

TRIBUNAL DE JUSTICIA DE LAS COMUNIDADES EUROPEAS
SOUDNÍ DVŮR EVROPSKÝCH SPOLEČENSTVÍ
DE EUROPÆISKE FÆLLESSKABERS DOMSTOL
GERICHTSHOF DER EUROPÄISCHEN GEMEINSCHAFTEN
EUROOPA ÜHENDUSTE KOHUS
ΔΙΚΑΣΤΗΡΙΟ ΤΩΝ ΕΥΡΩΠΑΪΚΩΝ ΚΟΙΝΟΤΗΤΩΝ
COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES
COUR DE JUSTICE DES COMMUNAUTÉS EUROPÉENNES
CÚIRT BHREITHIÚNAIS NA gCÓMHPHOBAL EORPACH
CORTE DI GIUSTIZIA DELLE COMUNITÀ EUROPEE
EIROPAS KOPIENU TIESA



ÞOS BENDRIJŪ TEISINGUMO TEISMAS
İRÓPAI KÖZÖSSÉGEK BÍRÓSÁGA
IL-QORTI TAL-GUSTIZZJA TAL-KOMUNITAJIET EWROPEJ
HOF VAN JUSTITIE VAN DE EUROPESE GEMEENSCHAPPEN
TRYBUNAŁ SPRAWIEDLIWOŚCI WSPÓLNOT EUROPEJSKICH
TRIBUNAL DE JUSTIÇA DAS COMUNIDADES EUROPEIAS
SÚDNY DVOR EURÓPSKYCH SPOLOČENSTIEV
SODIŠČE EVROPSKIH SKUPNOSTI
EUROOPAN YHTEISÖJEN TUOMIOISTUIN
EUROPEISKA GEMENSKAPERNAS DOMSTOL

Press and Information

PRESS RELEASE No 29/06

30 March 2006

Judgment of the Court of Justice in Case C-451/03

Servizi Ausiliari Dottori Commercialisti Srl v Giuseppe Calafiori

**ITALIAN TAX ADVICE CENTRES' EXCLUSIVE RIGHT TO COMPLETE
WORKERS' DECLARATIONS OF INCOME IS CONTRARY TO COMMUNITY LAW**

*Such an exclusive right constitutes an unjustified restriction on the freedom of establishment and
the freedom to provide services*

Italian legislation reserves exclusively to Tax Advice Centres (CAF) the right to pursue certain activities of advice and assistance in tax matters, including activities relating to the annual declaration of the income of employees and persons treated as such.

CAF can be set up only by certain bodies¹ and they carry on their business under authorisation from the Ministry of Finance. They receive a payment from State funds for each declaration completed and filed with the tax authorities.

The object of ADC Servizi, a company established in Milan, was assistance and the provision of advice in accounting and administrative matters. In 2003, it adopted new statutes in order to take account of the fact that it was also carrying on activities of tax assistance for undertakings, workers and pensioners. The notary responsible for taking the minutes of the meeting which adopted the new statutes, Mr Calafiori, refused to file that decision in the Milan companies' registry. In his view, the amendment to the statutes authorising the company to carry on those tax assistance activities was contrary to the Italian legislation on CAF.

Since it considered that legislation to be contrary to Community law, ADC Servizi brought proceedings before the Italian courts against the refusal of the registration sought.

¹ These are, in particular, employers' associations, or trade union organisations, or territorial organisations appointed by them and having not less than 50 000 members, or certain employers responsible for the collection of tax having not less than 50 000 employees, or workers' associations which have established mutual protection institutions ('istituti di patronato') and have not less than 50 000 members.

In that context, the Corte d'appello di Milano (Court of Appeal of Milan) referred questions to the Court of Justice of the European Communities for a preliminary ruling concerning, in particular, the compatibility of the Italian legislation with the Community rules on the freedom to provide services, the freedom of establishment and State aid.

The Court observes first of all that, so far as **the freedom to provide services** is concerned, the Italian legislation, by reserving those advice and assistance activities to the CAF, completely prevents access to the market for those services by economic operators established in other Member States.

Next, it finds that, as regards **the freedom of establishment**, such legislation, by restricting the ability to form CAF to certain bodies meeting strict conditions and to some of those bodies with their registered office in Italy, is likely to make more difficult, or even completely prevent, the exercise by economic operators from other Member States of their right to establish themselves in Italy with the aim of providing the services in question.

In those circumstances, the grant of exclusive powers to CAF to provide those services constitutes a restriction on the freedom of establishment and on the freedom to provide services, which is prohibited by Community law. **That restriction is not justified** by the public interest in the protection of recipients of the services in question against harm which they could suffer as a result of services provided by persons without the necessary professional or personal qualifications. The bodies authorised to set up CAF do not offer any guarantees of particular professional abilities.

In those circumstances, the Court concludes that **the freedom of establishment and the freedom to provide services preclude national legislation which reserves exclusively to CAF the right to pursue certain tax advice and assistance activities.**

As regards the payment made to CAF from State funds, the Court adds that it is for the national court to determine, in the light of the facts, whether it constitutes State aid within the meaning of the EC Treaty.

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

Languages available: DE, EN, FR, HU, IT, PL, SL

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

<http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=C-451/03>

It can usually be consulted after midday (CET) on the day judgment is delivered.

For further information, please contact Christopher Fretwell

Tel: (00352) 4303 3355 Fax: (00352) 4303 2731