

## THE MANAGEMENT OF NON-DISCRIMINATION FIRST REGISTRATION TAX – A DISCRIMINATION SUPPORTED BY PUBLIC POLICIES?

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**Abstract:** According to Article no. 148 from the Constitution of Romania, the provisions of the constituent treaties (founding treaties) of the European Union, as well as the other mandatory community regulations *shall take precedence* over the opposite provisions of the national laws, in compliance with the provisions of the accession act. Although the European Court of Justice has repeatedly laid down that the first registration tax is *discriminatory* (taking account of the provisions of Art. 110 from the Treaty on the Functioning of the European Union), the Romanian state, ignoring the mandatory decisions of the European Court of Justice, has gone on requesting this tax (on the principle "a new blast in an old horn"). The present study analyses "the juridical adventure" of the adoption (passing) (urgently) of the legal framework concerning the first registration tax paid by the Romanian citizens; in the end it comes out that the Romanian state has abused the citizens by instituting a tax which the Court of Justice of the European Union has repeatedly declared as being discriminatory.

**Keywords:** discrimination, first registration, pollution

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### 1. Introduction

It is said [1], with a reason, that "despite various initiatives and the many declarations of principle, there is no compelling practical texts for human rights in the Community legal order." EU Court of Justice has jurisdiction, under 263 Art. TFEU, to review the legality of legislative acts, the acts of the Council, the Commission and the ECB, other than recommendations and opinions, and of acts of the European Parliament and the European Council which has the intention to produce legal effects to others. It also controls the legality of acts of bodies, offices or agencies of the Union intended to produce legal effects to others. Any natural or legal person may, under the conditions laid down in the first and second paragraphs, institute proceedings against an act addressed to that or which concern it directly and individually, and against a regulatory act which is of direct concern and does not entail implementing measures. Also on ECJ jurisdiction, according to 267 art. of the ECJ, it has powers to adjudicate preliminary rulings concerning

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the interpretation of treaties and the validity and interpretation of acts of the institutions, bodies, offices or agencies.

According to an expert opinion [1] from doctrine, "the vocation of the European Union to protect the fundamental rights isn't questioned, even if the initial situation was different. In this regard, in addition to the important case law which establishes this Community, evolution, TFEU or Charter of Fundamental Rights removed permanently any ambiguity."

In the Case Schmidberger which is given by the ECJ on 12th June 2003, it was established that "it could not be admitted into the Community incompatible measures with human rights. The protection of human rights is a legitimate interest capable of justifying, in principle, a restriction of the obligations imposed by Community law, even under a fundamental freedom guaranteed by the Treaty such as the free movement of goods."

Noticing the importance of the principle of equality and non-discrimination in 8th Article from TFEU provides that in all its activities, the Union shall aim to eliminate inequalities and promote equality between men and women. Also, according to 10th Article from TFEU, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Fighting against discrimination, it is found in the provisions of 18th Article from TFEU, according to which in the scope of the Treaties and without prejudice to any special provisions contained therein, it is forbidden any discrimination on grounds or nationality.

According to 26th Article from TFEU, the internal market comprises an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the Treaties.

The principle of free movement of goods, 28th Article from TFEU establishes imperatively that the Union shall comprise a customs union which shall cover all trade in goods and which shall involve the prohibition between Member States of customs duties on imports and exports and any charges having equivalent effect, and the adoption of a common customs tariff in their relations with third countries.

It should be noted that, according to the doctrine [1], under EU human rights system is essentially jurisprudential. Principles of free movement of persons and non-discrimination [1] are fundamental principles considered "structural" EU from their very nature. EC refers in particular to the principle of non-discrimination on grounds of nationality or sex. It prohibits any distinction, except that it is legitimate, that is based on objective and reasonable justification [2]. According to the ECJ, different treatment in comparable conditions and identical treatment in different situations are prohibited [3]. With regard to the legal force

of the judgments of the ECJ, the causes *Costa / Enel* (1964) and *Simmenthal* (1978), the ECJ held that Community law and its jurisprudence to be applicable in priority where they come into conflicting with domestic provisions, regardless of the legal force of the national rules which contradict (constitutional, organic, ordinary laws or administrative). According to the ECJ, "the national judge who is instructed to apply the rules of the Community law is required to ensure the full effectiveness of these rules, leaving unapplied, *ex officio*, if necessary, any contrary provision of the national legislation, even later, without seeking or expecting elimination its prior by legislative or other constitutional means."

