Brussels, 28 October 2010

Direct taxes: The European Commission formally requests the Czech Republic to end discriminatory tax treatment of pension insurance contributions.

The Commission considers that the Czech Republic has not respected its obligations under the Treaty on the Functioning of the European Union ("TFEU") insofar as it treats contributions made to domestic pension insurance schemes more favourably than those paid to similar foreign schemes.

Under the Czech law, the deductibility of individuals' pension insurance contributions from their annual income tax base is subject to the condition that they be paid to a pension fund established in the Czech Republic. Moreover, pension insurance contributions made by an employer for the benefit of its employees are exempt from such employees' personal income tax only if these contributions are paid to a pension fund established in the Czech Republic.

The Commission is of the opinion that the Czech Republic has failed to fulfil its obligations under Article 45 TFEU and Article 28 of the EEA Agreement (free movement of workers), under Article 49 TFEU and Article 31 of the EEA Agreement (freedom of establishment) and Article 56 TFEU and Article 36 of the EEA Agreement (freedom to provide services).

Background:

The incriminated provisions are Sections 6(9)(p) and 15(5) of the Czech Income Tax Code.

The request takes the form of a reasoned opinion (second step of the infringement procedure provided for in Article 258 TFEU). If there is no satisfactory reaction to the reasoned opinion within two months, the Commission may decide to refer the matter to the Court of Justice of the European Union.

The Commission's case reference number is 2009/2130.

For press releases on infringement cases in the taxation or customs field see:

http://ec.europa.eu/taxation_customs/common/infringements/infringement_cases/index_en.htm

For the latest general information on infringement measures against Member States see:

http://ec.europa.eu/community_law/index_en.htm