EU News
Monthly Journal

Number 74, November 2009

Page 2 | Ratification of Lisbon Treaty Concludes

Page 4 | EU Signs Free Trade Agreement with Korea

Page 9 | Government Does Not Want Big Changes to EU Funds Distribution

Page 12 | Topic of the Month: The Economic Crisis, Related Tax Issues and a European Company

Page 18 | Great Europeans: Alcide de Gasperi

ČESKÁ SPOŘITELNA

EU OFFICE
Česká spořitelna, a.s.
Poláčkova 1976/2
140 00 Praha 4
tel.: +420 261 073 308
fax: +420 224 641 301
EU_office@csas.cz
http://www.csas.cz/eu

Petr Zahradník
Head of EU Office
+420 261 073 019
pzahradnik@csas.cz

Jan Jedlička
+420 261 073 484
jjedlicka@csas.cz

Alena Smolíková
+420 261 073 308
asmolikova@csas.cz

under the auspices of Pavel Kysilka
member of the Board of ČS

Dear readers,

Over the course of October, the Czech Republic drew proper attention to itself by significantly influencing the agenda of an extraordinary meeting of the European Council concerning the final stages of approving the Lisbon reform treaty. The final ratification steps were taken after a repeat vote and this time a positive conclusion on the part of Ireland, as well as for both Germany and Poland. This left the Czech Republic as the infamous black sheep and the last remaining country which had not yet ratified at that point.

This attention was, however, associated with more of an understanding and tolerant smile, whereby observers generally had certain thoughts about the greatest Union "troublemaker" – the Czech Republic. In addition, the comments made by the country's own president and the critical views of a group of opposing senators and other politicians left all to believe that just about anything could be expected – even that the treaty could once again be "killed" thanks to the Czech Republic's "meritorious deeds".

After the pressure which was exerted on the part of practically all pro-European political and opinion forces and groups – and especially immediately after the Czech Constitutional Court once again found the Lisbon Treaty to be in compliance with the constitutional order of the Czech Republic – the treaty was signed by President Klaus, albeit in a somewhat secretive manner.

It is hard to say why we "ask for trouble" by cultivating a reputation as a country which draws such negative attention to itself and could not rise to this "stellar European hour" in a much more positive and admirable light six months earlier during the unrepeatable opportunity – our presidency over the Council of the EU.

At a time when this pressure was exerted on the Czech Republic, various arguments and instruments were used. One of the most frequently mentioned also pertained to the possibility that our country would lose the opportunity to name "its representative" to one of the Union's executive institutions – the European Commission. The issue pertaining to the actual selection of the new personnel for the Union's executive branch remains in a number of countries (logically it follows that only in those which have not already done so) an equally important event to which this famed round of approval will also be linked. During the rest of the year, the list will also be expanded to include the occupancy of union institutions in the new – Lisbon – configuration, including the new key positions of President of the Council and the representatives of the EU with regard to the foreign affairs portfolio.

The developments that took place in October and the data published at the very beginning of November at least indicate that the most critical decline in the performance of the EU's economies is now more than likely a thing of the recent past. In spite of this restrained optimistic economic message,and in spite of the financial crisis, economic topics on the Union playing field in October were almost entirely overshadowed by purely political and institutional events.

Petr Zahradník

The Czech Republic was the last EU member state to ratify the Lisbon Treaty. The door to obtaining Václav Klaus's signature was opened by the negotiation of an opt-out from the Charter of Basic Rights and Fundamental Freedoms for the Czech Republic. The Commission initiated steps against seven member states, including the Czech Republic, due to an excessive public financing deficit. Sanctions are definitely not the order for the day.

POLITICS

Ratification of Lisbon Treaty Concludes

Early on 3 November, when the Constitutional Court rejected the complaint filed by a group of senators and declared that the Lisbon Treaty is not in conflict with the constitutional order of the Czech Republic, **President Vaclav Klaus affixed his long-awaited signature to the document** at 3:00 p.m., followed immediately by Prime Minister Jan Fischer.

The European Union let out a sigh of relief. The marathon that started in 2001 with the preparation of the predecessor to the Lisbon Treaty – i.e., the European Constitution – finally came to an end after numerous turning points along the way.

The decision passed down by the Constitutional Court and the signature of the president were preceded by **negotiations for an opt-out for the Czech Republic from the EU Charter of Basic Rights and Fundamental Freedoms,** which is one of the components of the Lisbon Treaty. At their summit, the leaders of the EU-27 thus accommodated the demand made by Czech President Václav Klaus, who made his signature on the document conditional on this opt-out.

Ratification of the Lisbon Treaty

Country	Date of ratification	Country	Date of ratification
Hungary	6.2.2008	Finland	11.6.2008
Malta	6.2.2008	Greece	11.6.2008
France	14.2.2008	Cyprus	3.7.2008
Romania	11.3.2008	Netherlands	8.7.2008
Slovakia	10.4.2008	Belgium	10.7.2008
Portugal	23.4.2008	Spain	15.7.2008
Slovenia	24.4.2008	UK	16.7.2008
Bulgaria	28.4.2008	Italy	8.8.2008
Latvia	8.5.2008	Sweden	10.12.2008
Lithuania	8.5.2008	Germany	25.9.2009
Austria	13.5.2008	Poland	13.10.2009
Denmark	29.5.2008	Ireland	23.10.2009
Luxembourg	29.5.2008	**CR**	**3.11.2009**
Estonia	11.6.2008		

Source: http://europa.eu/lisbon_treaty/index_en.htm

The Czech Republic **will thus not be governed by the EU Charter of Basic Rights,** which is a component of the Lisbon Treaty. This particular document, which, in addition to ensuring civil liberties for European citizens and guaranteeing a number of social freedoms, has become a target of criticism for President Václav Klaus, according to whom there might be a threat that the post-war Beneš Decrees could be breached after its adoption.

Acting in cooperation with the Swedish Presidency, the government came up with wording that would satisfy not only Klaus's requirement but also **the objections of other member states,** particularly Slovakia and Hungary.

Ultimately, the will to compromise was victorious and the leaders of the European countries approved the proposal set forth by the Swedish Presidency, according to which the **Czech Republic will obtain the same opt-out** from the EU Charter of Basic Rights as was previously **negotiated by Great Britain and Poland**. The Czech requirement will thus become a part of Protocol No. 30 to the Lisbon Treaty. It is said that this particular protocol will be ratified by the member states at the nearest possible opportunity, which will most likely be at the time the Croatia's accession treaty is signed.

http://www.se2009.eu/polopoly_fs/1.21646!menu/standard/file/ER%20conclusions.pdf

ECONOMY AND EURO

Brussels Wants Agricultural Expenses Lowered in New budget

The European Commission's working version of the proposal for revising European budget priorities confirms that the expenses for Common Agricultural Policy should be decreased. According to the expectations held by Brussels, the next financial perspective for the 2010 to 2020 period should earmark **more for supporting the economy, the battle against climate change and foreign policy.**

The document relies on "fundamental reform", which would mean above all transferring a portion of the resources Europe currently pays farmers for financing new challenges. In addition, the European executive branch anticipates that the method used for allocating **financial resources should be more flexible in the future.**

According to the proposal, new member states that currently receive the largest amounts within the framework of European regional policy **should direct more money towards the European budget in the future** than is the case now.

According to the Commission, it is necessary to use the European budget for financing the areas with the highest added-value. In relation to this opinion, it specifies the following three priorities:

- **sustainable growth and employment** – supporting a shift towards a “low-emission economy”, research and strengthening competitiveness through the use of innovations;
- **climate change and energy** – aiding the development of new technologies, which will improve energy efficiency, increase savings and ensure the supply of low-emission energy; and
- **a “Global Europe”** – supporting security, prosperity and solidarity around the world; participating in the battle against poverty; improving controlled migration; and strengthening cooperation with out neighbouring countries.

The proposal also includes changes to the system used by the member states for contributing to the common European budget. In the future, there should be **not more contributions based on VAT** and these should be replaced by a new source. According to the Commission, one possibility is using the funds from auctioning off CO2 emission permits. Other methods which are being considered include charging fees for SMS messages, establishing taxes for financial transactions and the introduction of new fees in the air transport industry. The proposal also anticipates that the “British discount” will be repealed.

