

Court of Justice of the European Communities: Decision on Satellite Dish Tax

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On 29 November 2001 the European Court of Justice found a Belgian tax regulation on satellite dishes to be contrary to the freedom of services. The ruling is in accordance with the Communication adopted on 2 July 2001 by the European Commission on the use of satellite dishes (see IRIS 2001-8: 5).

The tax was adopted by the Belgian municipality of Watermael-Boitsfort on 24 June 1997. It provided for an annual levy of BEF 5000 on satellite dish owners during the period of 1997 to 2001. The regulation was repealed, with effect from 1 January 1999, in reaction to misgivings raised by the European Commission regarding this subject. On 10 December 1998, a Belgian citizen lodged a complaint against the levy with the Collège juridictionnel de la Région de Bruxelles-Capitale (Judicial Board of the Brussels-Capital Region). The Collège in turn asked for a preliminary ruling by the Court of Justice regarding the compatibility of its tax on satellite dishes with the freedom to provide services.

The Court noted that no similar tax on cable transmission exists. While broadcasters established in Belgium have unlimited access to cable distribution for their programmes in that Member State, this is not the case for broadcasters established in certain other Member States who would wish to broadcast their programmes by cable in Belgium. The tax imposed on satellites could therefore have had the effect of dissuading Belgian recipients from seeking access to television programmes broadcast from other Member States. It could also have hindered non-Belgian satellite transmission operators, while giving an advantage to the internal Belgian market and radio and television distribution. Articles 49, 50 and 55 EC Treaty regarding the freedom of services therefore prevent the application of the tax introduced by the Belgian municipality.

Environmental considerations - as put forward by the municipality - might be a reason for the regulation of satellite proliferation, the Court noted. However, less restrictive measures, such as those proposed by the Commission should provide for sufficient protection and the tax in question exceeded what is necessary.

Affaire C-17/00, François de Coster c. Collège des bourgmestres et échevins de Watermael, Arrêt de la Cour de justice des Communautés européennes du 29 novembre 2001

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Case C-17/00, François de Coster v. Collège des bourgmestre et échevins de Watermael, Judgment of the European Court of Justice of 29 November 2001

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