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Press and Information

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Judgment of the Court in Case C-442/02

Caixa-Bank France v Ministère de l'Économie, des Finances et de l'Industrie

**THE COURT RULES AGAINST THE FRENCH LEGISLATION PROHIBITING
THE PAYMENT OF INTEREST ON "SIGHT" ACCOUNTS**

That restriction of the freedom of establishment guaranteed by the EC Treaty cannot be justified either by the protection of consumers or by the encouragement of saving.

Since 18 February 2002 Caixa-Bank France, the French subsidiary of Caixa Holding, a company governed by Spanish law, has marketed in France a "sight" (current) account with interest at the rate of 2% per annum on balances of at least EUR 1 500. By a decision of the Committee for Banking and Financial Regulation, it was prohibited from concluding new contracts with residents of France relating to those remunerated accounts and ordered to rescind the clauses in existing contracts for such products. Caixa-Bank appealed against that decision to the Conseil d'État, which decided to put questions to the Court of Justice on the compatibility of that national legislation with the provisions of the EC Treaty on freedom of establishment.

The Court of Justice notes, as a preliminary point, that the Directive of the European Parliament and the Council relating to the taking up and pursuit of the business of credit institutions¹ is not applicable in the present case, since it does not refer to restrictions on companies which are established in a Member State as subsidiaries of credit institutions established in other Member States.

It then observes that freedom of establishment, which is conferred both on natural persons who are nationals of a Member State and on legal persons, includes, subject to the exceptions and conditions specified, the right to take up and pursue all types of self-employed activity in the territory of any other Member State, to set up and manage undertakings, and to set up agencies, branches or subsidiaries.

¹ Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions (OJ 2000 L 126, p. 1).

The legal position of Caixa-Bank therefore **falls within the scope of Community law by virtue of the provisions of the Treaty**² which require the elimination of restrictions on freedom of establishment, in other words all measures which prohibit, impede or render less attractive the exercise of that freedom.

The Court finds that the prohibition of paying interest on "sight" accounts laid down by the French legislation constitutes, for companies from other Member States, a serious obstacle to the pursuit of their activities via a subsidiary in France, affecting their access to the market. That prohibition, which concerns one of the basic activities of credit institutions, is therefore to be regarded as a restriction, since it hinders subsidiaries of foreign companies in raising capital from the public. It deprives them of the possibility of competing more effectively, by paying interest on "sight" accounts, with the credit institutions traditionally established in France, which have an extensive network of branches and therefore greater opportunities.

To justify the restriction on freedom of establishment resulting from the prohibition at issue, the French Government invoked both the protection of consumers and the encouragement of medium and long-term saving, but the Court considers that the prohibition of paying interest on "sight" accounts is a measure which goes beyond what is necessary to attain those objectives.

Unofficial document, for media use only, which does not bind the Court of Justice.

Available languages: Dutch, English, French, German, Greek, Italian, Spanish.

The full text of the judgment can be found on the Court's internet site

<http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=en>

In principle it will be available from midday CET on the day of delivery.

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² Article 43 EC.