



CIVIL COURT – FIRST HALL

HON. JUDGE MIRIAM HAYMAN LL.D.

Sitting of today Friday, the 4th of April, 2025

Application Number: 773/2024MH

Number: 14

The Commissioner For Tax and Customs

vs

Miroslav Mieczyslaw Waszut

The Court:

Having seen the application entered by the Commissioner of Tax and Customs
where in it was stated that:

“That Council Directive No. 2010/24/EU, namely the Mutual Assistance for the Recovery of Claims relating to Taxes, Duties and Other Measures of the 16th March 2010 promotes and regulates collaboration between Member States in

respect of recovery of tax or/and duties owed by debtors of a particular Member State, and other measures;

That the Directive has been implemented in the Laws of Malta by virtue of the Order transposed in Legal Notice 153 of 2012. The Minister responsible for Finance who is considered as the competent authority to collect tax owed in other Member States, delegated such competence to the Commissioner for Tax and Customs (delegation hereby being attached and marked as Doc. 'A');

That the Polish applicant authority made a claim for assistance to the Commissioner for Tax and Customs to recover tax that is owed to the same applicant authority in the amount of four million, eight hundred and seventy thousand, eight hundred and thirty Polish Złoty and seven cents (PLN 4,870,830.07), which amount is equivalent to one million, one hundred and thirty one thousand, three hundred and fifty six Euro and 72 cents (€1,131,356.72), as results from the Uniform Enforcement Instrument here attached and marked as Doc. 'B', together with interest due by law;

That hence the applicant is hereby proceeding to collect the mentioned amount in terms of Article 9 of Subsidiary Legislation 460.08;

That the applicant is satisfied that the requisites imposed by the mentioned Directive have been met with respect to this claim for recovery;

That, the respondent has a right to a translation of the attached document into any of the official languages of the European Union, or of the requested Member State if available. A document is being hereby attached and marked as Doc. 'C' to inform the respondent that may request the mentioned translation within seven (7) days of service of the mentioned document;

Therefore, and in view of the above the applicant respectfully requests that in accordance to sub-articles 9(6) and (7) of Subsidiary Legislation 460.08, this Honourable Court in the first instance orders a copy of this application together with the documents hereby attached and marked as Doc. 'B' and Doc. 'C', to be

served upon the respondent according to Chapter 12 of the Laws of Malta, and in the second instance to order That Council Directive No. 2010/24/EU, namely the Mutual Assistance for the Recovery of Claims relating to Taxes, Duties and Other Measures of the 16th March 2010 promotes and regulates collaboration between Member States in respect of recovery of tax or/and duties owed by debtors of a particular Member State, and other measures;

That the Directive has been implemented in the Laws of Malta by virtue of the Order transposed in Legal Notice 153 of 2012. The Minister responsible for Finance who is considered as the competent authority to collect tax owed in other Member States, delegated such competence to the Commissioner for Tax and Customs (delegation hereby being attached and marked as Doc. 'A');

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That hence the applicant is hereby proceeding to collect the mentioned amount in terms of Article 9 of Subsidiary Legislation 460.08;

That the applicant is satisfied that the requisites imposed by the mentioned Directive have been met with respect to this claim for recovery;

That, the respondent has a right to a translation of the attached document into any of the official languages of the European Union, or of the requested Member State if available. A document is being hereby attached and marked as Doc. 'C' to inform the respondent that may request the mentioned translation within seven (7) days of service of the mentioned document;

Therefore, and in view of the above the applicant respectfully requests that in accordance to sub-articles 9(6) and (7) of Subsidiary Legislation 460.08, this Honourable Court in the first instance orders a copy of this application together with the documents hereby attached and marked as Doc. 'B' and Doc. 'C', to be served upon the respondent according to Chapter 12 of the Laws of Malta, and in the second instance to order the registration of the document hereby attached and marked as Doc. 'B' as an official copy, such that said document constitutes executive title."

Seen that the said above-mentioned application including its attachments was duly served on the defendant through affixation and publication and that said defendant failed to enter any reply there to.

Considers:

After having seen Subsidiary Legislation No 460.08 on Mutual Assistance For The Recovery Of Claims Relating To Taxes, Duties and Other Measure Orders in particular section 9 (6) and (7) there off.

