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CÚIRT BHREITHIÚNAIS NA gCÓMHPHOBAL EORPACH  
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Press and Information

**PRESS RELEASE No 65/06**

18 July 2006

Judgment of the Court of Justice in Case C-519/04 P

*David Meca-Medina and Igor Majcen v. Commission of the European Communities*

**THE INTERNATIONAL OLYMPIC COMMITTEE'S RULES ON DOPING CONTROL  
FALL WITHIN THE SCOPE OF COMMUNITY COMPETITION LAW**

*They are compatible with it, however, as they do not go beyond what is necessary to ensure the proper conduct of competitive sport.*

Mr Meca-Medina and Mr Majcen are two professional athletes who compete in long-distance swimming. During the World Cup in that sport they tested positive for Nandrolone (an anabolic substance). The International Swimming Federation (FINA) suspended them under the Olympic Movement's Anti-Doping Code for four years, a term subsequently reduced to two years by the Court of Arbitration for Sport. The two athletes filed a complaint with the European Commission, alleging that the International Olympic Committee's rules on doping control were not compatible with the Community rules on competition and freedom to provide services. The Commission rejected the complaint by decision of 1 August 2002.

The two athletes brought an action before the Court of First Instance to have the decision set aside. The Court of First Instance dismissed the action by judgment of 30 September 2004<sup>1</sup>, holding that the rules on doping control did not fall within the scope of Community law on competition and freedom to provide services. Taking the view that the Court of First Instance had erred in law, Mr Meca-Medina and Mr Majcen brought an appeal against that judgment before the Court of Justice.

***As to whether the judgment of the Court of First Instance should be set aside***

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<sup>1</sup> Case T-313/02 *Meca-Medina and Majcen v Commission* [2001] ECR II-3291.

It is to be remembered that sport is subject to Community law in so far as it constitutes an economic activity. The Court has, however, held that the provisions of the Treaty on freedom of movement for persons and freedom to provide services do not affect rules concerning questions which are of purely sporting interest and, as such, have nothing to do with economic activity.

If, by contrast, those rules do not constitute restrictions on freedom of movement because they concern questions of purely sporting interest and, as such, have nothing to do with economic activity, that fact means neither that the sporting activity in question necessarily falls outside the scope of the provisions of Community competition law nor that the rules do not satisfy the specific requirements of those provisions.

**By adopting the opposite approach, without first determining whether those rules fulfilled the specific requirements of Community competition law, the Court of First Instance erred in law. The Court of Justice must therefore set aside the judgment of the Court of First Instance.** Since the state of the proceedings so permits, the Court of Justice rules on the application for annulment of the Commission's decision.

*As to whether the Commission's decision should be set aside*

As regards the compatibility of the rules at issue with the rules on competition, the Court of Justice holds that the penal nature of the rules at issue and the magnitude of the penalties applicable if they are breached are capable of producing adverse effects on competition. In order to escape the prohibition on distortion of competition laid down by the Treaty, the restrictions imposed by those rules must be limited to what is necessary to ensure the proper conduct of competitive sport.

Rules of that kind could indeed prove excessive as a result of both the way in which the dividing line between circumstances which amount to doping in respect of which penalties may be imposed and those which do not is drawn and the severity of those penalties.

It does not appear that the restrictions which the threshold beyond which the presence of Nandrolone in an athlete's body indicates doping go beyond what is necessary in order to ensure that sporting events take place and function properly.

Since Mr Meca-Medina and Mr Majcen have, moreover, not pleaded that the penalties which were applicable and were imposed in the present case were excessive, it has not been established that the anti-doping rules at issue are disproportionate.

**Consequently, the Court of Justice dismisses the action for annulment of the Commission's decision of 1 August 2002.**

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

*Languages available: FR CS DE EN ES EL HU IT NL PL SK SL*

*The full text of the judgment may be found on the Court's internet site  
<http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=C-519/04>  
It can usually be consulted after midday (CET) on the day judgment is delivered.*

*For further information, please contact Christopher Fretwell  
Tel: (00352) 4303 3355 Fax: (00352) 4303 2731*

*Pictures of the delivery of the judgment are available on EbS "Europe by Satellite",  
a service provided by the European Commission, Directorate-General Press and  
Communications,*

*L-2920 Luxembourg, Tel: (00352) 4301 35177 Fax: (00352) 4301 35249  
or B-1049 Brussels, Tel: (0032) 2 2964106 Fax: (0032) 2 2965956*