## **2. First registration tax. History**

In late 2006, Romanian society was waiting with excitement, the lure entry into the great family of the European Union from the 1st January of 2007, few people guessed at that time that the Government will honor this historic event by taking discriminatory measures immediately but with an frivolous and unconvincing motivation against Romanian citizens who had become, in just a few days, Europeans. GEO 110/2006 Romanian Government had changed so many times this (!) Romanian Fiscal Code, including in 214 Article, 1st index, a special charge. The special tax covered cars and commercial vehicles with a maximum laden weight of up to 3.5 tons including, excepting those which are specially equipped for persons with disabilities and those which belong to diplomatic missions, consular offices and their members and other organizations and foreign persons with diplomatic status, which operates in Romania. The special duty is provided in Appendix. 4th, which is part of this title.

For cars and road cars whose first registration in Romania is made after 1st January of 2007 and for which duty has been paid on the import or purchase domestically in 2006, the special tax is not due.

The special tax covers the commercial vehicles with a maximum laden weight exceeding 3.5 tonnes, including those for the transport of persons with more than eight seats in addition to the driver except for special vehicles for road works, the sanitation, oil industry, cranes and vehicles for use by the armed forces of the state security forces, police, gendarmerie, border police, ambulance and medical services. Special duty is provided in Appendix. 4.1 which is part of this title.

From the start, this special charge wanted to be a measure to protect Romanian auto- industry and to succeed to sell products on the Romanian market and to eliminate the competition of second-hand car made import.

As it could easily shown, both the special tax, established in 2006, and the pollution tax, introduced in 2008 by EO 208, but even the fee pollutant emissions from motor vehicles introduced by Law 9/2012, they have proved to be contrary to

the law of EU considering as discriminatory. It is worth to notice that the so-called pollution tax (would have been more proper to be lodged with the title fee ordinance against pollution, assuming that its imposition combat, not encourage pollution ...) was, in fact, a first registration special fee being charged, at the first moment of Romania of those motor vehicles registration. It was considered [5], with reason, that "the real purpose of establishing the fee is to replace the old car excise and customs duties until to our accession to the European Union, in order to cover a part of the losses to the state budget as a result of Cancellation mandatory excise and customs duties."

### **3. First registration tax. Transformation, discrimination.**

In early 2008, the Romanian Government adopted, of course, an emergency, GEO 50/2008 [6] for the establishment of car pollution tax, motivating the adoption of emergency in an unconvincing manner. In order to protect the environment by implementing programs and projects to improve air quality and compliance with the limit values laid down in Community legislation in this field, taking into account the need to adopt measures to ensure compliance with Community law, including case-of Justice, given that these measures should be taken urgently to avoid any negative legal consequences of the current situation.

To ensure the good intentions which were taken, of course, just for Romanian citizens to enjoy the best living conditions, including the fresh air, GEO 50/2008 sets in its very first article, that the charge is coming from the Environment Fund and managed by the Environment Fund Administration to finance programs and projects for environmental protection (According to article 1, paragraph 2, of the amounts collected pursuant to this ordinance shall be funded environmental programs and projects, as follows: a) Program to stimulate national fleet renewal; b) national program to improve the environment by creating green spaces in towns; c) projects to replace or complement to traditional heating systems using solar, geothermal and wind energy; d) projects for producing energy from renewable sources: wind, geothermal, solar, biomass, small hydro; e) afforestation projects on degraded or deforested; f) land revegetation projects out of natural heritage; g) projects on track for cyclists).

The 3rd Article of the Ordinance 50 of 2008 stipulates all the categories of vehicles which are liable to tax pollution and exceptions to these categories. Although, an autovehivul pollutes permanently if it has kept its engine starting, the obligation to pay the pollution tax due, is at the moment of first registration in Romania of that vehicle, according to compelling indications of Article 4th letters a, in order. To be convinced definitively for the scientific rigor, and objectivity need of a such tax on pollution, Ordinance 50 of 2008 Article 6th develops a true scientific formula for calculating that charge. Of course, in a more serious,

noticing terms of Article 6th, 3rd paragraph of the type as fixed discount rate, depending on the age of the vehicle and the average annual turnover of the technical condition and the equipment of the vehicle. In the same time with the tax calculation there will be given further cuts to fixed rate, depending on the state standard deviations of the elements that formed the basis for determining the fixed rate, as it is specified in the implementing rules of this ordinance that can be easily concludes behind the formulas developed by experts from the Ministry of Finance, there are approximations which are used in order to charge "more and better" the citizens who pay taxes and who want to use the luxury of a private car when they walk.

