

Press and Information Division

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Judgment of the Court of Justice in Case C-388/01

Commission v Italy

**THE COURT OF JUSTICE CENSURES ITALY FOR HAVING
ALLOWED ADVANTAGEOUS RATES FOR ADMISSION TO
CULTURAL SITES UNDER MUNICIPAL OR DECENTRALISED
CONTROL ONLY FOR ITALIAN NATIONALS AND PERSONS
RESIDENT WITHIN THE TERRITORIES OF THE AUTHORITIES
RUNNING THEM**

Even if legislation is within the exclusive competence of the regions, the State alone is responsible for compliance with its Community obligations.

Following complaints about discrimination on the basis of nationality or residence in respect of admission to Italian museums, the Commission undertook inquiries as a result of which it concluded that the scheme of preferential rates applicable to persons aged over 60 or 65 years for admission to various Italian museums did indeed entail discrimination.

Pursuant to the "failure to fulfil obligations" procedure prescribed by the Treaty, the Commission sent to Italy a formal notice to act in a manner consistent with the principle of non-discrimination. The Government then informed the Commission about an imminent amendment to its legislation which would extend to all European citizens aged 60 or 65 years or over free admission to Italian museums. That benefit had until then been allowed only for Italian citizens and certain residents.

That amendment concerned only national museums and not municipal museums and monuments (including those of Florence, Padua, Treviso and Venice). The Commission thus decided to bring the present action.

In its judgment, the Court of Justice has recalled that **national legislation on admission to a Member State's museums which entails discrimination affecting only foreign tourists is prohibited**. Furthermore, **the equal treatment provided for by the Treaty prohibits all**, even covert, **forms of discrimination** which, by the application of other criteria of differentiation, lead to the same result. In the present case, under the Italian measure a distinction of treatment is drawn on the basis of residence, which operates mainly to the detriment of nationals of other Member States, since non-residents are in the majority of cases foreigners.

Italy did not deny that discrimination but sought to justify it.

First of all, it relied on considerations in the general interest arising from economic and fiscal criteria: first, it alluded to the cost of managing cultural assets and, second, it submitted that those advantages constituted consideration for the payment of the taxes by which those residents contribute to the running of the sites concerned.

According to the **Court of Justice**, in the first place, the arguments of a purely economic nature cannot be accepted. In the second place, **there is no direct link between any tax on Italian residents and the application of preferential rates** for admission to the museums and monuments in question.

In addition, the Italian Government put forward the argument that the regulations which introduced the advantageous rates at issue are not within its competence but within that of local authorities.

The **Community Courts** do not accept that justification. **A Member State alone is responsible towards the Community** for compliance with its Community obligations.

Accordingly, the Court has declared that **Italy infringed the Community law principles of the free movement of services and non-discrimination** by allowing discriminatory, advantageous rates for admission to cultural sites only in favour of a certain category of persons (Italian nationals and persons aged over 60 or 65 years who are resident within the territory of the authorities running the sites in question).

Unofficial document for media use only; not binding on the Court of Justice.

Available in English, French, German, and Italian.

*For the full text of the judgment, please consult our Internet page
www.curia.eu.int at approximately 3pm today.*

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