

Press and Information Division

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Judgment of the Court of Justice in Case C-59/01

Commission v Italy

**THE COURT OF JUSTICE CONSIDERS ITALIAN LEGISLATION FREEZING
COMPULSORY MOTOR INSURANCE PREMIUMS TO BE CONTRARY TO
COMMUNITY LAW**

*However, it accepts the imposition of an obligation on insurance undertakings to
communicate information concerning claims to a data-bank*

The aim of Community Directive 92/49 on direct insurance is to complete the internal market from the point of view both of the right of establishment and of the freedom to provide services. That directive lays down the principle of freedom to set premiums.

A Decree of 1995 transposing the directive liberalised the rates for compulsory motor vehicle insurance in Italy (which had till then been subject to a price-control system, as in most European countries). Following a rise in premiums of up to 400%, in 2000 Italy adopted a Decree "containing urgent provisions to limit inflationary pressures" concerning various sectors, including compulsory motor-vehicle insurance.

Inflation was to be countered by freezing compulsory motor vehicle insurance premiums, initially for a one-year period. The rule held good for all insurance undertakings, whether they had their registered office in Italy or carried on business there through branch offices or under the freedom to provide services.

A data-bank was set up in order to combat fraudulent practices. All insurance undertakings are required to communicate systematically to the data-bank the claims made against them and to contribute to the funding of the data-bank.

The European Commission believed those provisions infringed the principle of freedom to set premiums and the system for exchanging information provided for by the directive and

brought an action against the Italian Republic before the Court of Justice. Although the rate-freeze is no longer in force, the Commission has expressly continued with its action.

The Court upholds the Commission's application with regard to the rate restrictions introduced by the Italian legislation

According to the Court, the directive is intended to secure the principle of freedom to set premiums in the field of compulsory motor-vehicle insurance, which implies the prohibition of any system of notification or approval of premium rates except within the framework of a general price-control system.

The Court finds that **the rules governing premium rates laid down in the Italian legislation significantly restrict the freedom of insurance undertakings**, including those operating under the right of establishment or the freedom to provide services, **to set their premiums**.

The Court finds that the Italian legislation amounts to selective intervention in the sector of compulsory motor vehicle insurance, without any direct link to the various measures in other sectors referred to by the Italian Government. It cannot therefore **be justified on the ground that it forms part of a general price-control system**.

However, the Court rejects the Commission's application with regard to the obligation imposed on insurance undertakings to communicate to a data-bank the claims made against them.

It notes that the directive provides for the exchange of essential data between national authorities in order to prevent unjustified obstacles to the exercise of the right of establishment or the freedom to provide services; the information-gathering provided for under the Italian legislation pursues a different anti-fraud objective from that pursued by the directive.

Since the two mechanisms do not pursue the same objective, the Court considers that the one need not to be regarded as incompatible with the other.

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

Available in English, French and Italian.

*For the full text of the judgment, please consult our Internet page
www.curia.eu.int at approximately 3pm today.*

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*Pictures of the hearing are available on "Europe by Satellite"
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