[AT] Law on Transmitters Tax before the Constitutional Court

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During the summer of 2005, the Land of Lower Austria enacted a law according to which transmitters for mobile phone networks on private property are to be taxed. The law will enter into force on 1 January 2006. The tax will be levied for every transmitter and will be lower the more transmitters there are on a mast. The Land has justified the tax in terms of health, locality and countryside protection. According to its own estimates, it expects to make around EUR 45 million per year.

The tax is, in political terms, extremely controversial. The Federal Minister for Traffic, Innovation and Technology spoke out against the Land -level law, as he feared it would damage the telecommunications industry. The federal government could have prevented the law being passed, but raised no objection.

Mobile phone operators filed a petition with the Constitutional Court to declare the law unconstitutional or to find that it contravenes Community law. The European Union has unofficially announced its desire to instigate proceedings against the Republic of Austria for breaching the Community treaty. The affair is at the current time in the hands of the legal service of the Commission where, in consultation with other Commission offices, it is being finally reviewed.

Niederösterreichisches Sendeanlagenabgabegesetz, 3615-0 Stammgesetz 72/05 2005-08-31, ausgegeben am 31. August 2005

Transmitters tax law of Lower Austria, 3615-0 Stammgesetz 72/05 2005-08-31, issued on 31 August 2005

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