Since the 1st January of 2007, when Romania became a full member of the European Union, There have been more and more voices who have raised the issue of the compatibility of such taxes Treaty European Communities which became the Treaty on the Functioning of the European Union (TFEU).

On the 21st of March 2007, the European Commission issued the press release IP / 07/372, on the incompatibility of this method of taxation of motor vehicles to Community law and it was sent a formal notice which official in which was asked to be changed the legislation, and in the event of fulfill the duties of the Community Treaties to be initiated the infringement procedure. In essence, the introduction of the tax, the Commission found a committing discrimination against second-hand vehicles imported from a Member State of the European Union in relation to similar vehicles already registered in our country. On 25th june of 2009, through a press release, the Commission informs us about the initiation of the first stage of the infringement procedure by sending a 'letter of formal notice' to Romanian Government. We have noted that the protectionist national character has still remained at the national industry, which is a discriminate element against imported vehicles [5].

The Constitutional Court has been raised many of unconstitutionality of the pollution tax, but they were rejected as inadmissible, except one which was rejected as unfounded (See CCR Decision no. 137 of 25 February 2010 According to CCR, The Decision. 1596 of 26 November 2009, published in the Official Gazette of Romania, Part I, no. 37 of 18 January 2010, the Constitutional Court stated that no jurisdiction to "consider whether a provision of national law with the text of the Treaty establishing the European Community (now the European Union Treaty) through the Art. 148 of the Constitution. A such jurisdiction, namely whether there is a contrariety between national and EC law, belongs to the court, which, in order to reach a fair and lawful conclusion, ex officio or at the request of the party, may submit a question in meaning of art. 234 of the Treaty establishing the European Community Court of Justice. If the Constitutional Court would consider competent to rule on the conformity of national legislation with

the European one could reach a possible conflict of jurisdiction between the two courts, which, at this level, is inadmissible. "All these aspects converge to demonstrate that the enforcement priority of binding Community rules in relation to national law the court of law. It's a law enforcement issue, not constitutional. The Court finds that the relationship between Community law and national (except Constitution) can speak only priority of the first application to the other, a matter within the competence of the courts. Moreover, the Court notes that, if they would accept the opposite view, meaning that the Constitutional Court may determine the constitutionality or unconstitutionality of a legal text based on the provisions of a Community act would violate clearly, the powers of the Court of Justice of the European Union since it has the power to interpret treaties (art. 267 of the Treaty). Therefore, the plea of unconstitutionality must be rejected as inadmissible). It may be noted that the Constitutional Court avoided, gracefully, to tell relevance of the 11 and 148 Article of the Constitution, which is contrar to the rules of European law and rules of national law which govern the complained matter of the pollution tax, preferring to throw the weight of the problem on shoulders' courts.

EU Court of Justice ruled on the issue under review on 7th July of 2011, for Case C-263/10 Nisipeanu; 8 th April of 2011, for Cases C-29/11 Sfichi and C-30/11 Ilaş; 7th April of 2011, for Case C-402/09 Tatu.

In all three cases, the Court has established clearly that 110 Article of TFEU must be interpreted in the way it opposes that a Member State to establish a pollution tax which is applied on motor vehicle at the moment of its first registration in this Member State, if the regime of this measure tax is determined to discourage the entrance into a service in a Member State which was mentioned of some purchased vehicles from other Member States without discouraging to buy the purchase of some vehicles with the same age and the same wear on the national market.

As it was mentione thrully , and in the speciality literature, "Quintessence which is drawn from the motivation of the three preliminary ruling leads us unequivocally to the unlawful nature of the discriminatory character of the pollution tax which it shows you the obligation only for second-hand vehicles which are brought from outside the country (but purchased from a Member State of the European Union) and which must be registered in Romania for the first time. And how this obligation doesn't subsist on second-hand intern vehicles which are at their first registration, there is no doubt that there is a dicriminatory element between second-hand cars in the national market and the Community ones , the discrimination which aims to:

- Internally, to impose an onerous tax obligations of a Romanian citizen who buys a used car from a member state of the European Union that intends to register for the first time in Romania and impose a tiny tax liability throughout a Romanian citizen purchasing a used car in the domestic market which a person intends to register it for the first time in Romania;

