



ECJ on the classification of city cards as (multi-purpose) vouchers

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1 Background

City cards, which grant their holder entry to various individual city tourist attractions, are a popular means of promoting tourism. However, their VAT treatment is still largely unclear. In particular, the question arises as to the conditions under which such cards fall under the VAT Directive regulations on vouchers introduced with effect from 1 January 2019. The ECJ has now commented on this question for the first time in its judgment in the legal case *DSAB Destination Stockholm AB* (C-637/20).

2 Facts of the case

DSAB issues and sells city cards to visitors to Stockholm. The card gives its holder the right to be admitted to around 60 attractions, including sights and museums, for a limited period of time and up to a certain value. Cardholders are also given access to transport services such as Hop-on-Hop-off buses or boats operated by DSAB, as well as sightseeing tours offered by other providers. DSAB offers various versions of the city card with different validity periods and value limits. For a card with a 24-hour validity period, the value limit amounts to approximately EUR 175. The services included with the card are either subject to VAT, at various rates, or are VAT exempt.

The cardholder is granted access to the included services by merely presenting the city card, without paying anything further. In accordance with an agreement concluded with DSAB, the supplier receives a share of the regular entrance or service fee from DSAB for each admission or use. The suppliers are obliged to grant the cardholder access to their service at least once. Use of city card transport services is unlimited.



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DSAB requested an advance ruling from the Swedish tax authorities to confirm the classification of its city card as a multi-purpose voucher. The tax authorities, however, found that the city card did not qualify as voucher. This was due to the fact that the average consumer could not use the city card to its full extent, in the sense of visiting all of the attractions available and covered by the high value limit, due to the short period of validity. Therefore, it was unclear what the cardholder might actually ultimately obtain in return for the card.

3 ECJ decision

In its ruling, the ECJ came to the conclusion that the city card offered by DSAB could constitute a voucher within the meaning of the VAT Directive. With regard to the classification, it focused solely on the two conditions laid down in the VAT Directive. Accordingly, a voucher must be subject to the obligation to accept it as (part of) consideration for a supply. In addition, the supplies to be rendered or the identity of their potential suppliers must be indicated on the voucher or in related documents (e.g. terms of use). If these two conditions are met, the ECJ found it possible to classify the city card as a voucher. The ECJ considered the impossibility of an average consumer being able to take advantage of all of the services offered and covered by the value limit, due to the short period of the card's validity, to be irrelevant.

The ECJ left it for the referring court to ascertain that the conditions laid down in the VAT Directive had been met. Should the referring court classify the city card as a voucher, the ECJ would consider it to be a multi-purpose voucher. The city card entitles the holder to receive supplies of services which are subject to different VAT rates or are VAT exempt. At the time of issue, it cannot yet be determined which supplies the cardholder will choose. As the VAT due on the supplies obtained by the cardholder is not known at the time of issue, the card cannot be classified as a single-purpose voucher. Consequently, it must constitute a multi-purpose voucher.

4 Consequences for the practice

This was the first occasion upon which the ECJ was presented with the opportunity to comment on the application of the VAT Directive's voucher regulations. A statement was particularly desirable with respect to city cards. Already in 2019, the VAT Committee discussed the VAT treatment of city cards – which has varied widely among the Member States until then – but had not come to any clear conclusion (Working paper No. 983). In its classification of the city cards in question, the ECJ now only considered the conditions laid down in the VAT Directive and explicitly regards the period of validity and the possibility of full use as being irrelevant to its decision.

However, the ECJ has avoided establishing general principles that go beyond this individual case, something which would have been welcomed for the purposes of legal certainty. Assuming the fulfilment of the explicit requirements, the ECJ considered the classification of the city card as a voucher to be "possible", but failed to provide a definitive answer. It was only the classification of the city card as a uniform supply of services, that the ECJ explicitly rejected. Overall, the ECJ decision falls short of the Advocate General's comments. In her opinion, the Advocate General states that instruments which satisfy the conditions laid down by the VAT Directive should always be treated as vouchers. An exception may only arise if this conflicts with the application of a special VAT treatment of the underlying service.

Thus, uncertainty remains when it comes to the analysis of comparable instruments, which must continue to be examined on a case-by-case basis. This is all the more true as such cards are offered in a multitude of individual forms, meaning that this will probably not be the last time that the ECJ will be called upon to deal with the subject of voucher requirements.