

## Case C-360/89

### Commission of the European Communities

v

### Italian Republic

(Freedom to provide services — Award of public works contracts)

Report for the Hearing .....	I - 3402
Opinion of Advocate General Lenz delivered on 26 February 1992 .....	I - 3408
Judgment of the Court, 3 June 1992 .....	I - 3415

#### Summary of the Judgment

1. *Freedom to provide services — Principle of non-discrimination — Covert discrimination — Included*  
(EEC Treaty, Art. 59)
2. *Freedom to provide services — Procedures for the award of public works contracts — National rules favouring local undertakings — Prohibited*  
(EEC Treaty, Art. 59; Council Directive 71/305)

1. Article 59 of the Treaty prohibits not only overt discrimination by reason of nationality but also all covert forms of discrimination which, by the application of other criteria of differentiation, lead in fact to the same result.

2. A Member State which reserves any public works to companies which have their

registered offices in the region where the works are to be carried out and establishes a preference for temporary associations which include undertakings carrying on their main activity in that region is in breach of its obligations under Article 59 of the EEC Treaty and Directive 71/305 concerning the coordination of procedures for the award of public works contracts.