- At European level, there is a decrease in sales of second-hand cars to Romanian citizens, who are forced to turn to the domestic market because of exaggerated value tax which must be paid on registration; resulting from here that an indirect effect is to generate a loss of community space vehicle sellers through fostering the internal market, so this measure consistently threaten the imports, which leads us into the realm of unfair competition caused by fostering the internal market, a market which enjoy equal opportunities in relation to the EU markets [5]. "

Although, on the base of environmental law stands the fundamental principle the polluter pays, according to Ordinance 50th of 2008, this principle is applied only to the cars which are registered after 1st July 2008. Compared to other identical vehicles, with the same features and similar pollution degree but registered before 1st July of 2008, there are an exception, meaning lack of liability tax. So, although, both cars pollute, the liability tax rests only one of the owners, the principle of 'polluter pays' becomes pseudoprinciple "just some polluters pay". Even the Court of Justice in its ruling have noticed correctly that if on the basis of the ordinance there is the interest of the environment, it would have been taxed all the cars on the road, not just those that were to be incorporated, for the first time in Romania. Romanian state, in the cases which were mentioned above, wants to limit the temporal effects of decisions of ECJ to limit damage to the state budget. This defense was recognized, de facto, that the protection of the environmental doesn't stay on pollution tax but the collection of the money to feed budget.

In 2009, the Romanian Government adopts all emergency, EO 117 which does not seem entirely convincing motivation<sup>1</sup>.

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<sup>1</sup> According to the preamble of the order, it is necessary to agree the Emergency Ordinance no. 218/2008 amending Government Emergency Ordinance no. 50/2008 for the pollution tax for motor vehicles with art. 110 of the Treaty on European Union entered into force in December 2009 (Treaty of Lisbon), taking into account that failure consistency with Community legislation will seriously harm the relationship between Romania and the European Union to ensure a reasonable time of 45 days for the registration of motor vehicles originating from Member States of the European Union entered into Romania until 31 December 2009 According art. unic the Ordinance mentioned, M1 vehicles with Euro 4 standard, whose cylinder capacity not exceeding 2000 cm<sup>3</sup>, and N1 vehicles with Euro 4 standard, first registered in a Member State of the European Union in the period 15 December 2008 to 31 December 2009 inclusive, enjoy exemption from tax on vehicle pollution, according to art. III para. (1) of Government Emergency Ordinance no.

In 2010, the GEO 118/2010 is adopted urgently, amending and supplementing the Government Emergency Ordinance 50/2008 on the establishment of car pollution tax. The legislature, developing several reasons for adopting new emergency law, including environmental protection, encouraging the purchase of electric vehicles and the principle of polluter pays.

It is raised again the great desire of the Government to give a practical efficiency to principle of polluter pays, but does not impose a general duty for all vehicles on the road, but for those which will be enrolled for the first time in Romania, preserve the discriminatory principles used by GEO 50/2008, operating only the form changes, here and there, to show Europe that it is making efforts to comply with the European Directives in respect of the TFEU.

Because the purchase of any car that is closely related to its use on public roads, so for its registration on the competent bodies, Romanian citizens found themselves forced to pay legal fee which had infringed EU law and become de jure and de facto, inapplicable, finding its discriminatory nature of the ECJ, hoping subsequently through the processes which were started to recover after years and years, the fee paid. A number of citizens brought such actions, in which were admitted into and returned the fee to them, other citizens brought actions requiring public community services for driving licenses and vehicle registration, no fee unfair<sup>1</sup>, many of these actions are successful.

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218/2008 amending Government Emergency Ordinance no. 50/2008 for the establishment of car pollution tax, provided they are registered for the first time in Romania, within 45 days of the date of entry into force of this emergency ordinance.

(2) The period referred to in para. (1) is a period of decay.

