

# Title: 'Online gambling and EU Law'

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## Abstract

This paper will discuss recent case law of the European Court of Justice(ECJ) on the compatibility of Member States' laws on online gambling and betting with the fundamental freedoms of the European Union. The regulation of online gambling plays a very important role in the area of internal market. In Case C-42/07 *Liga Portuguesa de Futebol Profissional*, the ECJ stated that the freedom to provide services does not preclude legislation of a Member State, which prohibits operators such as Bwin International Ltd, which are established in other Member States, in which they lawfully provide similar services, from offering games of chance via the internet within the territory of that Member State. Admittedly, such legislation gives rise to a restriction of the freedom to provide services enshrined in Article 49 EC, by also imposing a restriction on the freedom of the residents of the Member State concerned to enjoy, via the internet, services which are offered in other Member States. However, in the light of the specific features associated with the provision of games of chance via the internet, the restriction at issue may be regarded as justified by the objective of combating fraud and crime. The grant of exclusive rights to operate games of chance via the internet to a single operator which is subject to strict control by the public authorities may confine the operation of gambling within controlled channels and be regarded as appropriate for the purpose of protecting consumers against fraud on the part of operators. This paper will examine how this case interacts with subsequent case law of the ECJ, as well as with the national legal frameworks on gambling. Member States retain their regulatory autonomy in the field of gambling and this might create problems in cross-border gambling activities. Online gambling constitutes the most common exercise of these cross-border gambling activities. This paper will criticize the ECJ's approach which does not result in market integration. It will seek to draw some conclusions on the market-making effects of the ECJ's case law on online gambling.

Thomas Papadopoulos is a visiting researcher at Harvard Law School. He received his DPhil in Law (PhD in Law) from the Faculty of Law, University of Oxford. He received a degree of Magister Juris(MJur/LLM) and a degree of MPhil in Law from the Faculty of Law, University of Oxford. He also received his LLB with Distinction (ranked 1st) from the Department of Law, Aristotle University of Thessaloniki, Greece. He is an alumnus of the Anatolia American College of Thessaloniki, Greece. Furthermore, he is Attorney at law (Greece), North Atlantic Treaty Organization (NATO) Scholar and Scholar of the A.G. Leventis Foundation, Paris. He is a part-time law lecturer at the Law School, University of Buckingham and a law tutor at the Oxford University Programme for Undergraduate Studies(OPUS), University of Oxford, UK. Additionally, he was Academic Student Coordinator of the Financial Law Discussion Group, Faculty of Law, University of Oxford. Moreover, he is a contributor to 'Law of the European Union' edited by D. Vaughan, A. Robertson, P. Eleftheriadis and published by Oxford University Press (2008). He participated in workshops of the Technical Assistance and Information Exchange instrument (TAIEX) managed by the Directorate-General Enlargement of the European Commission. E-mail: [thomas.papadopoulos@yahoo.com](mailto:thomas.papadopoulos@yahoo.com) or [thomas.papadopoulos@bnc.oxon.org](mailto:thomas.papadopoulos@bnc.oxon.org).