



31.3.2017

NOTICE TO MEMBERS

Subject: Petition No 0968/2016 by D. H. (British) bearing one additional signature, on double taxation of the UK pension in Greece

1. Summary of petition

The petitioner complains in his name and the name of his wife that their pensions (professional and old age ones) are double taxed in Greece. The petitioner and his wife are UK citizens residing in Greece. The petitioner pays due income tax in the UK and has been informed that the pensions are also subject to Greek tax. He asks the European Parliament to resolve this matter.

2. Admissibility

Declared admissible on 10 January 2017. Information requested from Commission under Rule 216(6).

3. Commission reply, received on 31 March 2017

The Commission would like to point out that the Greek legislation cannot be considered as posing any discrimination or restriction contrary to the Treaty on the Functioning of the European Union (TFEU).

EU legislation has only a limited scope in the area of direct taxation. Member States are largely competent to design their own tax systems, and to decide what to tax, when to tax it and at what rate. However, Member States have to respect their obligations under the TFEU. They are not allowed to discriminate on the basis of nationality or residence against the nationals of any Member State, including their own, or against anyone who exercises the freedoms granted under the TFEU, nor can they apply unjustified restrictions on these freedoms.

There is no EU legislation which determines in which State a taxpayer will be taxed if he has

tax links to more than one Member State. This question is normally addressed in double taxation agreements concluded by the Member States concerned. The application and interpretation of these agreements is not governed by EU law. It is also not contrary to EU law, in itself, for a Member State to tax non-residents on certain types of income. Nor is it contrary to EU law for a taxpayer to be taxed on the same income in more than one Member State (see, inter alia, the Court of Justice's judgment in Case C-96/08 *Ciba*, paragraph 29).

The Commission would like to point out that the taxation of a UK-sourced pension received in Greece is determined on the basis of the domestic legislations of both the United Kingdom and Greece, as well as of the double taxation convention concluded by these states (hereinafter “the DTC”) . Specifically, under Article X (2) of the DTC, pensions derived from sources within the United Kingdom by an individual who is a resident of Greece and subject to Greek tax in respect thereof, shall be exempt from UK tax.

Consequently, it means that under the DTC, the Greek authorities can lawfully demand payment of taxes on UK-sourced pensions, whereas the United Kingdom should refrain from taxing it. The Commission has, however, no formal competence to apply, interpret or enforce DTCs, as such conventions, as mentioned above, do not fall within the scope of EU law.