The reform of the EU’s common budget, which still tends to correspond with the requirements that existed at the end of the twentieth century, is truly praiseworthy. The member states are the decisive players with regard determining expense priorities and income sources for the common budget, and thus the **question remains as to how they will redesign the European Commission’s intentions in the final rendition.**

http://ec.europa.eu/budget/reform/index_en.htm

BUDGET

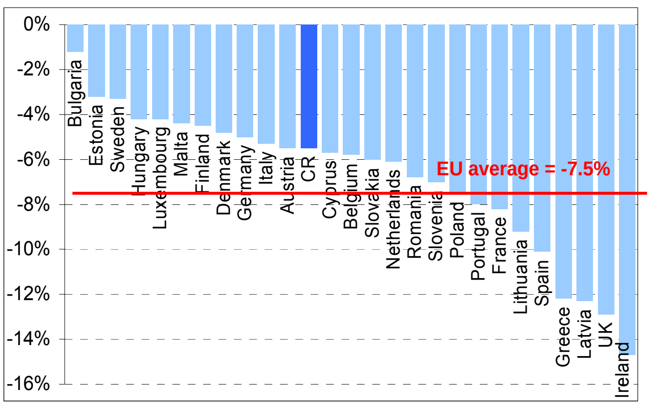
Commission Pressures Germany, Italy and Other States to Implement Better Budget Discipline

The European Commission has initiated procedures against Germany, Italy and seven additional countries, whose **budget deficits have become much higher than the permitted level.** The Commission does not, however, plan any specific steps until the crisis has passed.

The European Commission has decided that it **will not yet impose sanctions** on states which exceed deficit limits. During a crisis, sanctions would only serve to increase the budget deficits in these states and thus the Commission will wait until anti-crisis measures take effect and the member states decide to terminate the fiscal stimuli they are providing to their economies. The Eurozone states, whose budget deficits continue to exceed three percent of GDP, could theoretically be fined. The states outside the Eurozone would face the threat that they might stop receiving resources from European funds.

On Wednesday, the Commission initiated steps against **Austria, Belgium, the Czech Republic, Germany, Italy, the Netherlands, Portugal, Slovakia, and Slovenia.** The high budget deficits are caused by the greatest economic recession since World War II, which is decreasing state income in a very significant manner. Budgets are also increasing due to the efforts underway in the states to start fiscal stimuli. An additional eleven states of the EU-27 are already in disciplinary proceedings, as their behaviour is in conflict with the provisions of the Stability and Growth Pact, which is intended to support the common currency.

General government deficit as of GDP - 2010 outlook



Source: EU Autumn 2009 Forecast

Almunia stated that **this Pact is sufficiently flexible to allow supportive steps;** however as soon as the crisis comes to an end, the Commission will once again start requiring compliance with fiscal discipline.

The states that are already in disciplinary proceedings have received certain recommendations. For instance, Ireland should rectify it budget deficit by 2013; France, Poland and Spain by 2010; Hungary, Lithuania and Romania by 2011; and Greece by the end of 2010. The Commission should notify the remainder of the states of the timeframe they have to rectify their budget deficits over the course of November.

Decreasing public financing deficits in a headlong manner and at all costs would be a counterproductive solution which

The European Commission signed a free trade agreement with South Korea. This is the most important treaty of this kind into which the EU has entered. The revised Action Plan for Energy Efficiency reveals that the European Union intends to establish binding plans for its member states to increase energy efficiency. Croatia progressed further in its accession talks with the EU when six new negotiation chapters were opened.

would lead to **a relapse into a recession and the "W" scenario.** On the other hand, once the European economy takes off in an obvious manner, public finances should be consolidated quickly.

http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1428

FOREIGN TRADE

EU Signs Free Trade Agreement with Korea

The European Union and South Korea **have signed a long-awaited free trade agreement,** which should simplify the mutual exchange of goods and services with a total value of approximately EUR 100 billion.

Free trade negotiations were underway between Seoul and Brussels between April 2007 and July 2009. Primarily due to their rocket-speed growth, Asian economies offer a number of opportunities, which are however difficult to take advantage of due to the numerous barriers that exist. For several years, European business entities have been requesting the Asian states to **improve the conditions for their participation on Asian markets.**

The states of the EU-27 thus entrusted the European Commission with the task of negotiating free trade agreements with India, South Korea and the countries which are members of the ASEAN group. The new agreement with South Korea should enter into force during the second half of next year – as long as it is **approved by the European Parliament and the individual national parliaments.**

The trade agreement with South Korea is **the most important agreement of this kind** that the Union has ever signed with any third country. It should bring about EUR 19 billion into the pockets of European exporters and approximately 12 billion to their counterparts who export from Korea to Europe.

Starting next year, **customs duties will no longer have to be paid for items imported to Korea** (EUR 1.6 billion annually) and a number of non-tariff barriers, which currently exist in the form of various regulations, will be removed as well, in particular in relation to the automotive, pharmaceutical and electronic sectors. During the next three years, 99.4% of all customs duties which have burdened European exporters will disappear along with 95.8% of the duties paid by Korean exporters. Immediately at the time the agreement enters into force, approximately three-quarters of all tariff barriers will be annulled.

According to EU Trade Commissioner Catherine Ashton, "This is the first 21st Century free trade agreement for the EU, **creating deep economic ties with another developed economy.** It will create new market opportunities for European companies in services, manufacturing and agriculture."

Although some protected European fields might lose in the short-term, from the long-term perspective the removal of trade barriers will **lead the EU towards increased competitiveness and greater growth.**

http://trade.ec.europa.eu/doclib/press/index.cfm?id=467&serie=276&langId=en

ENTERPRISE

Commission's Message to Member States: Decrease Bureaucracy

In an effort to streamline bureaucracy, the EU's executive branch has focused its attention on individual states. The Commission is asking member states to speed up the adoption of **measures to decrease bureaucracy** and thus save up to EUR 40 billion.

Simplification and improvement of the Union's regulatory atmosphere was one of the priorities of Barroso's first Commission. It is also one of the key points in the **Lisbon Strategy and the Small Business Act**. The European executive branch has promised to reduce the administrative burden by 25% by 2012 and thus decrease expenses for small and medium-sized enterprises. Amongst other objectives, it is also using this approach to shake off the reputation of being a disproportionately bureaucratic apparatus.

In addition to limiting bureaucratic regulations, the Commission also intends to carefully examine whether new legislative proposals **do not result in additional needless expenses** for entrepreneurs.

The report published by the Commission in October evaluates in detail the progress made by the member states and explains measures which **could save up to EUR 40.4 billion**. According to the report, an additional 30.7 million could be saved if the European Parliament and the member states adopt the proposals that are currently under consideration.

In its statement, the European Commission said that the matter is now **in the hands of national and European politicians**, who must commit themselves in order to ensure that entrepreneurs truly enjoy the benefits of decreased bureaucracy.

The **battle against disproportionate bureaucracy is an appealing initiative**. The European Commission, or rather specifically the part that is trying to achieve this goal, will

however have a very difficult time as it is often also labelled as a bureaucratic institution – sometimes justifiably. The Commission should take a close look particularly at old legislation and critically consider whether some outdated directives and regulations should not be abolished. A good anti-bureaucratic deed for the future will be the application of greater prudence when consistently proposing new regulation – some areas can work successfully even without it.

http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/09/474

ENERGY AND TRANSPORT

EU Preparing Plan for Mandatory Energy Savings

In the revised proposal for **an Action Plan for Energy Efficiency,** which EurActiv has at its disposal, it is written that the European Commission intends to establish binding plans for the member states in order to improve energy efficiency. The Commission might present the official Action Plan by the end of this year.

The proposal titled "Seven Measures for Two Million new EU Jobs" simplifies **the Action Plan for Energy Efficiency** from 2006, namely by focusing only on a few selected efficiency criteria.

The proposal is based on the fact that, given the existing situation, the European Union will be hard put to meet its goals for **decreasing energy use by 20% by 2020.** A figure of only 11% is much more realistic.

The most controversial portion of the proposal is the plan to **establish mandatory energy savings for individual member states** at a level that would make it possible to attain the aforementioned EU objective by 2020. The new document proposes that goals could be defined for individual sectors (or they could apply only to buildings) or that all economic areas could be incorporated.

For all that, the European Commissions does not, however, specify whether absolute usage limits should be established for each member state for 2020 or if the mandatory energy savings will be designated as a share of the planned energy consumption in each individual state. The final version of the plan will be made known only after both these options are examined and **after the member states agree** how they will share in the EU's overall energy savings.

As compared to the measures for decreasing the production of greenhouse gases or the goal of increasing the share of renewable sources, binding measures for increasing energy efficiency have proven to be highly controversial. As a result, it **is very uncertain whether this proposal will even be accepted or what form it will take if it is accepted**. The adoption of binding goals would after all have to be approved by both the member states as well as by European Parliament.

http://www.euractiv.cz/energetika/clanek/eu-chysta-plan-na-povinne-uspory-energie-006617

ENLARGEMENT

Croatia Moves Forward in Accession Talks

Olli Rehn, the EU's Enlargement Commissioner, praised Croatia and said that it has achieved "substantial progress" in its **accession negotiations by concluding five of the chapters being discussed and starting negotiations on an additional six.**

A key role in this progress was played by **the settlement of a border dispute between Slovenia and Croatia,** which lasted for several years. As a result, Slovenia unblocked the accession talks.

