



ΒΟΥΛΗ ΤΩΝ ΕΛΛΗΝΩΝ

NIKITAS KAKLAMANIS

Member of Greek Parliament

New Democracy

Athens, 19/03/14

.....
.....

Mme Catherine DAY
Secretary-General of the
European Commission
Rue de la Loi 200
B-1040 Brussels

Complaint concerning the 'Spatosimo' charge imposed on air passengers departing from the Greek airports.

Dear Secretary General,

Due to the present circumstances, allow me to request the Commission to examine the compatibility with Community law of the so-called 'Spatosimo', an arbitrary and discriminatory charge imposed on passengers departing for the Greek airports and in particular Athens International Airport (AIA) in order to feed an Airport Development Fund (ADF) established by Greek Law 2065/92. The ADF was introduced in 1992 to create revenues for financing the modernisation and development of the Greek airports including the construction of the new Athens International Airport at Spata in the period 1996-2001. The Commission is requested to examine whether the 'Spatosimo' constitutes an obstacle to the free provision of services. It is first set on an arbitrary level (in 1992 started at 10 € for domestic flights, 20 € for intra-Community and third country flights, and in 2001 changed to 12 € for domestic and intra-Community flights and 22 € for third country flights) and second when added to the rest of airport charges particularly those imposed by AIA lead to an excessive pricing which in our opinion is against case law 27/76 (United Brands vs Commission). In this case law the Court ruled that the price of a product or a service imposed to the user by an undertaking holding a dominant position in the market, should bear a reasonable relationship with the cost incurred by the undertaking offering the service. There is a need for authorization of the Greek airports¹, whether the airport charges reflect the cost of the services. For the differentiation of the 'Spatosimo' the Court ruled in C-92/01 that "community law precludes a measure adopted by a Member State which imposes on flights to other Member States higher airport tax than that applicable to domestic flights within that

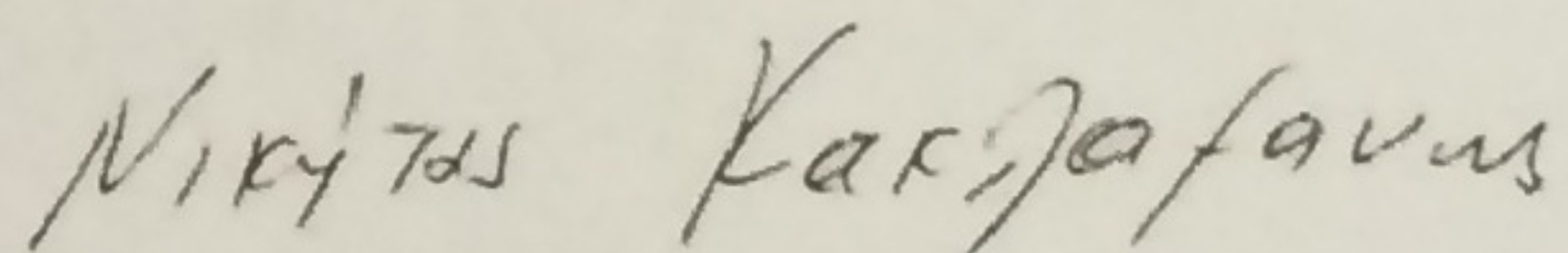
¹ Many airports like Chios, Limnos Kos etc. dispose very old passenger terminal spaces not exceeding 200 m² with insignificant costs while others like Thessaloniki, Iraklion although bigger, are of a low quality in comparison with the EU airports some of which charge 7€ per passenger (e.g. Spanish airports).

Member State unless it is shown that those taxes compensate airport services necessary for the processing of passengers and that the cost of those services provided to passengers flying to other Member States is proportionally higher than the cost of those services necessary for the processing of passengers on domestic flights." Also, in its reply to European Parliament questions no E-3071/06 and no P-3329/06, the Commission stated that the "airport charges serve to cover the cost of providing airport facilities and services (...) include passenger charges for the use of the airport terminals. The latter charges are also often referred to as passenger service taxes." The Airport Development Fund is not even invested on the airports' needs because the 'Spatosimo' revenues are mostly spent for other purposes than foreseen in Law 2056/92.

Also, under Article 49 of the EC Treaty a general and arbitrary measure such as the 'Spatosimo' should normally be abolished.²

As a result, due to lack of action by the Commission, the Greek authorities continue to levy the 'Spatosimo' to the detriment of the economic interests of several millions of air passengers departing each year from the Greek airports. The Greek authorities also allows the 'Spatosimo' charges to be collected at the Athens international airport, of which 75% of it to be paid to the airport despite the fact that it does not undertake modernisation or development reconstructions, since it is a new building.

Yours sincerely,



Nikitas Kaklamanis
Member of Greek Parliament
New Democracy

² In Case C-435/00 *Geha Naftiliaki v. Limeniko Tamio Dodekanisou*, the Court ruled that "the imposition on passengers of vessels that call at or whose final destination is a port in a third country of different harbour dues from those imposed on passengers of vessels whose destination is domestic or in another Member State, without there being any correlation between that difference and the cost of the harbour services enjoyed by those categories of passengers, amounts to a restriction on the freedom to provide services contrary to Article 1 of Regulation No 4055/86" (Reg. No 4055/86 has rendered applicable to maritime transport the Treaty rules governing the freedom to provide services).