



Press and Information

Court of Justice of the European Union

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Judgment in Joined Cases C-184/13 to C-187/13, C-194/13, C-195/13 and  
C-208/13

Anonima Petroli Italiana SpA v Ministero delle Infrastrutture e dei Trasporti  
and Ministero dello Sviluppo Economico

## **By providing that the price of haulage services may not be lower than minimum operating costs, Italian legislation infringes EU law**

*The application of such a minimum price is capable of restricting competition in the internal market*

Italian legislation on the carriage of goods by road provides that charges payable by customers may not be lower than minimum operating costs. Those minimum costs include the average cost of fuel per kilometre and the operating costs of the haulage company.

Minimum costs are determined by sectoral agreements concluded between haulage associations and associations of customers of transport services. At the material time, the Osservatorio sulle attività di autotrasporto (a body composed of representatives of the State, haulage associations and associations of customers of transport services) was charged with fixing minimum costs in the event that no agreement was concluded.

Accordingly, in 2011, the Osservatorio adopted a series of tables in order to fix the minimum costs.

Anonima Petroli Italiana, an Italian oil company, brought an action before the Tribunale amministrativo regionale per il Lazio (Lazio Regional Administrative Court, Italy) for annulment of the acts by the Osservatorio relating to the minimum costs.

That court asks the Court of Justice whether the Italian legislation at issue is compatible with the principles of free competition, free movement of undertakings, freedom of establishment and freedom to provide services.

In today's judgment, the Court recalls, first, that, although the TFEU rules on prohibited agreements between undertakings are not binding on Member States, those states are nevertheless subject to a duty of cooperation with the European Union, so that they may not adopt measures which may render those rules ineffective. Such rules are therefore infringed where a Member State requires or encourages the adoption of prohibited agreements, decisions or concerted practices, reinforces their effects, or where it divests its own rules of the character of legislation by delegating to private economic operators responsibility for decisions affecting the economic sphere.

Second, with respect to the legislation at issue in the main proceedings, the Court finds that the Osservatorio, composed for the most part of representatives of professional organisations and empowered to act in the exclusive interest of the profession, must be regarded as an association of undertakings subject directly to the rules of competition. In that regard, the Court observes that the fixing of minimum operating costs prevents undertakings from setting tariffs lower than those costs. Thus, by limiting market operators' freedom to determine the price of haulage services, **the Italian legislation is capable of restricting competition in the internal market.**

Third, the Court finds that the fixing of minimum costs is not appropriate, either directly or indirectly, for ensuring the attainment of the legitimate objective invoked in the present case by Italy (namely the maintenance of road safety) in order to justify the restriction of competition. The national legislation merely refers to road safety in a general manner, without establishing any link

whatsoever between road safety and minimum costs. Moreover, the contested measure goes beyond what is necessary for the improvement of road safety.

In those circumstances, the Court finds that the Italian legislation at issue is not compatible with EU law.

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**NOTE:** A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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