

Press and Information Division

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*Judgment in Case C-6/01*

*Associação Nacional de Operadores de Máquinas Recreativas (Anomar) and Others v Portuguese State*

**PORTUGUESE LEGISLATION WHICH RESTRICTS GAMES OF CHANCE TO CASINOS IS NOT CONTRARY TO COMMUNITY RULES ON FREEDOM TO PROVIDE SERVICES**

*Community law does not preclude national legislation which prohibits the exploitation and operation of certain games of chance or gambling other than in casinos situated within authorised areas*

Portuguese law reserves the exploitation and operation of games of chance or gambling to the State and authorises such exploitation and operation only in areas provided for by law, that is to say in casinos which hold a public licence.

Associação Nacional de Operadores de Máquinas Recreativas (Anomar), which is an association of Portuguese gaming machine operators, and eight Portuguese companies which pursue the same activities brought an action before the Portuguese courts against the Portuguese State for a finding that they were entitled to operate slot machines outside the areas set aside by law for gambling.

The Portuguese court has made a reference to the Court of Justice of the European Communities as to the compatibility of the Portuguese provisions with Community law.

First, the Court describes the activity of operation of gaming machines as a “service” within the meaning of the EC Treaty.

Next, it recalls that national legislation may fall within the ambit of Article 59 of the Treaty, even if it is applicable without distinction, when it is liable to prohibit or otherwise impede the activities of a provider of services established in another Member State where he lawfully

provides similar services. The Court finds that that is the case of the Portuguese provisions, which restrict the operation of games of chance and gambling solely to casinos located within permanent or temporary gaming areas established under Portuguese law.

In certain circumstances, the EC Treaty permits restrictions to the freedom to provide services. Where restrictive measures which apply without making any distinction as to nationality are in issue – as in the present case – they may be justified by overriding reasons relating to the public interest, provided that they are proportionate to the objectives pursued.

**Seeking to maintain fairness in games of chance and the possibility of deriving some benefit for the public sector** are objectives which, taken as a whole, **pursue the protection of consumers and the maintenance of order in society**. They have previously been described by the Court as **justifying interference with the freedom to provide services and proportionate** with regard to the objectives pursued by the national provisions.

The Court points out that the fact that legislation on betting and gaming which is less restrictive than the Portuguese provisions also exists in other Member States has no bearing on the compatibility of the Portuguese legislation with Community law.

Finally, the Court recalls that the **choice of actual implementing procedure**, such as the decision to make the exploitation and operation of games of chance subject to entering into an administrative licensing agreement with the State on the basis of a public tendering procedure, falls within the discretion of the **national authorities**.

*Unofficial document, for media use only, which does not bind the Court of Justice*

*Available languages: DE, EN, FR, ES, IT and PT.*

*The full text of the judgment can be found on the internet ([www.curia.eu.int](http://www.curia.eu.int)).  
In principle it will be available from midday CET on the day of delivery.*

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