Seen judgement in the names of **Il-Kummissarju tat-Taxxi vs Digisec Malta Limited¹** wherein it was stated that:

"10. Fil-każ fl-ismijiet Kummissarju tat-Taxxi vs Digisec Malta Limited (1161/2019) deċiż mill-Prim' Awla tal-Qorti Ċivili fit-23 ta' Novembru 2022 ingħad: '..... L-ispirtu ta' din id-direttiva huwa sew miġbur fir-report from the

¹ Decided by the Civil Court First Hall on the 23 ta' Novembru 2022: appl 1161/2019

Commission to the European Parliament and the Council on the operation of the arrangements established by the Council Directive 2010/24/UE li jittellem fuq l-operat ta' din id-direttiva. Fl-introduzzjoni dan ir-rapport jagħti stampa ċara tal-iskop u l-ħsieb tal-istess direttiva kif applikata mill-Istati Membri fi ħdan l-unjoni. 'Tax fairness is a key element of the recently adopted Commission Action Plan for a fair and simple taxation supporting the recovery strategy. Everyone is expected to pay their fair share of taxes. If taxes remain unpaid, tax authorities need to take recovery actions to collect the taxes. The competence of the tax authorities is however limited to their national territory. They cannot undertake recovery actions in other countries, although tax debtors may have moved to another country or may have assets in other countries.

Therefore, the EU has adopted legislation which allows the EU Member States to provide mutual assistance to each other for the recovery of their taxes and for other EU claims defined in Article 2 of the Directive. The following example illustrates the functioning of this recovery assistance: a person does not pay his tax debts in Member State A. He moves to member State B but he also owns property in Member State C. In that case, the tax authorities of member State A can ask the tax authorities of Member State B and C to help to recover the taxes due to Member State A. In this way, mutual recovery assistance contributes to ensuring equity and non-discrimination in the field of taxation; it helps to ensure that every one is paying their taxes and it helps to prevent tax fraud and budgetary losses for the Member States and for the EU.²

L-artikolu 9(1)(2)(5) sa (8) tal-Avviż Legali jipprovdi: 1. Talba minn awtorità applikanti lill-awtorità rikjesta għall-irkupru ta' talba li hija suġġetta għal strument li jippermetti l-infurzar fl-Istat Membru applikant, flimkien mal-istrument uniformi li jippermetti l-infurzar, għandha ssir fuq il-formoli standard previsti taħt ir-raba' u l-ħames skeda rispettivament. 2. It-talba għall-irkupru tista' tkun akkumpanjata minn dokumenti oħra li għandhom x'jaqsmu mat-talba maħruġa fl-Istat Membru applikant.....omissis.....

.../...

5. L-awtorità rikjesta meta tircievi l-istrument li jippermetti l-infurzar, tista' titlob lill-Prim' Awla tal-Qorti Ċivili jew lill-Qorti tal-Maġistrati (Għawdex) fil-kompetenza superjuri tagħha, kif ikun il-każ, permezz ta' rikors, biex tordna r-registrazzjoni tal-imsemmi dokument, u biex tiddikjara li rrekwiżiti rilevanti tad-direttiva jkunu ġew imħarsa. It-talba għandha tiġi speċifikata fil-munita Maltija.

² Kummissarju tat-Taxxi u tad-Dwana vs Eemeli Aleksanteri Pirttimaa (950/2022) decided by the Civil Court First Hall (950/2022) 14/02/ 2024.

6. Il-qorti għandha tordna li kopja ta' l-imsemmi rikors u d-dokument għandhom jiġu notifikati lid-debitur u lil kull parti oħra indikata fir-rikors.

7. Il-qorti għandha tordna r-reġistrazzjoni tad-dokument in kwistjoni, u d-dokument għandu jikkostitwixxi titolu eżekuttiv.

8. Ir-reġistratur tal-qorti għandu jżomm rekord u kopja tar-rikorsi kollha li għalihom japplika dan l-artikolu. Huwa għandu minnufih jinforma lillawtorità rikjesta kull meta ssir notifika ta' dak ir-rikors u kull meta tiġi identifikata jew tinqala diffikultà b'konnessjoni mal-eżekuzzjoni ta' xi notifika bħal din."

Seen that no action was attempted by defendant and in adherence to abovementioned articles of law accedes to the request and **orders the registration of the document hereby attached and duly notified and marked as Doc. 'B' as an official copy, such that said document constitutes an executive title.**

Hon.Judge Miriam Hayman.

Dep.Reg

Rita Falzon.