



30.11.2018

NOTICE TO MEMBERS

Subject: Petition No 0762/2014 by John Hegarty (Irish) on alleged discrimination by the UK government in its application of its new Lorry Road User Levy in Northern Ireland

1. Summary of petition

The petitioner complains that the Lorry Road User levy introduced by the UK government on 1 April 2014 is discriminatory and distorts competition. He reports that, although the levy applies to all hauliers – whether UK-registered or not – its impact has been mitigated for UK-registered vehicles insofar as UK Vehicle Excise Duty has been substantially reduced. Since the Republic of Ireland is the only EU Member State that shares a land border with the UK, he considers that the levy discriminates directly against Irish hauliers, weakening their competitive position vis-à-vis UK-registered HGVs in Northern Ireland. This is particularly relevant in County Donegal since its geographical location and the nature of the road network mean that it is essential to cross Northern Ireland. The petitioner further complains that the levy amounts to double taxation since the Irish government already contributes significantly to upgrading roads in Northern Ireland, that it is disproportionate to actual road use and that its connection to time spent rather than distance travelled undermines road safety.

2. Admissibility

Declared admissible on 13 March 2015. Information requested from Commission under Rule 216(6).

3. Commission reply, received on 17 July 2015

The Commission has examined the claim made by the petitioner that the UK HGV Levy is unfair, in particular as regards its application to the hauliers from the Republic of Ireland (ROI).

According to the information available to the Commission, the time-based UK HGV Levy is respecting the provisions of the so-called Eurovignette Directive¹ as regards specifically the minimum tax rates (Annex I) and of vignette rates (Annex II). These provisions are intended to eliminate distortion of competition between hauliers operating in a given country.

Hauliers from ROI are, as all other incoming hauliers, obliged to acquire a daily, weekly, monthly or yearly vignette when entering the UK. In accordance with Article 7a(1) of the Eurovignette Directive, UK applies only annual rates for vehicles registered in its territory.

According to the information available to the Commission, Eastern European hauliers are affected the most by the UK HGV Levy contrary to what is stated in the petition. It is also the understanding of the Commission that the UK has exempted a few roads (A37 and two sections of A3 to the west of Clones) to accommodate ROI hauliers.

It is entirely up to Member States to decide whether to introduce road charges and in which form (time- or distance-based), as long as the relevant legislation complies with EU law, including in particular the Eurovignette Directive.

Conclusion

Member States are entitled to introduce road charges for HGV on their territory, as long as they comply with EU law.

The Commission is therefore in no position to impose an "exemption" of Northern Ireland's road network from the UK HGV Levy, as implied by the title of the petition. The Commission will however inquire into the reduction of the Vehicle Exercise Duty for UK Hauliers, introduced at the same time as the charge, to assess whether such a reduction breaches a prohibition of EU law directed against -discrimination based on nationality.

4. Commission reply (REV), received on 30 May 2018

As indicated in the conclusion of its initial communication regarding the petition in July 2015, the Commission had looked at the issue of potential discrimination based on nationality in relation to the introduction of the UK Heavy Goods Vehicles (HGV) Levy and the reduction of the Vehicle Excise Duty (VED).

The UK introduced a user charge (HGV Levy) on 1 April 2014 for vehicles above 12 tonnes. Simultaneously, the VED for UK registered vehicles, being a circulation tax, was reduced by an amount corresponding to the HGV Levy. The HGV Levy and the VED apply to the same UK roads. UK users pay the HGV Levy and the VED as a single annual or six-monthly transaction based on the same criteria (number of axles, the trailer weight and the total weight of HGV) as the traditional VED. Foreign users have the choice to pay the UK HGV Levy on a daily, weekly, monthly or yearly basis. There are seven main levy bands, A to G. The highest levy, band G, is £10 a day or £1,000 a year.

Following discussions with the Commission, the UK is now considering a reform to the HGV Levy².

¹ Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures, OJ L 187, 20.7.1999, p. 42.

² <https://www.gov.uk/government/consultations/reforming-the-heavy-goods-vehicle-road-user-levy>

Conclusion

The Commission is following closely the developments announced by the UK.

5. Commission reply (REV II), received on 30 November 2018

As indicated in the conclusion of the Commission's initial reaction to the petition in July 2015, the Commission had looked at the issue of potential discrimination based on nationality in relation to the introduction of the UK Heavy Goods Vehicles (HGV) Levy and the reduction of the Vehicle Excise Duty (VED).

The UK introduced a user charge (HGV Levy) on 1 April 2014 for vehicles above 12 tonnes. Simultaneously, the VED for UK registered vehicles, being a circulation tax, was reduced by an amount corresponding to the HGV Levy. The HGV Levy and the VED apply to the same UK roads. UK users pay the HGV Levy and the VED as a single annual or six-monthly transaction based on the same criteria (number of axles, the trailer weight and the total weight of HGV) as the traditional VED. Foreign users have the choice to pay the UK HGV Levy on a daily, weekly, monthly or yearly basis. There are seven main levy bands, A to G. The highest levy, band G, is £10 a day or £1,000 a year.

Following discussions with the Commission, the UK is reforming the HGV Levy¹.

Conclusion

The Commission is following closely the developments announced by the UK.

The fact that the Republic of Ireland might have contributed to the development of the road network of Northern Ireland is a matter of national policy, not relevant from the point of view of EU law.

The fact that the levy is time-based and not related to the actual number of kilometres driven, it is not in conflict with the current legislation.

¹ <https://www.gov.uk/government/consultations/reforming-the-heavy-goods-vehicle-road-user-levy>