



# Workshop: Calculation of the indemnity in EU Countries

Is it possible to anticipate the indemnity/compensation during the contractual relationship?



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## Article 17 Council Directive 86/654/EEC

Requires Member States to ensure that the commercial agent is,  
after termination of the agency contract, indemnified or  
compensated



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## Article 19 Council Directive 86/654/EEC

Parties are not entitled to derogate from article 17 to the detriment of the commercial agent before the expiry of the contract.



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ECJ Judgement 26 March 2009  
*(Turgay Semen / Deutsche Tamoil)*

Objective of the Directive is to protect the commercial agent



## Example 1

Agency contract provides that the agent is entitled to 10% commission of which 8% is qualified as regular commission and 2% as pre-payment of the indemnity/compensation due after termination.

The clause also provides that a further indemnity/compensation is excluded.



Valid or not?

In the affirmative, what if the total amount of the 2% paid over the years exceeds the maximum indemnity/ compensation due?

What if the total amount of the 2% paid over the years is below the maximum indemnity/ compensation due?

If invalid, what if the total of the 2% paid over the years exceeds/ is below the maximum indemnity/ compensation due?



## Example 2

Agent purchases the agency contract from the principal for an amount equal to the maximum indemnity / compensation value at that moment. The purchase contract provides that the purchase price shall be set off against the possible indemnity/compensation due after termination of the agency contract.





Valid or not?

What circumstances could be relevant?