

Case C-30/99

Commission of the European Communities

v

Ireland

(Free movement of goods — Precious metals — Compulsory hallmark)

Opinion of Advocate General Geelhoed delivered on 22 February 2001 . . . I-4623

Judgment of the Court (Fifth Chamber), 21 June 2001 I-4648

Summary of the Judgment

1. *Free movement of goods — Quantitative restrictions — Measures having equivalent effect — National legislation prohibiting the marketing of imported articles of precious metal not complying with national provisions on standards of fineness — Justification — Consumer protection — Fair trading — Condition (EC Treaty, Art. 30 (now, after amendment, Art. 28 EC))*

2. *Free movement of goods — Quantitative restrictions — Measures having equivalent effect — National legislation requiring imported articles of precious metal to bear a national sponsor's mark — Justification — Consumer protection — Fair trading — Condition*
(EC Treaty, Art. 30 (now, after amendment, Art. 28 EC))
3. *Free movement of goods — Quantitative restrictions — Measures having equivalent effect — National legislation requiring imported articles of precious metal lawfully struck with a hallmark to bear an approved hallmark struck by a body appointed by a national corporation of gold- and silversmiths or an international hallmark — Hallmark lawfully struck by a body which offers guarantees of independence, and which offers appropriate information to consumers — Not permissible*
(EC Treaty, Art. 30 (now, after amendment, Art. 28 EC))
4. *Free movement of goods — Quantitative restrictions — Measures having equivalent effect — National legislation which establishes differences between approved hallmarks struck on national articles and hallmarks of the same type struck on imported articles — Not permissible — Justification — None*
(EC Treaty, Art. 30 (now, after amendment, Art. 28 EC))

1. Legislation of a Member State on standards of fineness for articles of precious metals which prohibits the marketing in that Member State, with the description and indication of fineness which they bear in their country of origin, of articles made from precious metals (gold, silver or platinum) lawfully manufactured and marketed in other Member States but not complying with the national provisions concerning standards of fineness, unless the hallmarks struck on those imported articles are replaced by those for the appropriate lower official national standard of fineness, constitutes a measure having equivalent effect to a quantitative restriction on imports within the meaning of Article 30 of

the Treaty (now, after amendment, Article 28 EC).

Such an obstacle to intra-Community trade cannot be justified as a means of protecting consumers and ensuring fair trading, since a consumer familiar with the Irish system of indicating standards of fineness for articles of precious

metal is given equivalent and intelligible information by a hallmark struck on an article of precious metal from another Member State.

(see paras 28–29, 33, 76
and operative part)

the same purpose, that is to say, in this case, the identification of the person who is responsible. In that connection, identification of the person responsible for an article of precious metal is as a rule possible if that article bears a sponsor's mark struck in accordance with the legislation of another Member State.

(see paras 46, 49–51, 76
and operative part)

2. Legislation of a Member State on the hallmarking of articles of precious metal which requires that articles of precious metal imported from another Member State, and marketed in Ireland, bear a sponsor's mark indicative of the maker, worker or dealer in such articles, registered by a national corporation of gold- and silversmiths which appoints the body by which these articles are intended to be struck with the approved hallmark, when these articles already bear a sponsor's mark conforming to the legislation of the Member State of origin constitutes a measure having equivalent effect to a quantitative restriction on imports within the meaning of Article 30 of the Treaty (now, after amendment, Article 28 EC).

3. A Member State fails to fulfil its obligations under Article 30 of the Treaty (now, after amendment, Article 28 EC) where it requires articles made from precious metals imported from another Member State, and marketed in Ireland, which have been lawfully struck in another Member State with a hallmark stamped by a body which offers guarantees of independence, and which offers appropriate information to consumers, to bear an approved hallmark struck by a body which is appointed by a national corporation of gold- and silversmiths or an international hallmark notified in accordance with the Convention on the Control and Marking of Articles of Precious Metals.

Such an obstacle to intra-Community trade is justified as a means of protecting consumers and ensuring fair trading only if the articles of precious metal from other Member States do not already bear hallmarks which fulfil

(see para. 76 and operative part)

4. A Member State fails to fulfil its obligations under Article 30 of the Treaty (now, after amendment, Article 28 EC) where it establishes differences between approved hallmarks struck on articles manufactured within its territory and those hallmarks of the same type struck on articles imported from other Member States. The requirement that different hallmarks must be struck on certain articles of precious metal depending on whether

they are of national origin or are imported constitutes a measure having equivalent effect to a quantitative restriction on imports, which cannot be justified in the light of the provisions of the Treaty on the free movement of goods.

(see paras 74, 76 and operative part)