse, such as the joint and several liability of third parties or the reverse charge taxation. While the provisions of technical character are typically ruled by the Member States' procedural laws, the provisions of substantial nature – in accordance with the VAT directive – are contained in the Member States' VAT laws. It is to be noted, however, that there is no EU prescription to delimit regulations, so it is left to the Member States' discretion what legal character they assign to their provisions in issues that are not regulated by the VAT directive.

As far as the substantial legal means – to prevent the abuse of law – are concerned, Article 205. of the VAT directive is of special importance. The provision allows Member States to provide that someone other than the person liable is held jointly and severally liable for payment of the VAT as

[5]Dr Joep J.P. Swinkels: Abuse of EU VAT law, in: International VAT Monitor, July/August 2011, p.227-228.

a means to fight against VAT fraud. For this reason the study discusses the provisions made by the Member States on the basis of Article 205. in a detailed fashion, attributing special significance to them as to useful and easy to introduce means to combat tax fraud in the short run.

There is ample European Court of Justice procedure material available in the field of value added taxation first of all concerning VAT fraud. Therefore the fifth section of the study focuses on court decisions in tax abuse cases, analysing in detail the legal practice regarding both tax fraud and tax avoidance. While doing so, it also strives to show how that legal practice developed, pointing out possible contradictions and questions of legal interpretation that may arise with respect to certain court decisions.

The European Court of Justice's first judgements were pronounced in tax fraud cases in the field of VAT. The very first ones in time fell into the category of standard tax fraud based on the distinction referred to above. As time passed, more and more sentences were pronounced in the fields of the fight against missing trader fraud and carousel fraud.

Consequently, the estreats of tax fraud cases issued by the European Court of Justice are divided into two groups in the study too – general and missing trader fraud cases – clearly suggesting that the two fraud constructions may well result in different legal consequences.

The standard tax fraud cases handled by the European Court of Justice mainly concern unlawful tax deduction against invoice, cross-border transactions, VAT refund and chain transactions.

Whereas the earliest sentences of the Court referred to the rules of invoicing and the conditions of exercising the right to tax deduction based on invoices, later on other standard fraud cases came into the limelight, especially those that affected Community transactions. As for Community transactions the study distinguishes between sentences concerning sales and sentences concerning acquisitions within the Community. While surveying the relevant legal practice, the study discusses several cases with Hungarian connections.

The second part of the chapter on tax fraud deals with the apparently most aggressive fraud construction cases in our time, analysing sentences passed in missing trader and carousel fraud cases within the Community. Legal development is demonstrated by discussing different cases, starting with the Garage Molenheide BVBA case[6] and following up to that of the Mahagében Kft. and Péter Dávid[7].

[6]Garage Molenheide BVBA (C-286/94), Peter Schepens (C-340/95), Bureau Rik Decan-Business Research & Development NV (BRD) (C-401/95) and Sanders BVBA (C-47/96) v Belgische Staat

[7]C-142/11 - Mahagében Kft v Nemzeti Adó- és Vámhivatal Dél-dunántúli Regionális Adó Főigazgatósága and Péter Dávid v Nemzeti Adó- és Vámhivatal Észak-alföldi Regionális Adó Főigazgatósága

The European Court of Justice has passed relatively few sentences in the field of VAT avoidance, its first judgements dating back only as far as 2006. However, in these cases the Court emphasized from the start the importance of a new legal principle, applying it first when pronouncing its judgement in the Halifax case[8]. This created legitimacy for the doctrine of abuse of law also in the field of VAT. The concept of abuse of law had originally been created and used in the area of civil law, proceeding from there – after the European Court of Justice declared its applicability – to the field of direct taxation.

Although the European Court of Justice has made efforts to crystallize more and more clearly the doctrine underlying the definition of tax avoidance, the concept is still not fully elaborated. To this end some elements of the concept of tax avoidance still await clarification. It seems however that the concept of abuse of law may have a special role in helping us to accurately define unlawful activities as related to tax avoidance and tax fraud, delimiting them at the same time from lawful economic activities and, by doing so, maintaining the essential objective of the VAT directive: to prevent that taxpayers shun paying their taxes, or try to avoid paying tax and to prevent all kinds of abuse in the field of VAT.

The sixth part of the study focuses on some important models worked out do develop the VAT-system, presenting theoretical models created both by scientists and participants of the economic sector, as well as already functioning practical models introduced in third countries.

In the past few years, several VAT concepts were worked out, certain elements of which were adopted by the Commission that integrated them into its legislative proposals and action plans. Therefore it is not impossible that one of the theoretical models or a combination of the elements of different concepts will serve as the foundations for the definitive VAT structure meant to replace the present transitional one.

The most promising theoretical models might be the ones built on the achievements of technical development, or the ones that would require VAT to be paid the moment the sales take place and not when tax returns are submitted.

Before it proceeds to discuss the future development possibilities and directions for the EU VAT-system, the study surveys the practice of certain extra-Union third countries. The reason for this is that in discussions about how to transform the existing VAT system, it has been asked several times whether it would not be wiser to follow a third country's practice.

