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Judgment of the Court in Case C-674/23 | AEON NEPREMIČNINE and Others

Property intermediation services: EU law does not preclude a cap limiting commissions charged by property agencies to 4% of the sale price or of the rent amount

Such a measure must nevertheless be proportionate to the legitimate objectives that it seeks to attain

The Slovenian Constitutional Court is reviewing the constitutionality of the law relating to property intermediation services.

That law imposes a cap on the commission charged for those services in the event of a purchase, sale or rental of immovable property. For a purchase or sale, the commission cannot exceed 4% of the contract price.¹ For tenancies, the cap is set at 4% of the product of multiplying the monthly rent by the number of months for which the property is let.² An intermediation agreement that contravenes that cap is considered to be null and void.

Having doubts as to the conformity of that measure with EU law,³ the Slovenian Constitutional Court decided to make a reference to the Court of Justice. Its doubts concern the cap imposed in relation to intermediation services as regards single-family houses, flats or residential units, purchased or rented by natural persons.

In its judgment, the Court of Justice recalls that a measure, such as that provided for by the Slovenian law, may be permitted if it (i) is not discriminatory, (ii) is justified by an overriding reason relating to the public interest, and (ii) is proportionate.

The cap on commissions does not appear to be discriminatory, since it applies irrespective of the location of the registered office of the property company concerned.

As regards justification, **the cap appears to be such as to promote the accessibility of adequate housing at affordable prices**, given that the commission amount is likely reflected in the sale price or rent amount. This is especially important with respect to vulnerable persons – young persons, students, as well as the elderly. That measure can also contribute to **consumer protection by increasing price transparency and preventing excessive tariffs from being applied**.

It will be for the Slovenian Constitutional Court to ascertain whether the cap on commissions is necessary to attain the abovementioned objectives, and whether there are no measures that are less restrictive and allow the same result to be achieved. In that regard, it will be for that court to examine, inter alia, whether the national legislature could have implemented a measure specifically targeted at vulnerable consumers and whether the fee for property intermediation services allows companies providing those services to cover their costs and make a reasonable profit.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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

The [full text and, as the case may be, the abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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Pictures of the delivery of the judgment are available from "[Europe by Satellite](#)" ☎ (+32) 2 2964106.

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¹ The cap does not apply where the contract value of the property is less than €10 000.

² In any event, the commission cannot exceed the amount of one month's rent or be less than €150.

³ In particular, [Directive 2006/123/EC](#) of the European Parliament and of the Council of 12 December 2006 on services in the internal market.