

Operative part of the judgment

The Court:

1. Declares that by failing to adopt, within the prescribed period, the laws, regulations and administrative provisions necessary to comply with Directive 2004/36/EC of the European Parliament and of the Council of 21 April 2004 on the safety of third-country aircraft using Community airports, the Grand Duchy of Luxembourg has failed to fulfil its obligations under that directive;
2. Orders the Grand Duchy of Luxembourg to pay the costs.

(¹) OJ C 247, 20.10.2007.

Reference for a preliminary ruling from the Landesgericht Linz (Austria) lodged on 19 February 2008 — Criminal proceedings against Ernst Engelmann

(Case C-64/08)

(2008/C 116/15)

Language of the case: German

Referring court

Landesgericht Linz

Party to the main proceedings

Ernst Engelmann

Questions referred

1. Is Article 43 EC (Treaty establishing the European Community, in the version of 2 October 1997, most recently amended by the Treaty of 25 April 2005 concerning the accession of the Republic of Bulgaria and Romania to the European Union (OJ 2005 L 157, p. 11)) to be interpreted as precluding a provision which provides that only public limited companies established in the territory of a particular Member State may there operate games of chance in casinos, thereby necessitating the establishment or acquisition of a company limited by shares in that Member State?
2. Are Articles 43 EC and 49 EC to be interpreted as precluding a national monopoly on certain types of gaming, such as games of chance in casinos, if there is no consistent and systematic policy whatsoever in the Member State concerned to limit gaming, inasmuch as national licensed organisers encourage participation in gaming — such as public sports betting and lotteries — and advertise such gaming (on televi-

sion and in newspapers and magazines) in a manner which goes as far as offering a cash payment for a lottery ticket shortly before the lottery draw is made ('TOI TOI TOI — Believe in luck!')?

3. Are Articles 43 EC and 49 EC to be interpreted as precluding a provision under which all licences granting the right to operate games of chance and casinos are issued for a period of 15 years on the basis of a scheme under which Community competitors (not belonging to that Member State) are excluded from the tendering procedure?

Action brought on 20 February 2008 — Commission of the European Communities v Grand Duchy of Luxembourg

(Case C-70/08)

(2008/C 116/16)

Language of the case: French

Parties

Applicant: Commission of the European Communities (represented by: G. Rozet and J. Enegren, Agents)

Defendant: Grand Duchy of Luxembourg

Form of order sought

- declare that, by failing to adopt the laws, regulations and administrative provisions necessary to comply with Council Directive 2003/72/EC of 22 July 2003 supplementing the Statute for a European Cooperative Society with regard to the involvement of employees (¹), or by not ensuring that management and labour introduce the required provisions by way of agreement, or, in any case, by failing to communicate those measures to the Commission, the Grand Duchy of Luxembourg has failed to fulfil its obligations under Article 16(1) of that directive;
- order the Grand Duchy of Luxembourg to pay the costs.

Pleas in law and main arguments

The time-limit for transposition of Directive 2003/72/EC expired on 18 August 2006.

(¹) OJ 2003 L 207, p. 25.