C-76/90 Säger [1991] ECR I-04221

Facts: A provision of German law required those monitoring patents to have a licence. Such licences were generally given only to those with certain professional qualifications. A British company operated within Germany performing largely the same tasks as those performed by German undertakings having the monitoring patent. The British undertaking began to charge a lower commission, and this caused the German undertakings to contend that the British undertaking was breaching national law by trading without a licence. It contended that the national law was unlawful given Art. 56 TFEU.

Held: The rule breached Art. 56 TFEU unless it could be justified. Art. 56 TFEU required not only the elimination of all discrimination against a person providing services on the ground of his nationality, but also the abolition of any restriction when it is liable to prohibit or otherwise impede the activities of a provider of services. That was so even where the restriction applied without distinction to national providers and those from other Member States.

The freedom to provide services could be limited only by provisions which were justified by imperative reasons relating to the public interest and which applied to all persons or undertakings pursuing an activity in the State of destination, in so far as that interest was not protected by the rules to which the person providing the services was subject in the Member State in which he was established. On this basis, Art. 56 TFEU worked to preclude national law preventing a company established in another Member State from providing patent-owners in the territory of the first State with a service for monitoring those patents and renewing them by payment of the requisite fees, on the ground that such activities were to be reserved to persons holding a special professional qualification.