

Case C-444/05

Aikaterini Stamatelaki

v

NPDD Organismos Asfaliseos Eleftheron Epangelmation (OAEE)

(Reference for a preliminary ruling
from the Diikitiko Protodikio Athinon)

(Restrictions on the freedom to provide services — Reimbursement of the cost of
treatment in private hospitals — Justification for, and proportionality of,
the exclusion)

Opinion of Advocate General Ruiz-Jarabo Colomer delivered on 11 January
2007 I - 3187
Judgment of the Court (Second Chamber), 19 April 2007 I - 3205

Summary of the Judgment

Freedom to provide services — Restrictions
(Art. 49 EC)

Article 49 EC precludes legislation of a Member State which excludes all reimbursement by a national social security institution of the costs occasioned by treatment of persons insured with it in private hospitals in another Member State, except those relating to treatment provided to children under 14 years of age.

prohibition laid down by that legislation are not appropriate to the objective pursued, since measures which are less restrictive and more in keeping with the freedom to provide services could be adopted, such as a prior authorisation scheme which complies with the requirements imposed by Community law and, if appropriate, the determination of scales for reimbursement of the costs of treatment.

Such a measure may not be justified by the risk of seriously undermining the financial balance of a social security system, because the absolute terms, with the exception of the case of children under 14 years of age, of the

(see paras 35, 38, operative part)