<sup>1</sup> See the Cluj Court, Civil Sentence nr.2320 / 2008. According to the court, O.U.G. No. 50/2008 is contrary to art. 90 of the Treaty establishing the European Community, as it is designed to reduce the introduction in Romania of second-hand cars already registered in another EU Member State, such as the pollution tax to be paid in this litigation (Germany), favoring so selling used cars already registered in Romania and most recently, the sale of new cars produced in Romania. However, after Romania's accession to the EU, this is not acceptable when the products imported from other EU member states, as long as national fiscal rules diminishes or is likely to diminish even potential consumption of imported products, thus influencing consumer choice (ECJ, judgment of 7 May 1987, Case 193/85, Cooperative Co-Frutta Srl c. Amministrazione delle Finanze dello Stato - in this case, the tax designed to discourage imports of bananas in Italy). The violation of Article 90 of the Treaty by creating a similar type of treatment difference Court in Luxembourg ruled in its judgment of 11 August 1995, Joined Cases C-367/93 C-377/93 FG BV Roders to c. Inspecteur der Invoerrechten en Accijnzen (discrimination between Luxembourg wines and fruit wines from other Member States), or by decision of 7 May 1987, Case 184/85 Commission v. Italia (bananas imported to Italy and fruits grown in Italy). The Court also noted another type of discrimination: between people who have requested registration of cars prior to 1 July 2008 and later enrolling cars: only these latter people pay pollution tax, although it is evident that cars pollute and first category of persons those registered later. Discrimination is achieved by the legislature which tied pollution tax on that registration, although the preamble to Ordinance



In 2012, the Law No. 9 [8] was adopted, the tax of polluted emissions from motor vehicles, the analysis of its provisions it is unable to comply fully, the decisions of the ECJ and the principle of non-discrimination, in relation to the provisions of Article 110 of TFEU. According to 4th article of the law, the payment obligation lies primarily when the entry in the records of the competent authority under the law to acquire ownership of a vehicle by the first owner in Romania (more accurately, first owner not from Romania, is essential but not home owner first owner, irrespective of his home, enrolling in Romania that car for the first time) and the award of a certificate of registration and registration number.

Finally, the adventure pollution tax records in 2013 [9] a new episode, through Ordinance 3rd of 2013, which was introduced, the so-called environmental stamp vehicle doesn't respect the mandatory of EU rules on non-discrimination and the respect of the free movement of goods, the free competition, and the further tax free, in relation to similar products from EU Member States. In agreement with other authors [7], we consider that the current regulation from OUG no. 9th of 2013 which is contained in GEO no. 9 of 2013 for environmental stamp, is not in consonance with the provisions of art. 110 of TFEU for the second-hand cars which are imported from the European Union Member States in order to put into circulation in Romania.

### Conclusions

Romania joined the European Union on 1st January of 2007. After long negotiations, we have assumed, as a state, important commitments, forcing ourselves, according to the 11th Article of the Constitution, to fulfill as such and in good faith the obligations which were deriving to us from the treaties to which Romania is a part from. Moreover, according to 11th Article, 2nd paragraph of the Constitution, treaties ratified by the Parliament and according to the law, they are part from the domestic law. According to 148th Article, 2nd paragraph of the Constitution, the provisions of the constituent treaties of the European Union and

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50/2008 that was intended to ensure environmental protection through the implementation of programs and projects to improve air quality, which involves the establishment of a pollution tax all cars are in traffic, according to the principle of 'polluter plătește'.

This type of discriminare discussed in relation to art but 16 of the Constitution, Article 26 of the International Covenant of 16 December 1966 on Civil and Political Rights, ratified by Romania by Decree 212/1974 and Articles 1 and 2 of Ordinance no. 137 of 31 August 2000 on preventing and sanctioning all forms of discrimination, provisions to which it is fulfilled the procedural (not mentioning this action and sue nechemarea National Council for Combating Discrimination). The court commits defendant Prefecture County. Cluj - Community Public Service Leadership scheme and vehicle registration, based in Cluj-Napoca, B-dul 21 December 1989 No. 58, County. Cluj applicant to register the car belonging BMW 318 series AABM2N2111J88E0 chassis, black color, year of manufacture 1991, without payment of pollution provided by GEO no. 50/2008

other community regulations, have priority to the other the provisions of the national laws. However, in many industries, the state regulates sovereign, without standing the obligations, the race for money at the budget or the eternal motivation of the protection of national security are some of the extraordinary circumstances that require permanently the emergency measure taken by the Government, the measures prove, often at a meaningful analysis that conflict with fundamental human rights, it respects the principles of equality and non-discrimination or the European Court of human Rights and the Court of justice of the Europe. It is noted, in terms of public management of non-discrimination, a special appetite of the rullers , whatever the party they come from, and the way they write acts, in a makeshift foot, without any robust or fully in accordance with the priority rules which are written in treaties to which Romania is a party though, according to the imperative preveders of 22nd article of Law no. 24 of the 2000 of legislative technique, the legislative solutions, which are envisaged by the new regulator, should consider the regulations of the European Union, ensuring their the compatibility with them. (2nd) Paragraph. (1st) shall apply accordingly in terms of the provisions of the international treaties to which Romania is a party.