[8]C-255/02 - Halifax plc, Leeds Permanent Development Services Ltd and County Wide Property Investments Ltd v Commissioners of Customs & Excise

The study also analyses in detail the views exposed by the European Commission in its Green Book on the transformation of the VAT-system, as well as in the technical documents attached to it.

The study presents and analyses in detail the views exposed by the European Commission in its Green Book on the transformation of the VAT-system, as well as in the different technical documents attached to it. This latest proposal of the Commission could be regarded as the first exhaustive and complete proposition that aims to overview almost all provisions and principles of the VAT directive.

The new VAT strategy that takes shape in the documents of the Commission proposes several law-making concepts, which – taking into account the Commission's previous plans – can be divided into short term and long term projects. The Commission defines essentially five fields – as short-term and long-term targets – that are relevant to the subject of the study. Long-term suggestions aim for example at transforming the taxation schemes of intra-Community transactions essentially treating questions of taxing intra-EU transactions and they also deal with possible modifications concerning the right to tax deduction.

Short-term projects aim at the simplification of the taxation structure, that is, the creation of a business-friendly environment and are destined to provide how to interpret certain EU tax laws, and serve to stabilise the VAT-system by rendering the fight against VAT fraud more efficient, as well as by working out new tax collecting mechanisms.

Concerning the cross-border supply of goods, several deadlines have been set to determine for how long the transitional VAT-system should be used (December 31st of 1992, 1996, finally 2005), but until the present day no new accounting principle has been agreed upon. It is also true that the EU VAT system developed very slowly in comparison with the technological and economic environment. In fact, recent years were characterised by quickly changing business models, an increased use of new technologies and, in general, a more and more globalised economy. Based on all these a report[9] composed by a working group that consisted of independent high level representatives of different sectors and, at the request of the European Commission, was presided by Edmund Stoiber pointed out also that intra-Community trade was so much hindered by administrative and other law-related factors that companies based in the Community found it often easier to trade with companies based and registered in third countries than to trade with other

[9]Report accepted on 28. 05. 2009: http://ec.europa.eu/enterprise/policies/betterregulation/administrative-burdens/high-level-group/index_en.htm.

businesses registered in the EU. In this light it seemed especially important to replace the transitional VAT system with a permanent one in the framework of the long-term measures.

As far as the content of short-term measures are concerned, the most recent suggestions of the Commission are new and original. When focusing on questions related to tax abuse, lawmakers take national tax authorities very much into consideration, expressly striving to ensure live and functional contacts with them in as wide a range as possible. To this end, they propose to increase the number of EU consultative forums that concern the work of Member States' tax authorities, though they also seem to welcome more consultative forums affecting businesses.

The present-day VAT system is primarily based on the tax return submitted by the companies themselves, so tax authorities can assess a relatively narrow range of data regarding their taxable activities and in time only after the submission of the tax returns. The latest technological developments however may provide new means for the Member States, probably also determining the course short-term VAT provisions are going to take.

When discussing short-term measures, the study analyses in detail the new tools of combating tax abuse developed in certain EU countries, all of which are based on elaborating forms of cooperation between law-abiding companies and tax authorities. This collaborative method relies on partnership and co-operation agreements between tax authorities and businesses, the latter expressing its compliance on a voluntary basis. It ensures effective tax collection for the authorities, while businesses may enjoy being relieved from some of their administrative burden.

The second part of this section surveys suggested ways to modernise tax collection mechanisms.

Reviewing possible ways to make cross-border taxation more efficient, the study introduces us to the so-called EMCS – Excise Movement and Control System –, a computer-aided electronic system operated by the Commission and the Member States' competent authorities in the field of excises, as a possible means of developing the VAT system.

Today, as a result of the development of integrating new technologies and in times of financial and economic crisis that leave no country unaffected, the transformation of the EU VAT system seems to be pressingly important. In these circumstances, the establishment of a permanent VAT system will probably result in radical changes to such an extent that has been inconceivable since its creation.

However, it has to be emphasized that, in accordance with the Article 113. of the Treaty on the Functioning of the European Union, and with regard to the Member States' financial sovereignty,

all questions concerning taxation fall within the scope of special legal procedures that require unanimous decisions. To this end all the Member States' common decision and knowledge will be needed in order to build the best possible VAT system, based on the EU countries' – and already the law-abiding companies' – joint experience and practices.

IV. The Author's Publications

1. Tax procedural rules, In: Halustyik Anna: Pénzügyi Jog I., Szent István Társulat, Budapest, 2006, 69–176. o.

2. The provisions of the European Commission' green paper on the future of VAT concerning tax administrations, In.: Adóvilág, 2012/09, p. 9-14.

3. Tax avoidance schemes and their treatment in the European Court of Justice's legal practice, with a special regard to VAT and the concept of abuse of law, In.: Adóvilág, 2013/10, p. 8-12.

4. The concept of abuse of law and the instruments to counter law abuse as conceived in the VAT directive and in the legal provisions of the Member States, In.: Iustum, Aequum, Salutare, Vol. 10. Nr.1., p.205-220.

5. The different schemes of intra- Community missing trader VAT fraud and the response of the European Court of Justice on them, In.: Pázmány Law Working Papers, Nr. 2014/16.