NOTICE TO MEMBERS

Subject:  
Petition No 0560/2019 by Timothée Galvaire (French) on behalf of Fairosene on the introduction of a tax on aviation fuel (kerosene) for flights within the Union

Petition No 0621/2019 by I. L. (German) on an EU-wide kerosene tax

Petition No 0756/2021 by K.K (Polish) on the introduction of an aviation fuel tax (kerosene tax)

1. Summary of petition 0560/2019

The petitioner requests that the European Union consider the application of a tax on aviation fuel for flights within the EU. The petitioner states that the aviation sector enjoys numerous tax advantages despite being one of the largest contributors to greenhouse gas emissions. The petitioner points out that other more environmentally friendly alternatives are subject to high taxes while Member States do not charge VAT on airline tickets.

Summary of petition 0621/2019

The petitioner takes the view that, for reasons of climate change in particular, Member States must take appropriate action and increase the cost of especially harmful means of transport such air transport. According to the petitioner, the impact of air transport on the climate is particularly alarming, given the constant increase in the number of air passengers, and it is receiving more favourable treatment than other modes of transport such as car, coach or rail, even in Germany, where an air transport tax is levied. The petitioner is therefore seeking European Union support for the introduction of a tax or similar levy on kerosene for both cargo and passenger transport.

Summary of petition 0756/2021

The petitioner asks for the introduction of an aviation fuel tax within the EU in order to compensate the impact on the environment and climate caused by air transport, such as air
pollution, global warming, the risk of spreading COVID-19, health damage from aircraft noise and the waste produced during flights. Furthermore, he states that the aviation fuel tax exemption is a discrimination against other forms of transport, especially those which are considered the most sustainable ones. Therefore, aviation fuel should be taxed at the same rates of VAT and additional tax components. Due to the fact that aviation fuel is responsible for an increasing amount of the global CO2 emissions, it has to be regulated by the EU for all Members States.

2. Admissibility

Petition 0756/2021 declared admissible on 30 November 2021.

Information requested from Commission under Rule 227(6).

3. Commission reply, received on 30 September 2019

Petition 0560/2019

The Commission received a European Citizens’ Initiative1 (ECI) from the same person on the same subject in March 2019. This Initiative and the petition in question consist of exactly the same text.

A European Citizens’ Initiative allows citizens to suggest concrete legal changes in any field where the Commission has power to propose legislation, such as the environment, agriculture, energy, transport or trade.

The Commission registered the Initiative on 10 May 20192. The fact that the Commission registered the Initiative means that the Commission found that it does not manifestly fall outside the framework of the Commission’s powers to submit a proposal for a legal act of the Union. Until 10 May 2020 the promotors of the Initiative will have the possibility to gather one million signatures with minimum thresholds to be reached in at least seven countries. In the event that the required number of signatures are collected, the Commission must decide whether or not to present a proposal for legislation on the matter.

This means that a procedure on the same subject requested by the same person is already ongoing and will be dealt by the Commission in accordance with the relevant rules.

Conclusion

Since the petitioner has already triggered a European Citizens’ Initiative on exactly the same


4. Commission reply (REV.), received on 12 Maimber 2021

Petitions 0560/2019 and 0621/2019

The Commission understands the petitioner’s concerns. In fact, aviation has been, until the onset of the COVID-19 crisis, one of the fastest-growing sources of greenhouse gas emissions. A wide range of projections and scenarios showed that emissions from this sector are likely to grow over the coming decades despite mitigation efforts through technology, operations and usage of low-carbon fuels. The International Civil Aviation Organization (ICAO) forecasted in 2019 that by 2040 it could grow by a further 150%. The COVID-19 crisis, however, has hit this industry particularly hard, and it is today impossible to predict at what rate and when it will recover, therefore these estimates will likely require revisions.

The exemptions from value-added tax (VAT) and excise duties may no longer be adapted to the new EU climate change and energy policy framework. The recent evaluation of the Energy Taxation Directive had acknowledged the negative impact of the aviation exemption for the attainment of the EU decarbonisation objectives. The present tax system weakens the incentives for investing in more energy-efficient crafts and more sustainable fuels.