"I would say that this is not only a win-win situation for Slovenia and Croatia; it's a win-win-win, because it is also a victory for the European Union if we can unblock the negotiations with Croatia and see that the border dispute is settled," said Commissioner Rehn in relation to this issue.

Negotiations on the following six chapters were initiated at a meeting that was held in Brussels with the participation of representatives from the EU, Croatia and Slovenia and which was led by Swedish Foreign Minister Carl Bildt:

- Chapter 4 – Free Movement of Capital;
- Chapter 11 – Agriculture and Rural Development;
- Chapter 12 – Food Safety, Veterinary and Phytosanitary Policy;
- Chapter 16 – Taxation;
- Chapter 22 – Regional Policy and Coordination of Structural Instruments; and
- Chapter 24 – Justice, Freedom and Security.

Negotiations on the following **five chapters had already been closed at an earlier date:**

- Chapter 2 – Free Movement of Workers;
- Chapter 6 – Company Law;
- Chapter 17 – Statistics;
- Chapter 21 – Trans-European Networks; and
- Chapter 29 – Customs Union.

At their summit, the leaders of the EU member states agreed to help finance the battle against climate change in developing states. The European Commission heard the Czech Republic's plea and threatens Canada with the introduction of visa requirements for diplomats. The European executive branch has prepared recommendations for attaining better energy efficiency in the information and telecommunications technology sector.

The European Union as well Croatia as the candidate country are both well aware that the closing of certain chapters (e.g., the one on the interior and human rights) will be difficult. Firstly, Croatia must now adopt measures in the battle against corruption and improve both its court system as well as its public administration. It must also show **full cooperation with the UN** war crimes tribunal for the former Yugoslavia (ICTY).

We believe that Croatia's accession to the EU can be realistically expected in 2012.

http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/er/110398.pdf

ENVIRONMENT

EU Agrees on Financing the Battle against Climate Change

At the EU summit, Polish politicians pushed through a motion that, up until the time when the new climate agreement enters into force, the Union's member states will **send funds to developing nations on a voluntary basis and not obligatorily** as was requested by the Commission. A specific mechanism for battling climate change in developing countries still remains unclear.

European statesmen called upon all of the world's countries to **decrease emissions by at least 50% by 2050,** whereby advanced nations should decrease their emissions by at least 80-95% of 1990 levels. According to the conclusions from the summit, this goal fully complies with the requirements set forth by the International Panel on Climate Change (IPCC), which also wants an 80-95% reduction.

These conclusions also repeat that the EU is prepared to **commit itself in Copenhagen to a mid-term goal of 30%** in the event that other advanced countries accede to a comparable reduction in emissions and developing countries "contribute adequately according to their responsibilities *(for emissions)* and their capabilities".

The Union estimates that the financial support for developing countries to be EUR **22-50 billion annually up until 2020,** whereby advanced countries should share in this contribution on the basis of a "fair" distribution key. The conclusions state that the down during the Copenhagen summit.

Overall the battle against climate change in the developing world could cost up to EUR 100 billion per year.

According to the Commission's estimates, starting in 2010 developed countries should begin contributing EUR **5-7 billion per year to developing countries for their battle against climate change.** The conclusions from the summit, however, specify that the final number might be different. It will depend on how the conference in Copenhagen ends and how other key players respond to a similar request. What is important is the fact the Poland ultimately succeeded in pushing through that the contributions made by the EU-27 will be voluntary and not mandatory up until the time that a new climate agreement enters into force (the Kyoto agreement will expire in 2012).

The European Union has agreed on a common position prior to the Copenhagen summit, although it is not all that definite. **The results are however difficult to predict at this time.**

http://www.se2009.eu/polopoly_fs/1.21646!menu/standard/file/ER%20conclusions.pdf

EU Sets Emission Reduction Goals for Aviation and Maritime Sectors

The ministers of the environment from the EU member states have agreed that the new agreement on climate change, which is expected to be negotiated at this December's conference in Copenhagen, should **also pertain to emissions from air and water transport,** which are continuously increasing.

The EU started limiting emissions in the aviation industry last year after the International Civil Aviation Organisation did not develop any efforts in this direction. The EU started to force airlines that use EU airports to **participate in the EU Emission Trading Scheme.** The United States

criticised this unilateral act. For this reason, the Union now believes that the new climate agreement will provide a solution that will be respected at a global level and that by including two significant polluting sectors (the maritime and aviation industries) in market mechanisms (e.g., trading in emission permits), financing will be ensured for future plans for reducing emissions.

The European ministers of the environment believe that carbon dioxide emissions **should be reduced by 10% in the case of air transport, and by 20% in the case of maritime transport** by the target year of 2020.

How and to what level air and maritime transport will ultimately be regulated from the perspective of greenhouse gas emissions **will depend on the results of the Copenhagen conference.** The successor treaty to the Kyoto Protocol, which expires in 2012, will specifically be discussed in Copenhagen.

http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/envir/110634.pdf

JUSTICE AND HOME AFFAIRS

European Commission Threatens Canada with Visas for Diplomats

If Canada does not come up with a proposal for renewing visa-free relations with the Czech Republic by the end of the year, the Commission will recommend to the Council that **reciprocal measures be adopted in the form of visas for Canadian diplomats and service passport holders.**

On 14 July 2009, Canada **unilaterally implemented visas for citizens of the Czech Republic** and for the first time in history a situation arose wherein a third country reintroduced visa obligations for the citizens of an EU member state.

Canada decided to reintroduce the visa requirement after local offices there recorded **an increased number of asylum seekers from the Czech Republic.**

The Czech Republic reacted to the reintroduction of the visa requirement by symbolically instituting visas for Canadian diplomats and requested its partners in the European Union to express their solidarity and help resolve the visa dispute.

The government requested that Czech citizens not be forced to travel to Vienna to obtain a visa and have the ability to process them in Prague. At the same time, it also asked that **the visa application forms be made "fairer"** and not require certain data, such as information on family members or partners.

At their meeting, the EU's foreign ministers presently expressed their solidarity with the Czech Republic, but it is **the European Commission which must come up with the solution.** The Commission presented a report in October in which it expressed its regret that the dispute between the Czech Republic and Canada occurred and called for a quick settlement. If Canada does not does to resolve the specified requirements by the end of the year in a "satisfactory manner", **the Commission will recommend to the Council that the EU implement a visa obligation for Canadian diplomats and service passport holders.**

This step on the part of the European Commission is an example of how the Czech Republic can promote its interests through its membership in a community that numbers a half a billion. **The visa obligation imposed on our citizens can be repealed or mitigated by pressure exerted by the entire EU –** an initiative put forth by an isolated Czech Republic would have a much lower chance of success.

http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1547

INFORMATION SERVICE

IT Must Help With Attaining Energy Savings

The European Commission presented its long-awaited recommendation with regard to the use of information and communication technologies **for attaining better energy efficiency.** The Commission anticipates that the electricity bills received by European households for electricity could decrease by as much as 10% as a result of this initiative.

Brussels revealed a series of measures intended to improve the use of Information and Communication Technologies (ICT) in the battle against global warming. According to a study performed by McKinsey & Company, the appropriate application of ICT could reduce CO2 emissions by up to as much as 15% by 2020. The European executive branch is currently trying to convince the Union's industrialists to **commit to decreasing the emissions which are produced by the ICT sector itself.** The Commission launched a special action plan in March of this year to help support these two policies.

According to it, the member states should **reach an agreement by the end of next year on common standards for a new generation of smart metering**

The Czech government has approved a framework position on the future cohesion policy of the EU, according to which it continues to want EU funds to be used primarily for supporting less developed regions and countries. The speed with which EU funds are used has accelerated this autumn. According to information published by the Ministry for Regional Development, more than CZK 42 billion was paid out to project implementers at the end of September.

systems and by the end of 2012 a specific schedule for the placement of this equipment in European households and offices should be clarified.

What does the Commission promise itself from them? If the Union's residents will have the ability to easily and quickly determine how much they are paying for the operation of individual household appliances, they **will be more motivated to save.** The same, but in a larger scope, also applies to offices.

Companies such as IBM or Cisco Systems, which are actively developing "smart" metering systems, could profit significantly from the Commission's initiative. Brussels is well aware of this fact and, **in return, wants these companies to establish binding goals aimed at reducing CO2 emissions in the ICT sector.** For example, EU Commissioner for Information Society and Media Viviane Reding requests that energy efficiency be improved in the ICT sector by at least 20% by 2015.

http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1498

European Union to Make Book Digitisation Easier

The European Commission will try to **make the transfer of literary heritage to digitised form** and its publication on the Internet **easier.**

The European Commission's determination to speed up the scanning of literary works and make then accessible to the general public was inspired primarily by the decision made by **the American giant Google to digitise the world's library fund.** "Europe cannot afford to be left behind in this area," declared Charlie McCreevy, Eurocommissioner for the Internal Market and Services. He went on to add that, "We must boost Europe as a centre of creativity and innovation." Digitising the heritage located in Europe's libraries should help it attain this goal.

