

(2003/C 242 E/040)

WRITTEN QUESTION E-3078/02
by Ulpu Iivari (PSE) to the Commission

(28 October 2002)

Subject: Double taxation of orchestras

Under Community legislation and in particular Article 49 of the EC Treaty, Member States are forbidden to restrict the freedom to provide services by means of double taxation. *Avanti!*, a Finnish chamber orchestra financed mainly by public funds, was subjected to double taxation in Germany, in the Land of Schleswig-Holstein, when it performed at the Schleswig-Holstein music festival in August 2001. It had to pay tax to the Land on its appearance fees, even though, in accordance with the taxation agreement between Germany and Finland, it produced evidence supplied by the Finnish authorities to the effect that its activities were subsidised, the tour that it was making had been publicly funded, and it functioned as an employer, in other words it paid the musicians' wages, from which it deducted tax, and was responsible for the employer's contributions. The orchestra has already been in correspondence with the Land tax authorities about the double taxation for nearly two years, and there is no end in sight.

Does the Commission consider that cases of this kind impede the operation of the internal market? What will it do to improve its operation and specifically to tackle the problems linked to double taxation?

Answer given by Mr Bolkestein on behalf of the Commission

(9 December 2002)

The Commission is pleased to inform the Honourable Member that, according to information received from the German tax authorities, the case of the Finnish orchestra *Avanti!* is being settled in favour of the orchestra so that no German tax has to be paid.

The Commission is aware that there are specific tax issues related to cultural cross-border performances. These have to do with the fact that under most double taxation treaties taxing rights are attributed to the performance State; insofar they follow Article 17 of the Organisation for Economic Cooperation and Development Model Convention. This means in practice that a cross-border performing artist will normally have to deal with more than one tax system.

Where the Commission believes that the national tax rules applied are discriminatory, it is ready to take action under Article 226 of the EC Treaty. In this context it should also be mentioned that a case is pending with the Court of Justice (case C-234/01 – *Gerritse* ⁽¹⁾) concerning the German taxation of non-resident artists. A judgement will probably be rendered in 2003.

⁽¹⁾ OJ C 245, 1.9.2001.

(2003/C 242 E/041)

WRITTEN QUESTION E-3098/02
by José Ribeiro e Castro (UEN) to the Commission

(28 October 2002)

Subject: Representative for cooperation with Macau

In the Commission communication to the Council and Parliament of 12 November 1999 entitled 'The European Union and Macau: Beyond 2000', it was stated that a cooperation officer would be designated, and that this person would have the task of supporting the process of coordinating bilateral cooperation, for a limited period of time.

Parliament gave its full support to this proposal, and, in paragraph 18 of its resolution of 15 February 2001 on that communication ⁽¹⁾, called on the Commission 'to appoint an EC-Macau cooperation officer to Macau, as announced in its abovementioned communication, to contribute to the coordination of bilateral

cooperation, in order to demonstrate its commitment to consolidating relations between the two sides'. Parliament had made a similar demand in an earlier resolution, adopted on 16 December 1992⁽²⁾ at the time of the transfer of the territory of Macao from Portuguese administration to the People's Republic of China, with the status of a Special Administrative Region.

In the course of the debate in Parliament, Commissioner Nielson mentioned the difficulties surrounding the process of appointing this Community officer, but nonetheless stated: 'We continue to consider the appointment of the technical cooperation officer very important'.

On 19 July 2001, in reply to Written Question P-1961/01⁽³⁾ by the author of the present question, Commissioner Patten, having evoked those same difficulties affecting the appointment process, declared: 'The Commission has been preparing the required multiannual cooperation programming for Macau, including the Cooperation Officer appointment. In this context, the Commission is pleased to be able to report that this programming is now in its final stages and the question of the Cooperation Officer will be resolved shortly'.

Recent information, however, suggests that no such officer has yet been appointed (it should be stressed that what is called for is the appointment and establishment, for Macau, of an officer having specific responsibility for EC-Macau cooperation, and not for Hong Kong and Macau together).

Can the Commission state whether such an officer, with specific responsibility for EC-Macau cooperation, has been appointed and has started work? If this is not the case, can the Commission explain why and provide information on the state of the procedure? If such an officer has been appointed, can the Commission state the nature of the main lessons and conclusions to be drawn from that officer's first year in the post?

⁽¹⁾ OJ C 276, 1.10.2001, p. 268.

⁽²⁾ OJ C 296, 18.10.2000, p. 190.

⁽³⁾ OJ C 364, 20.12.2001, p. 232.

Answer given by Mr Patten on behalf of the Commission

(29 November 2002)

Since cooperation projects with Macao (European studies, Tourism, Offshore services) which were started in 1997-1998 came to an end in 2001, and the current Community cooperation portfolio for Macao includes just one single project (on legal cooperation, just about to start), it has not been possible for the Commission to proceed with the recruitment of a cooperation officer for Macao.

The Commission remains nevertheless committed, as it has been stressed at the ninth meeting of the Community-Macao Joint Committee held in Brussels on 18 October 2002, to maintain close relations with Macao. To this end, it is presently exploring ways and means to further develop with the Macao Special Administrative Region cooperation activities within the existing budgetary instruments.

(2003/C 242 E/042)

WRITTEN QUESTION E-3099/02

by Alexandros Alavanos (GUE/NGL) to the Commission

(28 October 2002)

Subject: Genocide by AIDS in poor countries as a result of President Bush's insistence on American condoms

Population Action International, an independent research group, has drawn attention to the sharp rise in AIDS victims in poor developing countries and in eastern Europe and concludes that the spread of the disease is in part due to a great shortage of condoms. According to PAI's report, the needs of these countries are estimated to be 8 billion condoms a year, whereas in reality 950 million were distributed in 2000 (as opposed to 970 million in 1990), at a time when there are 14 000 new victims of AIDS every day worldwide.