At the same time, the Commission acknowledges the exceptionally severe circumstances in which the aviation industry has found itself due to the measures of the Member States imposing restrictions on the movement of persons and the closing of borders in order to contain the COVID-19 pandemic, leading to record low levels of airline traffic in the first half of 2020. As many airline companies are struggling for survival and negotiating bail-out packages with different national governments, the Commission stands ready to engage in a constructive dialogue with the sector on the best way forward. From this perspective, the Commission sees the EU State aid regime – and the potential green conditionality that could be attached to rescue packages – and possible upcoming changes in taxation policy for aviation as complementary to helping the aviation industry turn this external shock into an opportunity to rebuild itself in a greener and environmentally sustainable manner.

To support the development of a global measure to address international aviation carbon dioxide (CO2) emissions in ICAO, the legislator decided to limit the obligation to cover emissions by corresponding allowances to intra-European Economic Area (EEA) flights.

Considering that aviation is not sufficiently priced compared to most other means of transport,

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4 ICAO, 2019: https://www.icao.int/environmental-protection/Pages/ClimateChange_Trends.aspx
the Ministers of Finance of nine Member States\textsuperscript{6} signed on 7 November 2019 a joint political statement calling upon the Commission to bring the debate on aviation pricing, e.g. in the form of aviation taxation or similar policies, a step further and to bring forward a proposal for an EU initiative on aviation pricing.

On 10 May 2019, the Commission registered a European citizens’ initiative on this subject matter, called ‘Ending the aviation fuel tax exemption in Europe’. The 12 month period, the timespan which the organisers had at their disposal to collect one million statements of support as required to submit the initiative for examination to the Commission, ended on 10 May 2020. However, under Regulation (EU) 2020/1042\textsuperscript{7}, adopted on 15 July 2020, this initiative can benefit from an exceptional extension of that deadline by 6 months until 10 November 2020. This extension is granted in view of the difficulties to collect paper statements of support from citizens and organise public events in support of the initiatives during the period of restrictions in response to the COVID-19 crisis.

Conclusion

In the broader context of the European Green Deal\textsuperscript{8} and the revision of the Energy Taxation Directive, and taking into account the Emissions Trading System (ETS) future initiatives in order to enhance the EU’s climate ambition for 2030 and 2050, initiatives on taxation of the aviation sector could be considered. Any such decision will take into account the developing impact of the COVID-19 pandemic on the aviation sector, and coherency of different pricing instruments, and strive to make aviation greener and more environmentally sustainable as it emerges from the current crisis.

The introduction of a harmonised tax on aviation fuel (kerosene) for flights within the Union is one of the options that will be studied within the framework of the review of the Energy Taxation Directive. The Commission is currently conducting an impact assessment with a view of tabling a legislative proposal by June 2021. The current economic context and the impact of the COVID-19 crisis on the aviation sector will be duly factored into the Commission’s assessment.

5. Commission reply, received on 22 July 2022

Petitions 0560/2019, 0621/2019 and 0756/2021

The Commission notes the petitioner’s concerns regarding the need to ensure the sustainability of the aviation sector. Aviation is accountable for around 3% of the total EU greenhouse gas emissions and for around 13% of the emissions from transport and until the onset of the COVID-19 crisis, aviation has been one of the fastest growing sources of greenhouse gas emissions and is expected to grow further if no action is taken.

\textsuperscript{6} https://www.rijksoverheid.nl/documenten/publicaties/2019/11/15/joint-statement-aviation-pricing
\textsuperscript{8} COM(2019) 640 final.
The petitioner suggested that the EU should introduce a kerosene tax for aviation. The recent evaluation of the Energy Taxation Directive⁹ acknowledged that the existing exemptions from excise duties may no longer be adapted to the new EU climate change and energy policy framework and, in particular, acknowledged the negative impact of the current mandatory tax exemption for aviation for the attainment of the EU decarbonisation objectives. The present tax system not only distorts the level playing field between the different modes of transport but also weakens the incentives for investing in more energy-efficient aircrafts and sustainable fuels.