Copyrights remain an obstacle though. The European Union must try to find the most efficient method for best compensating those authors and publishers whose works will be published on the Internet. One possible solution could be the granting of licences and payment of compensation to copyright holders from a special fund.

The European Commission also specified that it will be happy if the system starts functioning as soon as possible. The digitisation of European literary works is proceeding very slowly. This is primarily due to the current status of European legislation in this area – **the member states are making the rules themselves,** argues the European Commission.

In October, German Chancellor **Angela Merkel** also expressed her opinion on the problems related to digitising literary heritage. She **does not agree with the implementation of the ambitious Google Books project,** which aims to digitise the world's literary fund. She primarily does not like the issue pertaining to copyrights. Google is scanning books from American libraries without first obtaining permission from European copyright holders.

http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1544

REGIONAL POLICY

Tempo of Using European Grants in the CR is Accelerating

The most recent statistics of the Czech Ministry for Regional Development, which is responsible for coordinating the use of resources from the European structural funds and the Cohesion Fund in the Czech Republic, show that **payments for projects have speeded up significantly over the past months**. Just over the course of September 2009, offices paid out CZK 13.6 billion to recipients for projects, which is almost 50 % more than in the preceding month.

The Czech Prime Minister Jan Fischer's government considers the use of European grants to be **one of the weak points of Czech state administration.** The Czech Republic has the right to receive EUR 26.7 billion during the 2007 to 2013 timeframe. This corresponds to approximately CZK 700 billion, although the actual amounts of the grants depends on the development of the exchange rate for the Czech crown.

However, also taking into account the economic crisis, **the government would like to improve the manner in which grants from European funds are used and** Jan Fischer's cabinet has included this point amongst their priorities for the elections that will be held in the spring of 2010.

The most recent numbers, which were published in October by the Czech Ministry for Regional Development, show a certain level of acceleration in relation to the assessment and payments for projects. Whilst at the start of May, the offices paid out a total of CZK 8.2 billion in project support to recipients, it was **up to 42 billion at the start of October** and now the offices have decided to pay out an additional 44.5 billion.

According to the Ministry for Regional Development, the Czech Republic will most likely use the full amount of CZK

90.6 billion that was available to it or 2007. (The moneys for a given year are used by the member states retroactively and for a maximum period of three years – so called "rule N+3). This is also why the data pertain to this particular year.)

Subsidies Payments for projects from EU funds as of 30th September 2009

	CZK mil	% of allocation for 2007
OP D	19 932.10	86.8
OP ŽP	3 016.40	16.7
OP PI	6 257.30	56.0
OP VaVpI	0.00	0.0
OP VK	495.30	7.4
OP LZZ	828.20	12.3
IOP	567.80	10.0
OP TP	111.00	12.2
ROP SZ	627.30	22.9
ROP MS	1 243.40	46.6
ROP JV	1 881.90	72.7
ROP SM	2 000.70	89.5
ROP SV	2 138.60	87.1
ROP JZ	1 187.20	52.1
ROP SČ	1 088.20	53.0
OP PK	654.80	69.9
OP PA	133.70	31.0
Total	**42 164.00**	**46.5**

Source: Ministry for Regional Development

An objective evaluation of the successful use of funds is now impossible due to the N+3 rule. During the previous programme period of 2000 to 2006, the Czech Republic used up almost 100% of the amount allocated to it and a **repeat of these excellent results will be hard to attain.**

http://www.mmr.cz/Pro-media/Tiskove-zpravy/2009/Cesi-uz-z-fondu-EU-vycerpali-vice-nez-42-miliard-k

Government Does Not Want Major Changes to Fund Distribution

The Czech government **approved a framework position on the future of European cohesion policy** in which it indicates its expectations for how it will unction during the new seven-year financial framework (2014-2020).

In this respect, the **economic development of regions** is of importance, whereby at this time the regions receive European grants within the framework of the primary Convergence objective. This objective can be used to support only those regions whose GDP as recalculated per inhabitant does not exceed 75% of the average value for the entire EU. Whilst during the current programme period, only Prague did not fall into this category, after 2013 there may be more regions that do not meet the criterion.

Another question pertains to the future configuration of overall economic and social cohesion policy, or, better said, whether its priorities will change and, if so, how. Especially the wealthier states are pushing for **priorities to be shifted towards supporting objectives stemming from the implementation of the Lisbon Strategy** and "new challenges" (e.g., the battle against climate change; migration; the globalisation of the world's economy).

The Czech Republic's framework position with regard to the future of the European cohesion policy considers three possible development scenarios:

- **The basic variant** (with a likelihood of 60%) **relies on the fact that, with the exception of Prague, no other region will cross the 75% per capita GDP** threshold at the time of evaluation. Only the Central Bohemian and Southwest Regions will come close to this threshold.
- In the other two scenarios (both with a likelihood of 15%), the aforementioned two regions will either exceed the threshold (optimistic scenario) or not exceed it (pessimistic scenario).

On the basis of the specified scenarios, the government does not wish any major changes to be made for the future. Cohesion policy should **continue to concentrate primarily on supporting less developed regions and member states.**

The government would like to **expand the options for financing from the Cohesion Fund.** At the current time, it can only be used to finance projects pertaining to the development of the transport infrastructure and environmental protection. According to the document, this list should be expanded to include support of the scientific research infrastructure, which would help the capital city of Prague.

This particular discussion is now in the hands of the European Commission, which is expected **to publish the first drafts of the form cohesion policy will take on** after 2013 over the course of next year.

http://www.mmr.cz/Pro-media/Tiskove-zpravy/2009/Ramcova-pozice-CR-k-budoucnosti-kohezni-politiky-E

Eurostat figures show that the Prague capital city region is one of the most successful from the perspective of the number of employees involved in high-tech, knowledge-based services. Erasmus, which is a community programme promoting student exchanges between the member states, celebrated an important anniversary when it successfully organised exchange stay for two million young people.

1 OCTOBER

Eurogroup and ECOFIN ministers meetings: http://ec.europa.eu/economy_finance/thematic_articles/article15914_en.htm

Commission takes action to make urban travel greener, better organised and more user-friendly: http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1379

European Commission welcomes US move to more independent, accountable, international internet governance: http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1397

2 OCTOBER

European Economic and Social Committee calls for a wider focus: http://eesc.europa.eu/activities/press/cp/docs/2009/communique-presse-eesc-122-2009-en.doc

Commission launches EGNOS Open Service - free access to citizens and businesses: http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1399

5 OCTOBER

Commission opinion on temporary extension of working time for junior doctors: http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=603&furtherNews=yes

Regional Policy: Open Days: http://ec.europa.eu/regional_policy/conferences/od2009/index.cfm

6 OCTOBER

Education: Who is the 2 millionth Erasmus student?: http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1421

7 OCTOBER

Commission clears the way for a single European Road Toll Service: http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1423

Statistics: EU-27 consistent world leader in trade of food and drink: http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-SF-09-078/EN/KS-SF-09-078-EN.PDF

The Covenant of Mayors develops a new interactive tool to help EU cities reducing CO2: http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1416

8 OCTOBER

2009 Annual statement on the euro area: http://ec.europa.eu/economy_finance/thematic_articles/article15859_en.htm

Commission presents excessive deficit reports for nine countries: http://ec.europa.eu/economy_finance/thematic_articles/article15908_en.htm

Mayors from Europe and America join forces to fight against climate change: http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1436

9 OCTOBER

Transport, Tlecommunications and Energy Council meeting: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/trans/110493.pdf

12 OCTOBER

Marco Polo: Fresh air for European freight transport: http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1496

Employment, Social Policy, Health and Consumer Affairs Council meeting: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/lsa/110511.pdf

13 OCTOBER

435 construction workers in the Netherlands to receive help from EU Globalisation Fund: http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=612&furtherNews=yes

14 OCTOBER

Eurostat - Regional Yearbook 2009: http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-HA-09-001/EN/KS-HA-09-001-EN.PDF

High-tech knowledge-intensive services (High-tech KIS)

8.9 %	Berkshire, Buckinghamshire and Oxfordshire (UK)
8.3 %	Stockholm (SE)
7.0 %	**Praha (CZ)**
6.7 %	Comunidad de Madrid (ES)
6.6 %	Bedfordshire and Hertfordshire (UK)
6.4 %	Hovedstaden (DK)
6.4 %	Bratislavský kraj (SK)
6.2 %	Auvergne (FR)
6.2 %	Prov. Vlaams Brabant (BE)
6.2 %	Közép-Magyarország (HU)

