

Supreme Court of the Netherlands refers sports betting monopoly to the European Court of Justice for review

The Supreme Court of the Netherlands (Hoge Raad der Nederlanden), the highest Dutch court for civil and criminal cases, referred a case regarding the cross-border offer of sports betting to the European Court of Justice (ECJ) for preliminary ruling. The referral is based on proceedings between the private bookmaker Ladbrokes and the Dutch gambling monopoly operator De Lotto. In 2002 Ladbrokes was restricted from accepting sports bets from Dutch citizens.

The Hoge Raad referred three questions to the ECJ:

- First, the court request to know whether under European law is it allowed to make the offering of gambling attractive through the introduction of new games and through advertising in order to keep (potential) gamblers away from illegal offerings?
- Moreover, the Dutch court asks whether the national judge has to decide in every case whether the application of the national gambling policy (e.g. in this case an order to block a website) is justified in each specific case?
- Finally, the court inquires about the relevance of a license issued in another Member State: Can a Member State, on the basis of a closed licensing system, prevent the offering of gambling via the Internet by an operator who is licensed in another Member State?

Irrespective of this referral, the European Commission has

already instigated two infringement proceedings against the Netherlands (IP/06/436 and IP/08/330). In the first proceedings, in which the reasoned opinion of the European Commission has already been served, an action against the Netherlands could now be filed with the ECJ.

By reference of the present case to the ECJ, there will be 16 preliminary ruling proceedings pending (eight of which were referred by German administrative courts relating to the critical factual and legal situation in Germany). Most recently, that is during the current year, the Administrative Court of Schleswig, the Regional Court of Porto, the County Court of Linz and the Greek Symvoulío tis Epikrateias have referred betting and gambling cases to the ECJ.