The EU is fully committed to becoming climate neutral by 2050 and to reduce its greenhouse gas emissions by at least 55% compared to 1990 levels by 2030. These targets are in line with the Paris Agreement global temperature goals. On 14 July 2021, the Commission adopted a package of proposals to make the EU’s climate, energy, land use, transport and taxation policies fit for reducing net greenhouse gas emissions by at least 55% by 2030, compared to 1990 levels¹⁰. It also set out how the air transport sector will contribute to these targets. The Commission proposed several measures aiming at reinforcing carbon pricing in the aviation sector and promoting the use of sustainable aviation fuels. More specifically, the Commission proposed to strengthen the EU Emissions Trading System to increase its effectiveness, which covers aviation since 2012. A new proposal on the ReFuelEU Aviation¹¹ aims to boost supply and uptake of sustainable aviation fuels, with a focus on advanced biofuels and e-fuels, which will significantly reduce the environmental impacts of aviation.

This package includes a proposal to revise the Energy Taxation Directive (ETD)¹², to align the taxation of energy products with EU energy and climate policies, promote clean technologies and remove outdated exemptions and reduced rates that currently encourage the use of fossil fuels. In particular, the proposal would remove the current tax exemption of aviation from energy taxation in the EU. Fuels used for business and pleasure flights would have to be taxed at the same rate as motor fuels in road transport (based on the energy content of the fuels). Fuel used for passenger flights from one EU airport to another EU airport would also be subject to an EU minimum fuel tax. This minimum would gradually be introduced over a transitional period of 10 years (starting from zero, the rate shall increase by 1/10th of the final rate each year). A lot of relevant background information can be found in an external study commissioned by the Commission on the taxation of the air transport sector¹³.

To promote the use of sustainable aviation fuels, reduced tax rates would apply to sustainable biofuels and biogas, low carbon fuels, renewable fuels of non-biological origin, advanced sustainable biofuels and biogas and electricity.

As the Commission’s legislative proposals have already been adopted, it is now up to the EU legislator (the Council of the European Union in case of the ETD) to discuss the Commission’s proposal and agree on amendments if they consider them appropriate. The adoption of the proposal for the revision of the ETD proposal will require a unanimous agreement by Member States. The status of the legislative procedure for its adoption can be

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¹¹ https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12303-Sustainable-aviation-fuels-ReFuelEU-Aviation_en
followed in the legislative observatory\textsuperscript{14}.

Moreover, in 2022, the Commission started the preparatory work to review the value added tax exemptions for international passenger transport.

It is important to note that the drivers of climate change and biodiversity loss are not limited by national borders. The EU can use its influence, expertise and financial resources to mobilise its neighbours and partners to join it on a sustainable path. The EU will continue to lead international efforts, and wants to build alliances with the like-minded. This is why the Commission has proposed that only the carbon offsetting and reduction scheme for international aviation (CORSIA) should apply to flights to (and from) third countries outside Europe.

Conclusion

The petitioner suggests that the EU should introduce a kerosene tax for aviation. On 14 July 2021, the Commission adopted a proposal to revise the ETD as part of the Fit for 55 package\textsuperscript{15}, which also covered other measures contributing to aviation decarbonisation. The proposal would, amongst other things, remove the current tax exemption of aviation in the context of the revision of energy taxation in the EU. Fuels used for business and pleasure flights would have to be taxed at the same rate as motor fuels in road transport (based on the energy content of the fuels) and fuel used for passenger flights from one EU airport to another EU airport would also be subject to an EU minimum fuel tax. Therefore, the Commission considers that the objective of the petition can be considered fulfilled from the Commission’s point of view. As the Commission’s legislative proposal has already been adopted, it is now up to the EU legislators to discuss the Commission’s proposal, and propose and agree on amendments if they consider them appropriate.