Source: Eurostat

15 OCTOBER

First meeting of High Level Group looks at contractual relations and bargaining power in the dairy sector: http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1521

Diary

16 OCTOBER

What do Europeans think about their working conditions?
http://osha.europa.eu/en/teaser/Eu_Poll_Results

19 OCTOBER

Firms' experiences in accessing finance: http://ec.europa.eu/enterprise/e_i/news/article_9631_en.htm

EU labour market continues to weaken: http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=618&furtherNews=yes

Development: New website to help improve development co-operation: http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1531

20 OCTOBER

Budget: Have your say on EU financial rules?: http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1542

21 OCTOBER

Economic and Financial Affairs Council meeting: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/110622.pdf

Bulletin of the European Union: http://europa.eu/bulletin/en/200904/sommai00.htm

EU ready for wireless broadband on GSM frequencies: http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1545

22 OCTOBER

Environment Council meeting: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/envir/110643.pdf

EIB Board approves further EUR 600m in loans for the automotive industry: http://europa.eu/rapid/pressReleasesAction.do?reference=BEI/09/207

Car workers in Austria to get help from EU Globalisation Fund: http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=623&furtherNews=yes

23 OCTOBER

Statistics : Tourism in Europe during the first half of 2009: http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-QA-09-042/EN/KS-QA-09-042-EN.PDF

JEREMIE and JESSICA: Innovative financial instruments in EU Cohesion Policy: http://www.eib.org/projects/events/jeremie-and-jessica-conference.htm?lang=en

26 OCTOBER

Justice and Home Affairs Council: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/110759.pdf

Consumers: 60% of cross border internet shopping orders are refused, says new EU study: http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1564

27 OCTOBER

General Affairs Council meeting: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/gena/110776.pdf

Financial services: Commission adopts additional legislative proposals to strengthen financial supervision in Europe: http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1582

28 OCTOBER

External Action Service - a new dawn in EU foreign policy?: http://www.europarl.europa.eu/news/public/story_page/030-63128-327-11-48-903-20091023STO63115-2009-23-11-2009/default_en.htm

External Relations Council meeting: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/gena/110805.pdf

eBusinesses guide helps SMEs to self-diagnose their competences: http://ec.europa.eu/enterprise/newsroom/cf/itemlongdetail.cfm?item_id=3782&lang=en

29 OCTOBER

Commission efforts to strengthen controls over structural funds is paying off: http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1594

European Commission wants airwaves freed-up by move to digital TV to work for swift economic recovery: http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1595

Commission proposes legislation to limit the CO 2 emissions from light commercial vehicles: http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1605

30 OCTOBER

Commission to provide €200 million for nearly 200 new LIFE+ projects: http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1646

Flying safer: Commission proposes new rules for better investigation of civil aviation accidents: http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/1612

During the first half of November, the meeting of the ministers of finance will, amongst other things, discuss a solution to the legislative package establishing the new architecture for financial regulation in the European Union. More than likely, an extraordinary summit of the European Council will also take place in November, which, following the ratification of the Lisbon Treaty, should clarify who will fill the newly created highest positions in the EU.

Meeting of the key EU institutions

10.11.2009	**Brussels, Belgium**	- Economic and Financial Affairs Council
11.-12.11.2009	**Brussels, Belgium**	- Meeting of the European Parliament
16.-17.11.2009	**Brussels, Belgium**	- General Affairs and External Relations Council
19.-20.11.2009	**Brussels, Belgium**	- Agriculture and Fisheries Council
19.11.2009	**Brussels, Belgium**	- Economic and Financial Affairs Council
23.-26.11.2009	**Strasbourg, France**	- Meeting of the European Parliament
26.-27.11.2009	**Brussels, Belgium**	- Education, Youth and Culture Council
30.11-1.12.2009	**Brussels, Belgium**	- Justice and Home Affairs Council
30.11-1.12.2009	**Brussels, Belgium**	- Employment, Social Policy, Health and Consumer Affairs Council

Public consultation on EU legislation

Topic of the consultation	Organiser	Deadline
Learning Mobility of Young People	DG EAC	15.12.2009
The review of the Financial Regulation	DG MARKT	18.12.2009
New EU Animal Health Law	DG AGRI	31.12.2009
Fundamental right to protection of personal data	DG JHA	31.12.2009

The economic crisis period is increasing the need for increased savings in relation to all forms of expenses. This need might also become apparent even through the efforts for short-term or more permanent tax relief and decreases of the tax burden. The contents of the main topic, which was prepared in cooperation with the accace.eu consulting company specifically addresses the issues associated with tax matters in the EU, with special emphasis placed on the concept of a "European Company".

THE ECONOMIC CRISIS, RELATED TAX ISSUES IN THE EU AND THE CONCEPT OF A "EUROPEAN COMPANY"

It is obviously not just a coincidence that the supportive anti-crisis fiscal measures which were implemented over the course of this year in the EU were significantly dominated by measures on the income side of public finances, specifically the most varied types of tax relief and simplification in spite of the fact that greater media attention was devoted to measures on the expenditure side – in particular thanks to the not-so-heartening scrapping schemes.

During crisis periods, tax simplification and tax breaks are relevantly evaluated not only within national economies. Especially in the case of internationally active companies, it applies that they will strive (or are already striving) to attain tax advantages – fully legal ones – within the framework of the entire EU region.

If we consider the most accessible and most obviously offered options for legal tax optimisation within the EU business sector, these obviously consist of establishing companies in the most tax advantageous countries (in combination with comparing key tax parameters amongst individual member states and basic taxation trends, which we will take a look at in the second section) or establishing a "European Company" (which we address below).

A EUROPEAN COMPANY

Specification and Definitions

A "European Company" is an entity established in accordance with European law, which provides the ability to conduct business in each of the EU member states through a supranational public limited liability company. The primary motive when establishing the legal form a European Company is to provide uniform legal provisions for entities that operate within the framework of a Single Internal Market and offer these entities the legal ability to reorganise, combine and create pan-European asset structures and thus allow these companies to relocate the registered address of a European Company without any additional legal obstacles and flexibly adapt and change its organisational structure.

The creation of a European Company in one of the member states does not, however, automatically establish the ability to perform activities in other EU member states without also acquiring the appropriate authorisation to conduct business in accordance with the internal legislation of each specific member state of the EU. For example, this means that the authorisation to conduct business by a Czech European Company in the Czech Republic does not automatically allow it to perform its business activities in the other EU member states. In order for this company to conduct business in Slovakia, it must also create an organisational unit of this European Company or establish a subsidiary in Slovakia.

In comparison to national legal forms of conducting business, the above-mentioned area of taxation is most significantly influenced by one of the thus far most positively evaluated advantages of a European Company – the ability to relocate a European Company's registered address.

A European Company's Registered Address and Their Relocation to Another EU State

As was already mentioned above, the primary advantage of a European Company as compared to standard legal forms of conducting business consists of its ability to relocate its registered address within the EU without being forced to go through liquidation and losing its legal subjectivity. (It is specifically the termination of a company's activities in the Czech Republic that presents one of the greatest and most stressed obstacles of doing business in our country – even in the case of a company that has no problems, debts or obligations, this process takes more than two years on average and, if there are any additional complications, the length of the process is disproportionately longer. When assessing competitiveness, it is specifically this particular factor that plays an important role in disqualifying the Czech Republic's overall position within the framework of an international comparative evaluation.) For the sake of comparison, if a standard company wishes to relocate to a different member state, the company would first have to complete the liquidation process in its original country of establishment and subsequently establish a new company in the new target country.

The primary benefit of relocating the registered address of a European Company within the member states is specifically its ability to choose the most beneficial tax system offered within the framework of the EU and the associated ability to optimise the company's activities from the perspective of taxation (a process known as "country shopping").

It is not possible to locate the actual head office of a company (company management) and its official registered address in different member states within the framework of establishing a European Company. Locating the head office in a member

state other than the state in which the company's registered address is situated would lead to an order to rectify the situation issued by the appropriate court, i.e., an order to relocate the company's registered address to the same country where its head office is located or vice versa. Non-compliance with the order would lead to a subsequent decision on dissolving the European Company in question.

The "registered address" of a European Company also plays an important role from the perspective of taxes. When it comes to tax issues (in particular with regard to direct taxation), they are governed by the national tax laws of each of the member states. The link between a company's registered address and the location of its head office results in the fact that a European Company will always be considered to be tax resident (a taxpayer with unlimited tax obligations) in the state where its registered address is located. From this it ensues that the relocation of a registered address from one EU member state to another must be accompanied by the actual move of the company's controlling structure and a change in tax residency.

