

EUROPEAN PARLIAMENT

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2004

Committee on Petitions

26 July 2004

NOTICE TO MEMBERS

Petition 1106/2003 by Guilherme Rodrigues (Portuguese) on tax harmonisation

1. Summary of petition

The petitioner considers that it hinders the free movement of goods across the EU that taxes for the acquisition of vehicles differ according to countries. He further alleges double taxation in Portugal: When he bought a car in his country, a special Vehicle Tax (VT) that does not exist in all member states had to be paid, as well as Value Added Tax (VAT) applied to the cost of the car including the VT. If a car is bought abroad, VT has to be paid on importation of the car into Portugal.

2. Admissibility

Declared admissible on 30 April 2004. Information requested from Commission under Rule 175(4).

3. Commission reply, received on 6 July 2004

'A.- The facts.

The petitioner considers that it hinders the free movement of goods across the EU that taxes for the acquisition of vehicles differ according to countries. She further alleges double taxation in Portugal, given that where a car is bought in this country, VAT plus a special tax, the Vehicle Registration Tax (VRT) have to be paid. This VRT has to be paid also if a car bought abroad is imported into Portugal.

B. - Legal analysis.

1. It must be said, from the outset, that the VRT is a registration tax in force in Portugal and that, at the present stage of Community Law, Member States have the right to levy such registration taxes on cars. There is no harmonization on this matter and this means that, provided they respect the basic principles of Community legislation, Member States remain free to apply this kind of tax to motor cars

on the occasion of their first entry into use within their territory and to settle the tax rates at the level they see fit. The majority of Member States (ten Member States, Portugal being one of them) in fact apply those taxes.

2. In this respect, the European Court of Justice has stated, in its judgment of 21 March 2002 (Case C-451/99, « Cura Anlagen », paragraph 40), that :

« It should be recalled in that respect that, save for the specific situation of vehicles which are imported into the Community temporarily and motor vehicles intended exclusively for the road transport of goods with an authorised load of 12 tonnes or more (...) the taxation of motor vehicles has not been harmonised and differs considerably from one Member State to another. Member States are therefore free to exercise their powers of taxation in that area, provided they do so in compliance with Community law (...) ».

3. In its judgment of 17 June 2003 (Case C-383/01), the EC Court has stressed that the Danish registration tax, despite its very high rates, does comply with EC Law, since it has no any protective or discriminatory effect. This means that the high rates of the registration tax are not, in itself, contrary to Community Law.

4. However, Member States' rights must be exercised in compliance with the relevant provisions of both the EC Treaty and derived Community Law. In particular, under Article 90 of the Treaty, Member States may not charge higher taxes on imports than on similar and competing domestic products. In Cases C-345/95 (Judgment of 9 March 1995, « Nunes Tadeu ») and C-393/98 (Judgment of 22 February 2001, « Gomes Valente »), the EC Court ruled that the said Article was breached by the Portuguese legislation on vehicle taxation and subsequently condemned this Member State. As a result, the Portuguese legislation was changed in terms that, according to the information currently available to the Commission, comply with the EC criteria.

5. From the considerations stated above, and in particular from the fact that the relevant Portuguese legislation was modified following the above mentioned ECJ judgements, it derives that, on the basis of the currently available information, the Commission has no reason to believe that the current Portuguese legislation on registration taxes –including the high level of those taxes- is in itself contrary to EC Law.

6. In this context it should be recalled that the Commission has recently stressed that a higher degree of harmonization in this area would be beneficial to the Internal Market. For this reason, on 6 September 2002 the Commission presented a new and comprehensive strategy on the taxation of passenger cars in the European Union, through its Communication to the Council and the European Parliament regarding “taxation of passenger cars in the European Union – options for action at national and Community levels”, of 6 September 2002 (COM (2002) 431 final).

In this Communication, the Commission analyses current passenger car taxation systems and explores ways of improving their co-ordination. In particular, registration taxes are identified as one of the biggest obstacles to the free movement of cars in the Internal Market: the Commission therefore recommends that they are gradually replaced by annual road taxes and fuel taxes (so that the tax burden would remain the same but related to the use of a car rather than its ownership). Member States are invited to take the Commission's recommendations into account when evaluating and revising their national vehicle taxation systems.

Finally, it must be said that within the next months, the Commission intends to present a proposal for a Directive on vehicle taxation on the basis of the principles of that Communication. Such a proposal should mean a decisive step in order to put an end to the problems currently faced by the European citizen due to the lack of harmonization in the field of vehicle taxation.

3. Conclusions.

For all the abovementioned reasons, the Commission believes that the situation raised by the petitioner does not imply a breach of EC Law and recommends to close the petition.