

Case C--24/68 Commission v Italy (Statistical Levy) [1969]

Facts: After the entry into force of the EEC Treaty, Italy continued to levy on goods imported and exported a “statistical levy”. Italy argued that it was not fiscal charge by its nature, it was too insignificant in amount to disturb the market and its aim was to have a record of goods imported and exported. The Commission made an application pursuant to Article 169 of the Treaty for a ruling that Italy had failed to fulfil its obligations under Article 16 and Article 189 of the Treaty.

Held: The purpose of the abolition of customs barriers is not merely to eliminate their protective nature. Customs duties are prohibited because any pecuniary charge, however small, imposed on goods by reason of the fact that they cross a frontier constitutes an obstacle to the movement of such goods. The extension of the prohibition to charges having equivalent effect intends to supplement the prohibition against obstacles to trade created by such duties by increasing its efficiency. These two complementary concepts tend to avoid the imposition of any pecuniary charge on goods circulating within the Community by virtue of the fact that they cross a natural frontier. Consequently, any pecuniary charge, however small and whatever its designation and mode of application, which is imposed unilaterally on domestic or foreign goods by reason of the fact that they cross a frontier, and which is not a customs duty in the strict sense, constitutes a charge having equivalent effect within the meaning of Articles 9, 12, 13 and 16 of the Treaty, even if it is not imposed for the benefit of the State, it is not discriminatory or protective in effect and if the product on which the charge is imposed is not in competition with any domestic product. In certain circumstances a specific service actually rendered may form the consideration for a proportional payment for the service in question, but this may only apply in specific cases which cannot lead to the circumvention of these provisions. But even if the competitive position of importers and exporters were to be improved as a result of the statistical information, this constitutes an advantage so difficult to assess that the disputed charge cannot be regarded as the consideration for a specific benefit actually conferred. The disputed charge is contrary to Article 16 of the Treaty. With regards to the levy on the import from other Member States of products subject to regulations, these regulations prohibit the levying of any customs duty or charge having equivalent effect on trade between the Member States. According to Article 189 of the Treaty those regulations are to be binding in their entirety and directly applicable in all Member States. In infringing their provisions, the defendant has thus failed to fulfil its obligations under the Treaty.