Regarding the manner in which the Constitutional Court solved the dispute of the pollution tax, although in several decisions, it was declared incompetent to adjudicate and speaking about the case law of the ECJ, recently there has been a revival in its case when it is said the law 82 of 2002 on the retention of traffic data (Big Brother law) it is considered to be unconstitutional [10] in its entirety (See recitals CCR Decision No. 440 of July 8, 2014, published in Official Gazette 653 of 4 September 2014. We welcome the natural person in his new civil code. Identification, discrimination, privacy, p.419, we anticipated that about six months before the law 82 of 2012 will be declared unconstitutional. The law states that 82 "does not provide sufficient guarantees for the protection of fundamental human rights, raising another objection of unconstitutionality having chances to be admitted today. We look with great interest the debate that will take place on the new law and the pros or cons that will bring the supporters or opponents of the law 82/2012. Our view is that the measure continuously record communications nature all natural and legal persons is likely to defeat the presumption of innocence enshrined in the Constitution and does not keep a fair balance between the legitimate interest of the state to prevent and suppress serious and fundamental rights human rights, especially the right to privacy and family life, lato sensu, as it follows from art. 8 of the ECHR and the case law and the provisions of art. 26 of the Constitution"), giving reasons for its solution, mainly just through the ECJ decision of 8 April 2014.

Speaking about the managerial skills of the State to pay the taxes and fees paid, to refunded the abusive or discriminatory tax to the citizens, although, they are

claimed to be paid in full and timely, on their restitution state prefers, also for economic reasons, to pay them by installments, outstanding the enforcement orders resulting from judgments which were won against it. This happened in the case with the rights which were won by teachers and civil servants and recently, it is an elegant way to solve the problem and the remission of the pollution tax (According to GEO 8 2014 art. XV the sums provided by court decisions regarding the refund of car pollution tax and the tax on emissions from cars, interest calculated up to the date of full payment and costs, and other amounts set by the courts, become effective until December 31, 2015, will be made within 5 calendar years, each year by paying 20% of their value.). In other words, although, the pollution tax was paid „*ictu uno*” in its entirety, the same state has been returning little by little the money which were collected abusively from citizens, for over several years.

Finally, the main problem of the state remains a background one, which is an essential one of the principle: it has been so often condemned by the ECJ and ECHR because it violates the fundamental rights of Romanian citizens, the solution, on the pollution tax, is the continued abuse and the return of the money back in installments, only to those who claim the abuse in court or the end of the abuse and the repeal legal norm generators of discrimination? It seems that a genuine rule of law must be governed responsibly and with a honest spirit of respect for the Constitution, and the European Convention on Human Rights Treaties to which Romania is a party, just like the original democracy instituted after the events of December 1989 with chance for successfully. Applying infinitively to the principle it must be revised, but it haven't change anything, drawn from the writer Caragiale's immortal works, we are definitively discredited in the eyes of foreign partners, citizens are no longer easily convinced that the measures adopted in one activity area or another have got a honest, positive, beneficial purpose.

It seems that since 2010, the economic crisis has preeminence no matter how many principles and fundamental human rights break in Romania, the only aspect that stands at the basis of any measure is the economic considerent.

In the matter under review, which is based on a purely economic calculation, the Romanian state bases on the fact that people's abuse will not be claimed by every abused citizen who wont afford to hire a lawyer and lose months or years of legal battles to recover the money alleged abusively by the state, so that, finally the balance would closeon surplus being more higher the amount on pollution tax than that which would be returned on the basis of judgments that the state was obliged to return the fee charged in a discriminatory manner. The Economic Calculation of any measure became a current manner of governing, a *modus operandi* that outperforms any other reason, taking the first and last place in any

analysis which involve costs. This limited thinking purely accounting is considered a growing threat to the fundamental human rights in Romania. Unfortunately, it seems that the political order to take account of economic realities, hits some of the judges of the ECHR, who limit today in the amount of 3,000 euros the compensation when there are recently violations of human rights, the ECHR says that the pushing of the execution on wage payment does not violate the human rights, this solution is a reasonable one [10].

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