



24.10.2012

NOTICE TO MEMBERS

Subject: Petition 0316/2012 by Filomena Vacca (Italian) on interest rates imposed by the Italian Agenzia delle Entrate (Revenue Office) and by the public company Società Equitalia, which is responsible for recovering tax debts from citizens owing money to the tax authorities

1. Summary

The Petitioner owned a business which went bankrupt in 2009. In view of this, the Italian tax office imposed fines on her for failure to pay, or late payment, of IRPEF (Income Tax on Physical Persons).

In her opinion, the Italian debt authorities apply excessively high interest rates with no consideration for the fact that the debtor may be poor and lack the funds.

2. Admissibility

Declared admissible on 2 July 2012. The Commission was asked to provide information (Rule 202(6)).

3. Commission reply, received on 24 October 2012

After her company went bankrupt, the petitioner was liable for tax arrears in respect of personal income (IRPEF) and for penalties for the failure to pay, or late payment, of taxes. The Italian tax authorities – and in particular the body responsible for collecting taxes (Equitalia) – applies interest rates which the petitioner considers to be excessive and which fail to take into account her personal and financial situation.

The petitioner complains about the difficulties faced by members of the public who are being pursued by the tax authorities. She considers that when – as in her circumstances (salary of

EUR 1 500 already burdened with debt; 2 unemployed, dependent children) – the situation is one of necessity and not of tax evasion, the procedures to which taxpayers/debtors are subjected are an affront to human dignity.

Observations of the Commission

The Court of Justice has always found, in its established case law, that direct taxation is a competence of the Member States which, nevertheless, must comply with European Union law¹ and notably the principle of non-discrimination when exercising that competence. Hence, under European law as it stands, it is up to the national authorities to establish the procedures for the recovery of taxes and to set the interest rates for the late payment of taxes and the penalties applicable within their borders for failure to pay taxes. On the basis of the information available, Italy would not appear to be applying more stringent or discriminatory recovery methods in respect of non-resident taxpayers.

It should also be noted that the petitioner's circumstances are solely a matter for national law. Therefore, the issue of whether or not interest rates and penalties in cases of non-payment of taxes are excessive does not fall within the remit of the Commission.

¹ Rulings of 29.3.2012, C-417/10, 3M Italia SpA and C-500/10, Belvedere costruzioni.