As far as income tax is concerned, it must be said that the legal provisions pertaining to a European Company are essentially very general and not detailed enough. Czech income tax legislation has been amended to incorporate only provisions which specify that, at the time the tax base, tax loss and tax obligations of a European Company are determined during tax proceedings, the same procedure is applied as in the case of a public limited liability company. Other than that, the Income Tax Act also addresses the issues related to filing a tax return for a European Company only if its registered address is relocated outside of the territory of the Czech Republic. For this reason, situations might arise for which the solution might become significantly complicated due to insufficient legal provisions. Just for the sake of completeness, it is also necessary to state that comparable problems might arise in relation to accounting records due to the fact that legal provisions are entirely lacking. This is not however an isolated situation within the EU – comparable problems can be found in a number of other member states as well.

4 Myths Pertaining to European Companies

Myth No. 1

The link between the registered address and head office of a European Company are in conflict with the notion held by a portion of the business public, which views a change in registered address as presenting the possibility of taking advantage of the tax system of the state in which the registered address of a European Company is located whilst concurrently maintaining the actual management of a European Company in another member state.

It is however necessary to state that the requirement to link the registered address of a European Company with its head office has already been criticised even on the part of the European Parliament. The reason behind this criticism was the conflict of this requirement with the case law of the European Court of Justice in relation to the freedom of establishment (for the purpose of providing services), whereby there is now breach of the legal regulations of the European Community.

Myth No. 2

The second myth about European Companies, which is associated with the relocation of the company's registered address to another member state, is the possibility of a "speculative" relocation to a country with better taxation schedules prior to performing various transactions.

Although the possibility of going "country shopping" is one of the advantages of a European Company, it is definitely not a tool that can be used for avoiding the payment of taxes. The EU directive on cross-border mergers gives individual member states the right to refuse the application of the advantages set forth in this directive, which include, amongst other things, those that accompany the relocation of a European Company if the main objective (or one of the main objectives) for relocating the company's registered address is tax evasion or avoiding the payment of taxes. This conclusion might be reached if the registered address of a European Company is not being changed for merited business reasons, such as restructuring or the rationalisation of activities. If however the relocation of a European Company's registered address is not linked with speculative reasons, but rather with core business reasons, then of course the relocation might also lead to tax optimisation.

Example:

Since 2000, a public limited liability company based in Slovakia has owned a 100% share in three project companies, whose business activities consist of shopping centre construction and management, in Slovakia, the Czech Republic and Hungary (SPV CZ, SPV SR and SPV HU). It would like to expand its business activities. In addition, an opportunity has arisen for using a bank loan provided by a Cypriot bank for financing its business activities, whereby obtaining the loan is conditional on the debtor being a Cypriot subject. At the same time however, the location of a holding company could also be beneficial for the group owner form the perspective of taxes. If for example there exists third party interest in the purchase of a 100% business share in SPV SR, then, if the original

corporate structure is maintained, the profit from this transaction would be subject to taxation in accordance with the laws of the business share owner's country of residency, i.e., taxation on the basis of a tax return filed by the Slovak public limited liability company and calculated using an income tax rate of 19%. By creating a holding European Company, which would have its registered address and head office situated in Cyprus and into which the Slovak public limited liability company would place the shares it holds in SPV SR, SPV CZ and SPV HU could lead to significant tax savings on the part of the owner of the holding company.

The owner would subsequently control all its original companies through the holding established in this manner. The overall effect would be reflected in 2009 at the time SPV SR is sold to a third subject, at which time the transfer of the business share would not be taxable in accordance with the legislation of Cyprus as the legislation of the state of residence of the European (holding) Company. The subsequent pay out of dividends from the Cypriot company to a non-Cypriot resident, i.e., the Slovak public limited liability company, is not subject to a withholding tax in Cyprus and is also not the subject of taxes for the Slovak public limited liability company.

Myth No. 3

The third myth associated with the relocation of a European Company is that the transfer of assets and liabilities in the state of the company's original registered address is not subject to taxes at the time they are moved to a new target state.

In relation to this, it is necessary to bring attention to the fact that, in accordance with the Directive on Cross-Border Mergers, there exists the possibility of an advantage in the form of no taxation on the transfer of assets and liabilities in the state from which the registered address is relocated. This advantage however pertains only to that portion of assets and liabilities which subsequently remains provably associated with the permanent business branch through which the European Company continues to conduct its activities in the original state in which the company's registered address was situated prior to the relocation.

From the above-specified information it thus ensues that the advantages set forth in the Directive cannot be applied in the case of the relocation of the registered address of a European Company which is accompanied by the complete transfer of all assets and liabilities to another member state and the concurrent termination of activities in the state in which the company's registered address was originally situated.

Example:

A European Company with its registered address situated in Bratislava relocates its registered address to Prague effective as of 1 July 2009. During preceding years, this company suffered tax losses. During the period prior to the relocation of its registered address, the European Company performed its activities only in Slovakia through two independent business branches. In relation to the relocation of its registered address, the company closed down one of these branches and transferred a corresponding portion of business assets to Prague. After the relocation of its registered address, the company continues with its business activities in Slovakia only through the other branch.

Taking into account the change in residency over the course of 2009 (specifically up to 30 June), the European Company will be taxed in Slovakia as a taxpayer with unlimited tax liability and starting on 1 July as a taxpayer with limited tax liability.

In relation to the specified permanent cross-border transfer of a portion of business assets from Slovakia to the Czech Republic, this transfer will be considered as the sale of assets for tax purposes and will be subject to Slovak income tax. In this situation, the tax base cannot be lower than the tax base that would be attained by the permanent branch as an independent entity as a taxpayer during a comparable transfer of assets. At the same time, the individual asset entries in the accounting records of the European Company are not subject to revaluation.

The European Company would also be required to adjust the calculated tax base by the remainder of any reserves, adjustment entries and deferred amounts if these remainders are related to the branch assets transferred abroad. This adjustment to the tax base is however not performed in the case of remaining balances of accounts pertaining to the assets of the business branch (permanent branch) remaining in Slovakia.

Tax losses could then only be claimed to the extent equal to the portion of the tax loss that cam be allocated to the permanent branch located in Slovakia.

Myth No. 4

The fourth myth is associated with the belief that a special tax schedule exists for European Companies at the time that a permanent branch is established in another member state.

With only a few exceptions the concept of a "European Company" has not yet been implemented in the majority of member states. In principle, this status should not cause a problem, as a European Company is defined within the EU as a public limited liability company for which no special schedules exist. Following in the same spirit, even the

aforementioned provisions were just as simply incorporated into income tax legislation. We would however like to mention that the way things work in practice might be somewhat different. At the same time, as is in the case of a standard public limited liability company, it applies that the income originating from a permanent branch created in another state will be subject to local income taxes in that state. The methods in place for preventing dual taxation will be applied according to the provisions in the applicable treaties or preventing dual taxation which are entered into between the state of residence of a European Company and the state in which the permanent branch is established.

Tax Issues Faced by Companies in an International Environment

In addition, due to the fact that there are no separate provisions at the European level pertaining to taxation for European Companies, these companies will run into and face the same or very similar problems as those confronted by any standard companies that operate in an international environment. These include:

1) Issues related to Controlled Foreign Corporation Rules:

The problem arises in relation to the practices of certain states (these rules do not apply in the Czech Republic), which require additional income tax to be paid by parent companies whose foreign subsidiaries pay a lower tax rate than if the subsidiary were a tax resident of the same state as the parent company. A certain positive light was shed on this issue by the ruling passed down by the European Court of Justice in the Cadbury Schweppes case, whereby the CFC rules applied in Great Britain were designated as rules which are in conflict with EU law on the freedom of establishment for the purpose of providing services. This ruling should also be applied in other states that apply comparable rules, whereby this could result in this particular obstacle being removed for European Companies as well.

2) Thin Capitalisation Rules

Due to different tax schedules for taxing equity and debt, it is more advantageous for some international groups to finance companies using loans, which consequentially results in a drop in income in the state finances of the debtor's country. For some states, including the CR, thin capitalisation rules were implemented as a mechanism for limiting the tax perceptibility of interest in these loans (provided credit). In relation to this, it is worth mentioning the ruling passed down by the European Court of Justice in the Lankhorst-Hohorost case, whereby the court decided that the tax evaluation of payments made to the subsidiary should not be conditional on the registered address of the parent company. This ruling can however be used only when local legal provisions applies thin capitalisation rules in a discriminatory manner on the basis of whether or not the creditor is a resident in the debtor's country or not;

3) Transfer pricing, respectively the ability to offset losses and profits between companies within one group

Because a European Company is always a company with an international element, transfer pricing is a very real issue for them. From transfer pricing rules it ensues that in business relationships between a European holding company and its subsidiaries, or a European Company and its permanent branches, prices must be set at standard pricing levels. The issue of transfer pricing is thus also an obstacle in viewing a European Company as one large taxable entity that operates in different countries where profit is generated for the entity as a whole from the activities performed with regard to third parties without regard to internal pricing between the individual organisational substructures of a European Company.

