Confiscation of vehicles by the Greek Authorities

2005/2005(INI) - 14/02/2006 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution based on the own-initiative report drafted by Michael **CASHMAN** (PES, UK) on the confiscation of automobiles by the Greek authorities. (Please refer to the summary dated 23/11/2005.)

The background to the petitions addressed to Parliament is as follows: on the 28 March 1983, Council Directive 83/182/EEC was implemented. This Directive concerns tax exemptions within the Community for certain means of transport temporarily imported into one Member State from another. The application of this directive in Greece has been problematic, involving complexities relating to the determination of " normal residence", the penalties implemented in cases of infringement of the rules, and the extent to which the "good faith" of the perpetrator is taken into account. Consequently, there have been a number of irregularities which have occurred in Greece when the custo ms authorities, suspecting that the petitioner's foreign registered vehicles were being illegally imported and used in Greece, confiscated the vehicles.

Parliament expressed its great concern that, as far as the specific cases referred to in the petitions were concerned, the Greek authorities did not apply the exemption laid down in Directive 83/182/EEC. In spite of this, the Greek customs authorities claimed that the petitioners were guilty of evasion or attempted evasion of payment of the tax and failure to observe the formalities laid down by the Greek Customs Code. Parliament also noted that the petitioners were required to pay an increased duty amounting to up to ten times the customs duty.

It considered that the administrative measures as a whole, which Greece had decided are appropriate in the field of customs contraventions and which, as far as the petitioners are concerned, have led to penalties amounting to many times the original purchase price of the vehicle, impede the free movement of goods and persons. Whilst Parliament was aware of the fact that, in the absence of harmonisation of Community legislation in the field of the penalties applicable, the Member States are empowered to choose the penalties that seem appropriate to them, it felt, nevertheless, that Member States must exercise that power in accordance with Community law and with the principle of proportionality.

Parliament stated that it was also aware of the fact that the choice of penalty when dealing with infringements relating to temporary importation of certain means of transport was a matter of national law, as is the question of ascertaining whether account must be taken of the good faith of the offender. Nevertheless, it considered that in order to promote the freedoms guaranteed by the Treaties, account must be taken of the good faith of the offender when determining the penalty to be imposed on him, where determination of the rules applicable has given rise to difficulties.

A very substantial number of vehicles have been seized, confiscated and sold at auction. This was incompatible with the principles of the European Union's Charter of Fundamental Rights, and not justified by any overriding requirements of enforcement and prevention, when the gravity of the infringement is taken into account. As the Court of Justice has previously pointed out, as regards the 'irregular' use of a vehicle in another Member State , penalties other than confiscation are possible.

Parliament considered that the confiscation of the vehicles, and the fact that the petitioners are deprived of their use for many years, to be contrary to the right of property and freedom of movement, and that the petitioners have a right to be properly compensated. It urged Greece to fulfil its obligations under the Treaty and to comply with the rules laid down in Community legislation and particularly Directive 83/182

/EEC, so that the Commission may withdraw its legal action. Should the Greek authorities fail to do that, Parliament called on the Commission to proceed without delay with its legal action against the Hellenic Republic.