



Court of Justice of the European Union

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Judgment in Joined Cases C-186/11 and C-209/11
Stanleybet International Ltd, William Hill Organization Ltd, William Hill Plc
and Sportingbet plc v Ypourgos Oikonomias kai Oikonomikon, Ypourgos
Politismou, with Organismos prognostikon agonon podosfairou AE (OPAP),
intervener

Press and Information

EU law precludes OPAP from having an exclusive right to organise and operate games of chance in Greece

If, however, the State finds that the liberalisation of that market is incompatible with the level of consumer protection and the preservation of order in society which it intends to uphold, it may undertake reforms of the monopoly inter alia by making it subject to effective and strict controls

In Greece, the organisation and operation of games of chance and betting forms are entrusted for a 20-year period, until 2020, to the public limited company OPAP (Organismos prognostikon agonon podosfairou AE – organisation for football betting), listed on the Athens Stock Exchange. The Greek State approves the regulations governing OPAP's activities and monitors the procedure applied in order to organise the games, whilst currently being a minority shareholder (34%). OPAP fixes the maximum amount of the bet and winnings per form (and not by player) and may use up to 10% of the advertising space in stadia and gymnasia free of charge. It has also expanded its activities abroad, in particular in Cyprus.

The companies Stanleybet, William Hill and Sportingbet have their registered office in the United Kingdom, where they hold licences to organise games of chance under English law.

They brought an action before the Symvoulío tis Epikrateias (Council of State, Greece) against the Greek authorities' tacit rejection of their applications to be granted permission to provide sport betting services in Greece.

The Greek court then made a reference to the Court of Justice, asking whether EU law, particularly the principles of the fundamental freedoms (freedom of establishment and freedom to provide services), preclude national legislation which grants the exclusive right to operate games of chance to a single entity. It observes that, whilst the objective of the national legislation is to restrict the supply of games of chance and to support the effort to combat criminality linked to games of chance, OPAP pursues a commercial policy of expansion.

In its judgment today, the Court notes, firstly, that national legislation which grants a monopoly to OPAP and prohibits providers established in another Member State from offering the same games of chance on Greek territory constitutes a restriction on the freedom to provide services or on the freedom of establishment. It then examines whether such a restriction may be allowed as a derogation on grounds of public policy, public security or public health or justified by overriding reasons in the public interest.

Next, the Court observes that the legislation on games of chance is one of the areas in which there are significant moral, religious and cultural differences between the Member States and that, in the absence of Community harmonisation in the field, it is for each Member State to determine in those areas, in accordance with its own scale of values, what is required in order to ensure that the interests in question are protected. Thus, as already recognised by its case-law, restricting the supply of games of chance and combating criminality linked to those games may justify restrictions on fundamental freedoms.

The Court emphasises, however, that restrictive measures imposed by Member States must satisfy the conditions of proportionality and non-discrimination, whilst actually ensuring attainment of the objectives pursued in a consistent and systematic manner.

It is thus for the national court to ensure that the national legislation genuinely meets the concern to reduce opportunities for gambling and to combat the criminality to which it gives rise.

The Court nevertheless suggests that the national court take account, in relation to the first objective, of the various features of the legislative framework governing OPAP and the manner in which it operates in practice, such as the fact that OPAP enjoys certain rights and privileges for advertising, or the fact that the maximum bet is fixed per form (and not per player). As regards the second objective, the national court will have to verify the effectiveness of the State controls, bearing in mind that a measure as restrictive as a monopoly must be subject to strict control, whilst the Greek State's supervision of OPAP, a listed public limited company, would appear to be merely superficial.

The Court then answers that **EU law precludes national legislation which grants the exclusive right for games of chance to a single entity, without genuinely reducing opportunities for gambling where it does not either limit activities in that domain in a consistent and systematic manner or ensure strict control of the expansion of the sector of games of chance solely in so far as is necessary to combat criminality.**

The Court further states that, by reason of the primacy of directly-applicable EU law, national legislation which comprises restrictions that are incompatible with the freedom of establishment and the freedom to provide services cannot continue to apply during a transitional period. Consequently, during that period, **national authorities may not refrain from considering applications.**

In that situation of incompatibility, the Greek State has two possible courses of action.

If it finds that the liberalisation of the market for games of chance is incompatible with the level of consumer protection and the preservation of order in society which it intends to uphold, the State may instead undertake **reforms of the monopoly and make it subject to effective and strict controls by the public authorities.**

If, on the other hand, the State opts to liberalise the market – which it is not necessarily obliged to do under EU law – it must observe the principles of equal treatment and of non-discrimination on grounds of nationality, as well as the obligation of transparency. **The introduction of an administrative permit scheme, for instance, must be based on objective, non-discriminatory criteria,** so that the national authorities' discretion is not used arbitrarily.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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