Yet another problem associated with transfer pricing issues is the inability to perform a full – or even partial – offset of losses suffered from activities in one member state against the profits attained in another member state (e.g., the losses suffered by a subsidiary against the profits attained by a Slovak parent company if their activities are interlined). At this time a European Court Of Justice decision is expected in a comparable case, which might become the stimulus for putting through a uniform consolidated tax base or, to the contrary, it might become the motive for refusing the harmonisation of direct taxation.

Sectional Conclusion

To a significant degree, the problems encountered by a European Company as described above copy the problems faced by a traditional business company within the framework of local legal regulations. At the current time, with the exception of the ability to relocate a company's registered address to a different member state, there are several elements missing with regard to European Companies, which would significantly increase the efficiency of conducting business through the application of this legal standard. Conducting business through a European Company is at this time conditional on primarily legal reasons. It is necessary to be aware that the reason behind the creation of this legal standard was not to give business entities a means by which they can avoid paying taxes. In spite of this fact however, in certain situations a European Company can become a good tool for tax optimisation.

As far as tax optimisation is concerned, the main benefit a European Company offers is the ability to use it as a

European Holding Company in conjunction with its establishment in a country with an appropriate taxation system (e.g., Cyprus, Malta or the Netherlands). In particular, Cyprus appears to be an appropriate country for established a European Holding Company's registered address from the perspective of transferring business shares in subsidiaries, as this type of transaction is exempt from income taxes in Cyprus, or for paying out dividends to a non-Cyprus resident. The possible establishment of a European Company's registered address in the Netherlands might have positive tax impact with regard to more advantageous taxation of interest income. Not lastly, an interesting option is represented in the possible establishment of a European Company's registered address in Estonia, which as a final consequence might result in the full exemption of profits from taxation under the condition that they are used for reinvestment purposes.

It is specifically the continuing existence of the tax sovereignty of individual EU member states with regard to direct taxation which leads to the existence of different tax systems, within the framework of which each might offer certain advantages as well as disadvantages in relation to other countries. The EU is considered to be a more appropriate area for tax optimisation in comparison to the jurisdiction of off-shore centres (especially at the current time, when a number of developed countries are starting to tighten restrictions as well as their overall approach to tax havens), which, on the part of tax administration authorities in the individual EU member states, are considered to be countries which might conceal tax fraud and the abuse of conditions for avoiding payment of taxes in other states. Specifically identifying the advantages and disadvantages of tax systems in each of the member states is considered to be a tool for possible tax optimisation.

Within the conclusion of this section it is necessary to emphasise that it is possible to find possibilities within the tax jurisdictions existing in the EU framework, which can be appropriate tools for tax optimisation and which can include a European Company as one of the appropriate tools in spite of the fact that its primary orientation is not aimed at taxation.

TAX PARAMETERS AND TRENDS IN THE EU

Regardless of whether a specific entrepreneur or company decides to establish a European Company – or if they prefer a "simple" relocation of their registered address to a location which is more beneficial from the perspective of taxes – or if in the vast majority of cases they continue to be tax residents in their home country, in all these cases it can be believed that a concise overview of the tax parameters existing within the framework of the individual EU member states (in relation to direct taxation), together with a definition of the key development trends that have been noted since approximately the middle of the last decade, can be both educational as well as inspirational.

As far as direct taxation is concerned, it primarily applies that its weight (with regard to both personal as well as corporate taxation) is generally lower in the new EU member states (which are usually initiators of the "tax competition" process across the EU).

The highest tax rate of personal income tax in 2008

Denmark	59.0 %	Hungary	40.0 %
Sweden	56.4 %	Poland	40.0 %
Belgium	54.0 %	UK	40.0 %
Netherlands	52.0 %	**EU average**	**37.8 %**
Finland	50.1 %	Luxembourg	39.0 %
Austria	50.0 %	Malta	35.0 %
Germany	47.5 %	Cyprus	30.0 %
France	45.8 %	Latvia	25.0 %
Italy	45.0 %	Lithuania	24.0 %
Spain	43.0 %	Estonia	21.0 %
Portugal	42.0 %	Slovakia	19.0 %
Ireland	41.0 %	Romania	16.0 %
Slovenia	41.0 %	**CR**	**15.0 %**
Greece	40.0 %	Bulgaria	10.0 %

Source: European Commission

Tax levels in the case of personal income tax have decreased dramatically overall (whereby within the current EU-27 this level has decreased from 47.3% in 1995 to 37.8% for 2008).

At the current time, the corporate income tax levels are decreasing significantly across the EU (a process which has also speeded up significantly since the accession of the new member states in 2004 and 2007) – this level has decreased from 35.3% in 1995 to 23.5% for tax year 2009.

Tax rate of company income tax in 2009

Malta	35.0 %	Austria	25.0 %
France	34.4 %	**EU average**	**23.5 %**
Belgium	34.0 %	Hungary	21.3 %
Italy	31.0 %	Estonia	21.0 %
Spain	30.0 %	Slovinsko	21.0 %
Germany	29.8 %	**CR**	**20.0 %**
Luxembourg	28.6 %	Lithuania	20.0 %
UK	28.0 %	Poland	19.0 %
Portugal	27.0 %	Slovakia	19.0 %
Sweden	26.0 %	Romania	16.0 %
Finland	26.0 %	Latvia	15.0 %
Netherlands	26.0 %	Ireland	13.0 %
Denmark	25.0 %	Bulgaria	10.0 %
Greece	25.0 %	Cyprus	10.0 %

Source: European Commission; the tax rates are adjusted for purposes of better comparison

Seeing that we had to start our presentation of "great Europeans" with the duo of Monnet and Schuman, it is just as unavoidable to not complete the triangle in the third article of our series and continue on with the third great personality of contemporary post-war European integration – former Italian Prime Minister Alcide de Gasperi.

ALCIDE DE GASPERI (ITALY)

Seeing that we had to start our presentation of "great Europeans" with the duo of Monnet and Schuman, it is just as unavoidable to not continue and complete the triangle with Alcide de Gasperi – the third great personality of contemporary post-war European integration. His place of birth, just as that of Schuman in particular, practically predestined him to hold opinions, form ideas and perform tasks aimed at removing barriers and needless obstacles between small and unstable state entities in Europe. De Gasperi was born in 1881 in what was then Austria-Hungary and is now Italy's South Tyrol Province (Südtirol / Alto Adige) – a region where even today German and Italian continue to be considered as equal native languages by the majority of the area's inhabitants, with a slight majority of then still preferring the Germanic language, especially during informal and unofficial communications.

It was specifically during the time of the Austro-Hungarian Empire, albeit at the very end of its existence, that de Gasperi's political career started, specifically as a member of parliament in the Austrian Reichsrat (Imperial Council) in Vienna, whereby he represented the interests of the region of his birth. After the dissolution of Austria-Hungary, when the South Tyrol region became a part of Italy, de Gasperi's activities logically started to concentrate on the Italian political scene. In 1921, he became a deputy in the Italian Parliament for the right-wing People's Party. Once political support for Mussolini started to increase and Mussolini's power became greater, de Gasperi became one of his harshest critics and opponents. This activity ultimately led to de Gasperi's imprisonment during the second half of the 1920s.

De Gasperi spent most of World War II in "seclusion" at the Vatican Library, where he devoted his time to intense study and formulating the strategy for the Italian Christian Democratic Party and the role of politicians during the subsequent post-war organisation of Italy and, at a broader level, all of Europe. He thus became actively involved in the start of pan-European activities during the period just following the end of the war and became one of their main proponents. Immediately after the fall of Mussolini's regime, de Gasperi stood at the head of the Italian Christian Democratic movement and subsequently at the head of the democratic government, which consisted strictly of representatives from anti-fascist oriented parties. After the dissolution of the monarchy and the end of the war, de Gasperi became a symbol of Italian involvement in the beginning stages of the European integration process. His task consisted not only of ensuring the post-war social and economic recovery of the country, but also of convincing partners that Italy does in fact belong to the group of democratic and forward-looking European states.

During this period, de Gasperi became the prime minister of the Italian government and the years 1945 to 1953 represent the longest continuous period during which one person has held this leadership position. Not only that, but he was also a key person with regard to his approach and his perspective of events that took place during this period: in 1946 de Gasperi signed Italy's Peace Treaty with its allies and three years later he brought Italy into NATO. During this entire period he actively supported Monnet's and Schuman's efforts to establish the European Coal and Steel Community and ensured Italy's membership in this group in 1951.

One can even theorise that, without de Gasperi, it would be difficult to imagine Italy as one of the six founding members of the contemporary European integration process. Furthermore, thanks to the fact that Italy started to lag behind the majority of its European partners quite significantly during the post-war period economically, the Italian population supported the European integration process that much more strongly and spontaneously. It was specifically Alcide de Gasperi who became a symbol of Italy's desire to no longer stay pacing in the sidelines somewhere in Europe's periphery.

