

Brussels, 31 January 2008

Free movement of services: Commission inquires into restrictions on gambling services in Germany

The European Commission has decided to send to Germany an official request for information on national legislation restricting the supply of gambling services. The Commission wishes to verify whether the measures in question are compatible with Articles 43, 49 and 56 of the EC Treaty. This decision relates only to the compatibility of the national measures in question with existing EU law. It does not have any implications for the liberalisation of the market for gambling services generally, or for the entitlement of Member States to seek to protect the general interest, so long as this is done in a manner consistent with EU law i.e. that any measures are necessary, proportionate and non-discriminatory. The letter of formal notice is the first step in an infringement procedure under Article 226 of the EC Treaty. Germany has two months in which to respond. The Commission hopes that the answers it receives will lead to an early and satisfactory resolution of the matter.

This new inquiry focuses on a number of provisions of the new legislation which entered into force on 1.1.2008. Some of the key restrictions that are questioned in terms of their compatibility with the EC Treaty's Internal Market provisions are as follows: the total prohibition of games of chance on the Internet; notably sports betting, on which the Commission sent to Germany in March 2007 a detailed opinion; advertising restrictions on TV, on the Internet or on jerseys or billboards; and the prohibition on financial institutions to process and execute payments relating to unauthorised games of chance. In addition, questions are raised regarding the authorisation regime to be granted to intermediaries as well as the criminal sanctions or administrative fines provided for in cases of organisation, advertising and participation in on-line games of chance.

However, it should be noted that in Germany horse race betting on the Internet is not prohibited and slot machines have been widely expanded. Moreover, advertising of games of chance by mail, in the press and on radio is still permitted.

The European Court of Justice has previously stated that any restrictions which seek to protect general interest objectives, such as the protection of consumers, must be "consistent and systematic" in how they seek to limit activities. A Member State cannot invoke the need to restrict its citizens' access to these services if at the same time it encourages them to participate in State games of chance.

The Commission decision to inquire into the compatibility of the measures in question is based on complaints made by a number of service providers and on information gathered by Commission staff.

The latest information on infringement proceedings concerning all Member States can be found at:

http://ec.europa.eu/community_law/index_en.htm