

2. Article 49 TFEU, read in conjunction with Article 1(1) and (2) of Council Directive 85/432/EEC of 16 September 1985 concerning the coordination of provisions laid down by Law, Regulation or Administrative Action in respect of certain activities in the field of pharmacy, and Article 45(2)(e) and (g) of Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications must be interpreted as precluding criteria, such as those set out in points 6 and 7(c) of the Annex to Decree 72/2001 of 19 July 2001, regulating pharmacies and dispensaries in the Principality of Asturias (Decreto 72/2001 regulador de las oficinas de farmacia y botiquines en el Principado de Asturias), under which licensees for new pharmacies are to be selected.

(¹) OJ C 79, 29.3.2008.

Judgment of the Court (Grand Chamber) of 8 June 2010 (Reference for a preliminary ruling from the High Court of Justice of England and Wales, Queens's Bench Division (Administrative Court) (United Kingdom)) — The Queen on the application of Vodafone Ltd, Telefónica O2 Europe plc, T-Mobile International AG, Orange Personal Communications Services Ltd v Secretary of State for Business, Enterprise and Regulatory Reform

(Case C-58/08) (¹)

(Regulation (EC) No 717/2007 — Roaming on public mobile telephone networks within the Community — Validity — Legal basis — Article 95 EC — Principles of proportionality and subsidiarity)

(2010/C 209/04)

Language of the case: English

Referring court

High Court of Justice of England and Wales, Queens's Bench Division (Administrative Court)

Parties to the main proceedings

Applicants: The Queen on the application of Vodafone Ltd, Telefónica O2 Europe plc, T-Mobile International AG, Orange Personal Communications Services Ltd

Defendant: Secretary of State for Business, Enterprise and Regulatory Reform

Interested parties: Office of Communications, Hutchison 3G UK Ltd, GSM Association

Re:

Reference for a preliminary ruling — High Court of Justice of England and Wales, Queens's Bench Division (Administrative Court) — Validity of Regulation (EC) No 717/2007 of the European Parliament and of the Council of 27 June 2007 on roaming on public mobile telephone networks within the Community and amending Directive 2002/21/EC (OJ 2007 L 171, p. 32) — Choice of legal basis — Validity of Articles 4, 2(a) and 6(3) of the regulation, imposing a maximum charge for roaming calls, in light of the principles of proportionality and subsidiarity

Operative part of the judgment

Consideration of the questions raised has disclosed no factor of such a kind as to affect the validity of Regulation (EC) No 717/2007 of the European Parliament and of the Council of 27 June 2007 on roaming on public mobile telephone networks within the Community and amending Directive 2002/21/EC.

(¹) OJ C 107, 26.4.2008.

Judgment of the Court (Second Chamber) of 3 June 2010 (reference for a preliminary ruling from the Raad van State (Netherlands)) — The Sporting Exchange Ltd, trading as Betfair v Minister van Justitie

(Case C-203/08) (¹)

(Article 49 EC — Restrictions on the freedom to provide services — Games of chance — Offer of games of chance via the internet — Legislation reserving a licence to a single operator — Renewal of licence without subjecting the matter to competition — Principle of equal treatment and obligation of transparency — Application in the field of games of chance)

(2010/C 209/05)

Language of the case: Dutch

Referring court

Raad van State

Parties to the main proceedings

Applicant: The Sporting Exchange Ltd, trading as Betfair

Defendant: Minister van Justitie

Intervening party: Stichting de Nationale Sporttotalisator

Re:

Reference for a preliminary ruling — Raad van State — Interpretation of Article 49 EC — National legislation prohibiting the unlicensed organisation of gaming and collection of bets and reserving a licence to one single operator in order to safeguard social wellbeing and public health — Refusal to issue a licence to an (internet) operator which is already licensed in other Member States, including the Member State in which it has its registered office — Renewal of such a licence without subjecting the matter to competition — Overriding reasons in the public interest

Operative part of the judgment

1. Article 49 EC must be interpreted as not precluding legislation of a Member State, such as the legislation at issue in the main proceedings, under which exclusive rights to organise and promote games of chance are conferred on a single operator, and which prohibits any other operator, including an operator established in another Member State, from offering via the internet services within the scope of that regime in the territory of the first Member State.
2. Article 49 EC must be interpreted as meaning that the principle of equal treatment and the consequent obligation of transparency are applicable to procedures for the grant of a licence to a single operator or for the renewal thereof in the field of games of chance, in so far as the operator in question is not a public operator whose management is subject to direct State supervision or a private operator whose activities are subject to strict control by the public authorities.

(¹) OJ C 197, 2.8.2008.

**Judgment of the Court (Second Chamber) of 3 June 2010
(reference for a preliminary ruling from the Hoge Raad der
Nederlanden — Netherlands) — Ladbrokes Betting &
Gaming Ltd, Ladbrokes International Ltd v Stichting de
Nationale Sporttotalisator**

(Case C-258/08) (¹)

**(Article 49 EC — Restrictions on the freedom to provide
services — Games of chance — Offer of games of chance
via the internet — Legislation reserving a licence to a single
operator — Refusal to grant an operating licence to an
operator who is licensed in other Member States — Justifi-
cation — Proportionality — Review of each specific measure
applying national legislation)**

(2010/C 209/06)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden

Parties to the main proceedings

Applicants: Ladbrokes Betting & Gaming Ltd, Ladbrokes International Ltd

Defendant: Stichting de Nationale Sporttotalisator

Re:

Reference for a preliminary ruling — Hoge Raad der Nederlanden — Interpretation of Article 49 EC — National legislation prohibiting the unlicensed organisation of gaming and collection of bets and reserving a licence to one single operator in order to safeguard social wellbeing and public health — Refusal to issue a licence to an (internet) operator which is already licensed in other Member States, including that in which it has its registered office — overriding reasons in the public interest

Operative part of the judgment

1. National legislation, such as that at issue in the main proceedings, which seeks to curb addiction to games of chance and to combat fraud, and which in fact contributes to the achievement of those objectives, can be regarded as limiting betting activities in a consistent and systematic manner even where the holder(s) of an exclusive licence are entitled to make what they are offering on the market attractive by introducing new games and by means of advertising. It is for the national court to determine whether unlawful gaming activities constitute a problem in the Member State concerned which might be solved by the expansion of authorised and regulated activities, and whether that expansion is on such a scale as to make it impossible to reconcile with the objective of curbing such addiction.
2. For the purpose of applying legislation of a Member State on games of chance which is compatible with Article 49 EC, the national courts are not required to determine, in each case, whether the implementing measure intended to ensure compliance with that legislation is suitable for achieving the objective of that legislation and is compatible with the principle of proportionality, in so far as that measure is necessary to ensure the effectiveness of that legislation and does not include any additional restriction over and above that which arises from the legislation itself. Whether that implementing measure was adopted as a result of action by the public authorities to ensure compliance with national legislation or of an application by an individual in the context of a civil action to protect his rights under that legislation has no bearing on the outcome of the dispute before the national court.