



Federation of European Accountants
Fédération des Experts comptables Européens

FEE Tax Day

Simple, fair, coordinated –
tax Utopia in the EU?

1 October 2009

Standing for trust and integrity



Influence of the ECJ on Indirect Tax Policy

Paul Farmer, Dorsey & Whitney, UK



Purposive or Teleological Interpretation

- Broad scope
- Proportional to price
- Tax on turnover
- Independent EU law meanings to ensure uniform interpretation



General Principles

- Equal treatment/fiscal neutrality:
e.g. Rompelman, Marks & Spencer (62/00)
- Effectiveness, legitimate expectations, legal certainty:
e.g. Marks & Spencer (309/06), Teleos
- Proportionality: e.g. *Ecotrade, Collée, Louloudakis*



Possible negatives?

- ECJ better in applying general principles and concepts than dealing with detailed technical questions.
- Dislocation of national and ECJ proceedings.
- Lack of commercial awareness?



Structural problems

- Judicial harmonisation.
- Very heavy caseload
- Possible factors contributing to volume of litigation:
 - ↳ infinite number of referable points
 - ↳ overly complex system
 - ↳ revenue concerns lead to disproportionate compliance obligations and severe penalty systems.



Solutions

- Ongoing debate on streamlining Community court system
- But real solution has to come from legislator
- Report of High Level Group on burden reduction in VAT (May 2009) referred to undue complexity and costs associated with VAT.
- Commission encouraged to think outside the box and investigate ideas even if they require deep structural changes.



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