

Question for written answer E-013776/2013
to the Commission
Rule 117
Astrid Lulling (PPE)

Subject: German VAT on Luxembourg company cars used by cross-frontier workers

The decision by the German authorities to impose German VAT on Luxembourg company cars used by German cross-frontier workers represents a major problem for the employees affected and for Luxembourg companies. From a legal point of view, this interpretation of the VAT package is questionable for a number of reasons. It will result in VAT being imposed twice or even three times: in Luxembourg pursuant to Article 16b of the country's VAT Act as a deduction at source by employers, and in Germany on the basis of the circular containing the above decision and as a result of employees being liable for income tax on benefits in kind.

This also represents an attack on the freedom of movement of workers; as well as having to declare even the shortest private journeys, employees will be discriminated against on the grounds of their place of residence, since other employees holding similar jobs will not be liable for this extra tax. Case law makes it quite clear that any national provision which prohibits or dissuades citizens of a Member State from leaving their country of origin to exercise their right to freedom of movement represents an obstacle to this freedom. Various rulings have already been handed down on this subject, and particular similarities can be seen with case C-232/03 (Commission v Finland), where the existence of an obstacle was confirmed. What is more, Germany's classification of such situations is also flawed since it equates the long-term leasing of a means of transport between an employer and an employee with making the vehicle available for an employee's use. ECJ rulings on this issue, such as Decisions C-210/11 and C-211/11, have confirmed that this approach is incorrect, but the German authorities have failed to take this into account.

How does the Commission intend to respond to this misapplication of the VAT package by Germany? Does it intend to intervene in order to put a stop to this blatant attack on the free movement of workers?