His work and efforts were acknowledged in 1952, when he was awarded the Karlspreis (International Charlemagne Prize) in Aachen. Two years later the first Italian recipient of this award died in Selle di Valsugana in Trentino.

The statistical window in a tabular form shows important macroeconomic indicators from all member states and the EU as a whole. It includes economic performance indicators (per capita GDP as compared to the EU average, GDP growth, unemployment rate), external economic stability indicators (current account to GDP), fiscal stability indicators (public budget to GDP, public debt to GDP), and pricing indicators (annual inflation based on HICP, base price level).

Key macroeconomic indicators

	GDP growth y-on-y			Current account to GDP*			Unemployment rate			Inflation y-on-y average		
in %	2006	2007	2008	2006	2007	2008	VII-09	VIII-09	IX-09	VII-09	VIII-09	IX-09
Belgium	2.8	2.9	1.0	2.0	2.2	-2.5	7.8	7.9	7.9	-1.7	-0.7	-1.0
Bulgaria	6.3	6.2	6.0	-18.4	-25.2	-25.4	6.8	7.2	7.6	1.0	1.3	0.2
CR	6.8	6.1	2.5	-2.4	-3.2	-3.1	6.7	6.9	7.0	-0.1	0.0	-0.3
Denmark	3.3	1.6	-1.2	3.0	1.5	2.2	6.0	6.0	6.4	0.7	0.7	0.5
Germany	3.2	2.5	1.3	6.5	7.9	6.6	7.6	7.6	7.6	-0.7	-0.1	-0.5
Estonia	10.0	7.2	-3.6	-16.9	-17.8	-9.4	na	na	na	-0.4	-0.7	-1.7
Ireland	5.4	6.0	-3.0	-3.6	-5.3	-5.2	12.3	12.5	13.0	-2.6	-2.4	-3.0
Greece	4.5	4.5	2.0	-11.2	-14.3	-14.6	na	na	na	0.7	1.0	0.7
Spain	4.0	3.6	0.9	-9.0	-10.0	-9.6	18.5	18.8	19.3	-1.4	-0.8	-1.0
France	2.2	2.3	0.4	-0.5	-1.0	-2.3	9.7	9.8	10.0	-0.8	-0.2	-0.4
Italy	2.0	1.6	-1.0	-2.6	-2.4	-3.4	na	na	na	-0.1	0.1	0.4
Cyprus	4.1	4.4	3.7	-6.9	-11.9	-17.8	5.4	5.6	5.9	-0.8	-0.9	-1.2
Latvia	12.2	10.0	-4.6	-22.5	-22.3	-13.0	17.8	18.6	19.7	2.1	1.5	0.1
Lithuania	7.8	9.8	2.8	-10.6	-14.5	-11.7	na	na	na	2.6	2.2	2.3
Luxembourg	5.6	6.5	0.0	10.3	9.7	5.5	6.5	6.5	6.6	-1.5	-0.2	-0.4
Hungary	4.0	1.0	0.6	-7.5	-6.8	-7.1	9.5	9.6	9.7	4.9	5.0	4.8
Malta	3.8	3.7	2.1	-9.2	-6.1	-5.6	7.3	7.2	7.2	0.8	1.0	0.8
Netherlands	3.4	3.6	2.0	9.3	8.7	4.8	3.4	3.5	3.6	-0.1	-0.1	0.0
Austria	3.5	3.5	2.0	2.8	3.6	3.2	4.7	4.7	4.8	-0.4	0.2	0.0
Poland	6.2	6.8	5.0	-2.7	-4.7	-5.1	8.0	8.1	8.2	4.5	4.3	4.0
Portugal	1.4	1.9	0.0	-10.0	-9.4	-12.1	9.2	9.1	9.2	-1.4	-1.2	-1.8
Romania	7.9	6.3	6.2	-10.5	-13.4	-12.2	na	na	na	5.0	4.9	4.9
Slovenia	5.8	6.8	3.5	-2.5	-4.8	-6.2	5.9	5.9	5.9	-0.6	0.1	0.0
Slovakia	8.5	10.4	6.4	-8.2	-5.7	-6.6	11.5	11.7	12.0	0.6	0.5	0.0
Finland	4.9	4.2	1.0	4.5	4.2	3.0	8.5	8.5	8.6	1.2	1.3	1.1
Sweden	4.2	2.6	-0.2	8.4	8.8	6.3	8.4	8.6	8.7	1.8	1.9	1.4
UK	2.9	2.6	0.6	-3.3	-2.7	-1.6	7.8	na	na	1.8	1.6	1.1
EU	3.1	2.9	0.9	-1.3	-1.1	-2.0	9.0	9.1	9.2	0.2	0.6	0.3

	Public budget to GDP*			Public debt to GDP			GDP per capita to Ø EU			Price level to Ø EU		
in	2006	2007	2008	2006	2007	2008	2006	2007	2008	2006	2007	2008
Belgium	0.3	-0.2	-1.2	88.1	84.2	89.8	118.4	118.1	113.9	106.7	106.3	110.7
Bulgaria	3.0	0.1	1.8	22.7	18.2	14.1	36.5	37.5	40.2	44.6	46.5	51.0
CR	-2.6	-0.7	-2.1	29.4	29.0	30.0	77.6	80.3	80.1	61.4	62.4	72.4
Denmark	5.2	4.5	3.4	31.3	26.8	33.5	122.9	120.1	118.4	138.4	137.7	141.0
Germany	-1.6	0.2	0.0	67.6	65.0	65.9	115.9	115.1	116.1	103.0	103.1	103.9
Estonia	2.3	2.6	-2.7	4.5	3.8	4.6	65.9	69.5	68.2	67.4	71.5	76.7
Ireland	3.0	0.3	-7.2	25.0	25.1	44.1	146.9	149.6	136.6	124.0	124.5	126.9
Greece	-2.9	-3.7	-7.7	97.1	95.6	99.2	92.9	94.2	93.9	88.8	89.4	94.1
Spain	2.0	1.9	-4.1	39.6	36.1	39.7	104.2	105.7	103.4	91.8	92.4	95.7
France	-2.3	-2.7	-3.4	63.7	63.8	67.4	109.0	108.9	107.4	108.8	108.3	111.1
Italy	-3.3	-1.5	-2.7	106.5	103.5	105.8	103.8	101.9	100.5	104.3	103.9	105.3
Cyprus	-1.2	3.4	0.9	64.6	58.3	48.4	90.2	90.8	94.7	90.5	88.8	89.6
Latvia	-0.5	-0.3	-4.1	10.7	9.0	19.5	52.5	57.9	55.8	60.5	65.9	74.7
Lithuania	-0.4	-1.0	-3.2	18.0	16.9	15.6	55.5	59.8	61.1	57.1	59.6	66.8
Luxembourg	1.3	3.7	2.5	6.6	6.6	13.5	268.7	275.1	271.4	111.8	112.4	116.2
Hungary	-9.3	-5.0	-3.8	65.6	65.9	72.9	63.5	62.6	62.8	60.3	66.1	69.7
Malta	-2.6	-2.2	-4.7	63.6	62.0	63.8	76.7	77.5	75.5	74.5	73.3	78.4
Netherlands	0.5	0.2	0.7	47.4	45.5	58.2	130.9	131.3	135.0	104.1	103.4	103.4
Austria	-1.6	-0.6	-0.4	62.2	59.5	62.6	123.7	123.9	123.1	102.0	101.4	104.6
Poland	-3.6	-1.9	-3.6	47.7	45.0	47.2	52.3	53.8	57.6	62.1	63.7	68.6
Portugal	-3.9	-2.6	-2.7	64.7	63.6	66.3	76.3	76.1	75.5	84.9	84.6	86.7
Romania	-2.2	-2.5	-5.5	12.4	12.6	13.6	38.3	42.5	45.8	57.1	61.5	62.1
Slovenia	-1.3	0.0	-1.8	26.7	23.3	22.5	87.8	89.5	90.7	76.8	77.8	83.0
Slovakia	-3.5	-1.9	-2.3	30.5	29.3	27.7	63.5	67.0	71.9	57.4	63.5	69.5
Finland	4.0	5.2	4.5	39.3	35.2	34.1	114.8	115.8	115.1	122.6	122.5	124.6
Sweden	2.5	3.8	2.5	45.9	40.5	38.0	121.4	122.3	121.5	118.5	117.3	114.4
UK	-2.7	-2.7	-5.5	43.2	44.2	52.0	120.7	118.5	117.2	110.3	110.3	99.4
EU	-1.4	-0.8	-2.3	61.3	58.7	61.5	100.0	100.0	100.0	100.0	100.0	100.0

*Source: Eurostat, *) net balance, GDP per capita according to PPP*