



19.12.2018

NOTICE TO MEMBERS

Subject: Petition No 0442/2018 by Stefano Badiali (Italian) on the private use of a company car registered outside the EU

1. Summary of petition

The petitioner is an Italian frontier worker who resides in Italy and works in Switzerland. His Swiss employer provides him with a company car, registered in Switzerland, for both private and business use. The petitioner notes, however, that under Delegated Regulation (EU) 2015/2446, only restricted private use may be exempt from import duties (commuting between the employee's place of work and place of residence, or performing work specified in the employment contract). The petitioner states that this means he is obliged to keep a private vehicle with all the disadvantages this entails. The petitioner would like to see terms of use for private purposes (without any restrictions) to be established for a company car registered outside the EU by a citizen residing on EU territory.

2. Admissibility

Declared admissible on 27 September 2018. Information requested from Commission under Rule 216(6).

3. Commission reply, received on 19 December 2018

‘Concerning the conditions for granting total relief from import duty for a company car registered outside the EU and used for private purposes in the framework of the temporary admission procedure, the Commission takes the view that the limitations mentioned in Article 215(3) of Commission Delegated Regulation (EU) 2015/2446 cannot be withdrawn from EU legislation. From a customs perspective, EU residents cannot, in principle, use or consume non-Union goods in the customs territory of the European Union unless the goods have been released for free circulation because import duty and other charges were paid. The derogation from this principle, as laid down in the above-mentioned Article, therefore refers only to

specific situations in which non-Union means of transport may be used exceptionally by EU residents, under the scope of the temporary admission procedure.

The petitioner also asks whether the Swiss company that has hired him could retain both the ownership and the Swiss registration of the car after its release for free circulation in the EU. While the payment of duties and taxes in the EU would confer the status of a Union good on the car, thus making possible any kind of use of the car (private or professional) inside the EU customs territory by the Italian employee, vehicle registration provisions must also be taken into consideration.

As a general rule, if a person is resident in a Member State, the car must be registered in the person's country of residence. In the absence of EU provisions, national legislation applies. As regards Italy, according to the combined provisions of Articles 94 and 132 of the Italian Traffic Code, vehicles registered in a foreign country may, once the customs formalities have been completed, be used in Italy on the basis of the registration certificate of the country of origin for a maximum of one year. Moreover, in a case of a transfer of ownership by the registration card holder, the competent Department of the Ministry of Transport will issue a new registration certificate within sixty days. If only the residence of the registration card holder has changed, the competent Department will just update the certificate. It should be noted that, in Italy, only a resident who can prove his or her ownership of a means of transport may ask for its registration in the National Logbook.

Therefore, irrespective of whether the importation of the vehicle was made by the Italian resident or by the Swiss company, the Italian provisions on car registration would not allow the Swiss company to maintain the ownership and the Swiss registration of the car.

Conclusion

The Commission does not see any possibility to propose a solution to the petitioner's query based on expanding the limited scope of the temporary admission procedure. In fact, this procedure is in principle intended to apply only to persons who are resident outside the EU.'