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Press and Information

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Judgment of the Court of First Instance in Case T-313/02

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

THE INTERNATIONAL OLYMPIC COMMITTEE'S ANTI-DOPING LEGISLATION IS NOT SUBJECT TO COMMUNITY COMPETITION LAW

*The prohibition of doping does not pursue any economic objective but is intended to preserve
the spirit of fair play*

Mr Meca-Medina and Mr Majcen are two professional long-distance swimmers. During a World Cup in that discipline, 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, which was subsequently reduced to two years by the Court of Arbitration for Sport. The swimmers filed a complaint with the European Commission, challenging the compatibility of the International Olympic Committee's anti-doping legislation with the Community competition rules and the free movement of services. The Commission having rejected that complaint, Mr Meca-Medina and Mr Majcen brought an action before the Court of First Instance.

The Court notes that, according to the case-law of the Court of Justice, sport is subject to Community law only in so far as it constitutes an economic activity. The provisions of the EC Treaty on the freedom of movement of workers and services apply to rules adopted in the field of sport which concern the economic aspect which sporting activity can present. This is so *inter alia* in the case of the rules providing for the payment of fees for the transfer of professional players between clubs (transfer clauses) or limiting the number of professional players who are nationals of other Member States which those clubs may field in matches. On the other hand, purely sporting rules which, as such, have nothing to do with economic activity, such as those on the composition of national teams or 'the rules of the game' fixing, for example, the length of matches or the number of players on the field, are not covered by Community law.

The Court of Justice has not yet had to rule on whether sporting rules are subject to the Treaty

provisions on competition. The Court of First Instance considers, however, that the principles developed in respect of the freedom of movement of workers and services are equally valid for the EC Treaty provisions relating to competition. Purely sporting legislation is, therefore, not subject to the Community provisions in respect of the freedom of movement of persons and services or of those relating to competition.

As regards, more particularly, **anti-doping measures**, the Court considers that, even if high-level sport has become, to a large extent, an economic activity and such measures may have economic repercussions for sports professionals, **they do not pursue any economic objective**. They are **intended to preserve the spirit of fair play**, as well as the health of athletes. Thus, the prohibition of doping, as a particular expression of the requirement of fair play, forms part of the cardinal rule of sport.

Consequently, the Court of First Instance dismissed the application as unfounded.

REMINDER: An appeal, limited to points of law only, may be brought before the Court of Justice of the European Communities against a decision of the Court of First Instance, within two months of its notification.

Unofficial document for media use; not binding on the Court of First Instance.

Languages available: FR, EN, DE, GR, IT, NL

The full text of the judgment can be found on the Court's internet site

<http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=en>

In principle it will be available from midday CET on the day of delivery.

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