

**Question for written answer E-000705/2016  
to the Commission**

Rule 130

**Norbert Erdős (PPE)**

Subject: Discrimination against economically less developed Member States in European law

In an action which the Commission brought against Spain<sup>1</sup>, the Commission argued that the measure adopted by the Member State which was at issue in the case was incompatible with European law *inter alia* because the Member State did not have large establishments or undertakings of its own in the sector concerned and therefore it was not possible to regard the measure as having an acceptable, legitimate purpose under European law but rather it had to be seen as discriminatory and consequently contrary to European law<sup>2</sup>.

In its judgment in the *Hervis*<sup>3</sup> case, the Court of Justice held that a progressive tax on commercial establishments calculated on the basis of turnover – with a requirement to aggregate the combined turnovers of the individual linked undertakings – was not contrary to European law on condition that the majority of the taxable persons in the Member State levying the tax concerned did not belong to a registered office in another Member State.

1. Does the Commission agree with the observation that, as a result of the above practice, less economically developed Member States, which are therefore less likely to have their 'own' multinational undertakings, have less regulatory freedom as a result of this circumstance?
2. Although the Court of Justice has a monopoly on the authentic interpretation of European law, in the Commission's view what scope does European integration offer for remedying discrimination against economically less developed States?

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<sup>1</sup> C-400/08

<sup>2</sup> According to my analysis, in this judgment the Court of Justice only partially endorsed the Commission's opinion.

<sup>3</sup> C-385/12