



Reports of Cases

Case C-539/11

Ottica New Line di Accardi Vincenzo
v
Comune di Campobello di Mazara

(Request for a preliminary ruling from the Consiglio di Giustizia Amministrativa per la Regione siciliana)

(Articles 49 TFEU and 56 TFEU — Freedom of establishment — Public health — Opticians — Regional legislation making the establishment of new opticians' shops subject to authorisation — Demographic and geographical limitations — Justification — Appropriateness for attaining the objective pursued — Coherency — Proportionality)

Summary — Judgment of the Court (Fourth Chamber), 26 September 2013

Freedom of establishment — Restrictions — Regional legislation requiring administrative authorisation prior to opening a new opticians' shop — Conditions for the grant of authorisation linked to geographical density and a minimum distance between opticians' shops — Lawfulness — Conditions — To be determined by the national court

(Art. 49 TFEU)

Article 49 TFEU must be interpreted as not precluding regional legislation which imposes restrictions on the grant of authorisation for the establishment of a new optician's shop, by providing that:

- in each geographical area, only one optician's shop may be established, in principle, for every 8 000 residents, and
- each new optician's shop must, in principle, be a minimum distance of 300 metres from an existing optician's shop,

provided that the competent authorities use appropriately, in accordance with transparent and objective criteria, the powers made available under the legislation concerned, with a view to attaining, in a coherent and systematic manner, the objectives pursued by that legislation relating to the protection of public health throughout the given territory, which is a matter for the national court to assess.

(see para. 57, operative part)