

Online Gaming: French Advocate General Publishes Opinion in Proceedings bwin v Santa Casa  
(C-42/07)  
2008-10-15

---

The opinion of the Advocate General in the proceedings bwin and Liga Portuguesa de Futebol Profissional (LPTP) v the Portuguese monopoly Santa Casa da Misericordia de Lisboa (SCML) pending with the European Court of Justice, which has put the Portuguese sports betting and lottery monopoly on trial, was published today.

Unnotified Portuguese provision not binding for bwin

To begin with, the Advocate General made clear that the European Commission should have been notified of the expansion in the scope of the Portuguese monopoly to include the internet. As this was not the case, the provision cannot be used against bwin and the Liga.

As expected, today's opinion is also in conformity with the positions of the European Court of Justice in the Gambelli (2003) and Placanica (2007) cases, in which the Court had decided on the Italian licensing systems for sports betting.

Security in online gaming considerably higher than offline

Furthermore, the opinion highlighted the special features of the internet in terms of security. In this regard, it must be pointed out that security in online gaming, due to the technical characteristics of the internet as a sales channel, is much tighter than in offline gaming.

Unlike traditional gaming, which continues to be largely anonymous today, licensed online gaming providers know their customers thanks to the mandatory registration. This makes all transactions transparent and traceable. In addition, this reliably ensures the prevention of money laundering, game manipulation or problematic gaming. Contrary to the statement made in paragraph 271 of the opinion, it is not possible to place bets or play on credit at bwin.

Co-CEO Manfred Bodner explains: "For many years, we have been collaborating in the areas of player protection and fraud control with Harvard Medical School, which is conducting the first worldwide empirical long-term study on gaming behaviour in the internet, and the European Sports Security Association (ESSA), which effectively prevents betting manipulation. Thanks to this cooperation, customers are able to enjoy secure entertainment with us."

Judgement expected in the coming months

bwin Co-CEO Norbert Teufelberger believes that the expected decision in principle will ensure that the security aspects in the internet are more strongly addressed. And he adds: "Only a regulated online gaming market with a more diversified and attractive line-up of games than the one a monopoly can offer will create adequate security against the risks of a black market actually opening up the floodgates to crime."

Background information

Background information on the ECJ proceedings of bwin and Liga Portuguesa de Futebol Profissional (LPTP) v. the Portuguese monopoly Santa Casa da Misericordia de Lisboa (SCML):

In August 2005, bwin concluded a sponsoring agreement with LPTO for a period of four playing seasons. In view of Portuguese law, which grants SCML sole authority to negotiate sports betting, SCML filed a lawsuit against bwin and LPTO. bwin appealed based on the interpretation of Articles 43, 49 and 56 of the EU Treaty. The court entrusted with the case in Portugal referred the lawsuit to the ECJ, requesting it to clarify the questions of principle regarding compatibility of EU law with the SCML gaming monopoly.

What are preliminary ruling proceedings?

The Court of Justice works together with all courts in the Member States, they are responsible for the application of Community law. To ensure the effective and uniform application of Community law and to prevent diverging interpretations, national courts can (and must in some cases) address the Court of Justice and request it to interpret Community law in order to verify compatibility of their national legislation with Community law. The subject matter of the reference for a preliminary ruling may also be verification of the validity of a Community act.

The Court of Justice responds not only by submitting an opinion, but by issuing a judgment or a grounded decision. The national court to which the judgment or decision is addressed, is bound to the interpretation of the Court of Justice once a decision on the pending case is issued. In the same way, the Court's judgment obliges other national courts to examine the same problem issue.

See [http://curia.europa.eu/de/instit/presentationfr/index\\_cje.htm](http://curia.europa.eu/de/instit/presentationfr/index_cje.htm)

This article comes from Hotel News Resource

<http://www.hotelnewsresource.com>

The URL for this story is:

<http://www.hotelnewsresource.com/article35130.html>

© 1998 - 2008 Nevistas and the author.

Brought to you by Hotel News Resource

*Distribute your news on our Network*

See what all the buzz is about at:

[http://www.hotelnewsresource.com/Info-news\\_account\\_info.html](http://www.hotelnewsresource.com/Info-news_account_info.html)