

CAMPUS LIFE

Directive 34, the CJEU and the prudence principle: some reality behind the rhetoric

David Alexander Professor Emeritus of Accounting at the University of Birmingham Business School

ABSTRACT:

"The European Parliament....emphasises that a core component of achieving the true and fair view of the figures set out in the accounts is prudent valuation, which means no understating of losses or overstating of profits, as described in Article 6(1)(c)(i) and (ii) of the Accounting Directive; points out that this interpretation of the Accounting Directive has been confirmed by numerous ECJ rulings;..." (The Stolojan report para 4 (European Parliament 2016)).

The essential assumptions behind the Stolojan report of 2016 are shown to be false. In particular, the significance, meaning and implications of the prudence principle have changed fundamentally. The Directive, through member state options, contains astonishing flexibility (the anti-harmonisation Directive?). For example, the inclusion of unrealised fair value gains in the profit and loss account, including "for assets other than financial instruments" is explicitly permitted (Article 8.9), so this treatment, if available as a national option, CANNOT be inconsistent with the prudence principle (or with the true and fair view principle) under the Directive which the CJEU is now required to apply.

The paper presents and discusses detailed regulations, and the major implications which seem to be widely unrecognised elsewhere. It explores the prudence principle under Directive 34, its possible interpretations and the significant changes in its role compared to the earlier Directives. There are three strands to the argument: economic, regulatory and legal. These strands provide an integrated path towards what we present as an inevitable conclusion.

**Aula Volpato, Campus Economico, San Giobbe
Martedì 13 marzo 2018, ore 14.00**