



24.6.2010

## NOTICE TO MEMBERS

Subject: **Petition 1918/2009 by Antonio De Luca (Italian), on the rights of the disabled in Italy**

### 1. Summary of petition

The petitioner expresses concern at the situation of disabled persons in Italy, arguing that their constitutional rights are being flouted. He indicates that his wife, an MS patient, receives an allowance of €600, which is far too little to cover the full costs of her disorder. Furthermore he indicates that in Italy no proper provision is made for those caring for disabled persons. He is accordingly seeking action by the European Parliament to persuade the Italian Government to improve the situation of disabled people in Italy.

### 2. Admissibility

Declared admissible on 30 March 2010. Information requested from Commission under Rule 202(6).

### 3. Commission reply, received on 24 June 2010.

There is no EU competence on the specific issue raised by the petitioner. Decisions concerning the criteria giving entitlements to disability benefits and tax relief are the exclusive competence of Member States. At EU level, tax relief can only concern taxes that are regulated at EU level. Currently direct taxes are determined at a national level, which means that relief in the context of direct taxation is a purely national matter.

As for the EU VAT system, its essential characteristic is that VAT is a general, broadly based tax on consumption in the EU. Tax neutrality is an essential characteristic for a general tax, such as VAT. Consequently, the application of a different tax rate according to the status or quality of the buyer does not respect this principle. Moreover, as a general consumption tax,

VAT was mainly designed to collect revenue. However, essentially for social reasons, the EU VAT legislation provides for some options for Member States to differentiate VAT rates, as explained below. Furthermore, the redistribution of the VAT revenue is as a general rule not regulated at EU level and, subject to certain EU rules, such as those on State aids, Member States are free to grant fiscal aids or tax reliefs to support social policies.

Under EU VAT rules, Member States are required to apply a single standard rate of at least 15% and may have a maximum of two reduced rates set no lower than 5%, which Member States may apply at their discretion, but only to the categories of goods and services listed in Annex III to the Council Directive 2006/112/CE (the VAT Directive). In this respect, Member States remain free to apply a reduced VAT rate to a whole category or to restrict its application to an (even very small) part of it, provided that the principle of fiscal neutrality is respected. This principle precludes that similar goods, which are in competition with each other, are treated differently for VAT purposes.

The above Annex III to the VAT Directive contains some categories that are of interest to disabled persons. In particular, category 4 of Annex III concerns "medical equipment, aids and other appliances normally intended to alleviate or treat disability, for the exclusive personal use of the disabled, including the repair of such goods" and category 15 which relates to the "supply of goods and services by organisations recognised as being devoted to social wellbeing by Member States and engaged in welfare or social security work", in so far as those transactions are not exempt by virtue of other provisions of the VAT Directive.

The list of the supplies eligible for a reduced VAT rate is the result of several measured compromises in the Council which are unavoidable as EU tax law has to be adopted by unanimity.

In 2008, the Commission presented a legislative proposal concerning urgent issues to be tackled as to reduced VAT rates and intended to have a conclusive general debate on the way forward and the usefulness and cost effectiveness of reduced VAT rates. After long and thorough discussions, the debate in the Council on the overall system of reduced VAT rates was concluded by the unanimous political agreement of 10 March 2009 which mainly concerned the permanent insertion of certain local labour-intensive services in the Annex III. In particular, Directive 2009/47/EC added Category 10a concerning "renovation and repairing of private dwellings, excluding materials which account for a significant part of the value of the service supplied", which could include the installation of certain equipment referred to, as well as Category 20 concerning "domestic care services such as home help and care of young, elderly, sick or disabled".

Consequently, the option to apply reduced VAT rates to these supplies is already available for the Member States who decide whether or not to use them, depending on their specific socio-economic and budgetary situation and political preferences.

## Conclusion

The specific issue the petitioner has raised is under the competence of the Italian government and parliament.