JUDGMENT OF THE COURT

24 March 1994 *

In Case C-275/92,

REFERENCE to the Court under Article 177 of the EEC Treaty by the High Court of Justice of England and Wales (Queen's Bench Division) for a preliminary ruling in the proceedings pending before that court between

Her Majesty's Customs and Excise

and

Gerhart Schindler

Jörg Schindler

on the interpretation of Articles 30, 36, 56 and 59 of the EEC Treaty,

* Language of the case: English.

THE COURT,

composed of: O. Due, President, G. F. Mancini, J. C. Moitinho de Almeida and M. Díez de Velasco (Presidents of Chambers), C. N. Kakouris, F. A. Schockweiler, G. C. Rodríguez Iglesias, F. Grévisse (Rapporteur), M. Zuleeg, P. J. G. Kapteyn and J. L. Murray, Judges,

Advocate General: C. Gulmann,
Registrar: L. Hewlett, Administrator,

after considering the written observations submitted on behalf of:

— Gerhart and Jörg Schindler, by Mark Brealey, Barrister,

— the Belgian Government, by Jan Devadder, Principal Director in the Ministry of Foreign Affairs, Foreign Trade and Cooperation with Developing Countries, acting as Agent, and Ph. Vlaemminck, of the Ghent Bar,

— the Danish Government, by Jørgen Molde, Legal Adviser at the Ministry of Foreign Affairs, acting as Agent,

— the German Government, by Ernst Röder, Ministerialrat in the Federal Ministry of Economic Affairs, acting as Agent,

— the Greek Government, by Vassileios Kontolaimos, Assistant Legal Adviser, and Ioannis Chalkias, legal representative, of the State Legal Service, acting as Agents,

— the Spanish Government, by Alberto Navarro González, Director General for Community Legal and Institutional Coordination, and Miguel Bravo-Ferrer Delgado, State Attorney in the Legal Department for Matters before the Court of Justice, acting as Agents,

— the French Government, by Philippe Pouzoulet, Deputy Director in the Legal Affairs Directorate of the Ministry of Foreign Affairs, and Hélène Duchène, Secretary of Foreign Affairs, acting as Agents,

— the Luxembourg Government, by Charles Elsen, Principal Government Adviser, acting as Agent, assisted by René Diederich, of the Luxembourg Bar,

— the Netherlands Government, by A. Bos, Legal Adviser in the Ministry of Foreign Affairs, acting as Agent,

— the United Kingdom, by Susan Cochrane, Treasury Solicitor's Department, acting as Agent, and David Pannick QC, of the Bar of England and Wales,

— the Commission of the European Communities, by Richard Wainwright, Legal Adviser, and Arnold Ridout, a United Kingdom civil servant on secondment to the Legal Service of the Commission, acting as Agents,

having regard to the Report for the Hearing,

after hearing the oral observations of the defendants, the Belgian Government, the German Government, the Greek Government, the Spanish Government, the French Government, the Irish Government, represented by Mary Finlay, Senior

Counsel, acting as Agent, the Luxembourg Government, the Netherlands Government, represented by J. W. de Zwaan, Assistant Legal Adviser at the Ministry of Foreign Affairs, acting as Agent, the Portuguese Government, represented by Luis Fernandes, Director of the Legal Service of the Directorate-General of the European Communities of the Ministry of Foreign Affairs, and Rogério Leitão, Professor at the Institute of European Studies of the University of Lusíada, acting as Agents, the United Kingdom, represented by John E. Collins, Assistant Treasury Solicitor, acting as Agent, and Stephen Richards, Barrister, and the Commission of the European Communities, at the hearing on 22 September 1993,

after hearing the Opinion of the Advocate General at the sitting on 16 December 1993,

gives the following

Judgment

1 By order of 3 April 1992, received at the Court on 18 June 1992, the High Court of Justice of England and Wales (Queen's Bench Division) referred to the Court for a preliminary ruling under Article 177 of the EEC Treaty six questions on the interpretation of Articles 30, 36, 56 and 59 of the Treaty in order to determine whether national legislation prohibiting the holding of certain lotteries in a Member State was compatible with those provisions.

2 Those questions were raised in the course of proceedings between the Commissioners of Customs and Excise (hereinafter 'the Commissioners'), plaintiffs in the main proceedings, and Gerhart and Jörg Schindler concerning the dispatch of advertisements and application forms for a lottery organized in the Federal Republic of Germany to United Kingdom nationals.

3 Gerhart and Jörg Schindler are independent agents of the 'Süddeutsche Klassenlotterie' (hereinafter 'SKL'), a public body responsible for organizing what are known as 'Class' lotteries on behalf of four *Länder* of the Federal Republic of Germany. As such agents, they promote SKL lotteries and unquestionably sell tickets for those lotteries.

4 Gerhart and Jörg Schindler dispatched envelopes from the Netherlands to United Kingdom nationals. Each envelope contained a letter inviting the addressee to participate in the 87th issue of the SKL, application forms for participating in that lottery and a pre-printed reply envelope.

5 The envelopes were intercepted and confiscated by the Commissioners at Dover Postal Depot on the ground that they had been imported in breach of section 1 (ii) of the Revenue Act 1898 in conjunction with section 2 of the Lotteries and Amusements Act 1976, before their amendment by the National Lottery etc. Act 1993.

6 Section 1 of the Revenue Act 1898 as then in force provided:

'The importation of the following articles is prohibited, that is to say: -

(i) ...

(ii) Any advertisement or other notice of, or relating to, the drawing or intended drawing of any lottery, which, in the opinion of the Commissioners of Customs and Excise is imported for the purpose of publication in the United Kingdom, in contravention of any Act relating to lotteries.'

7 Section 1 of the Lotteries and Amusements Act 1976 prohibits lotteries which do not constitute gaming within the meaning of the United Kingdom legislation on gaming (in particular the Gaming Act 1968), namely the distribution of winnings in money or money's worth on the basis of chance where money has been staked by the players. However, by way of exception to that prohibition, the law permits certain types of lottery, mainly small-scale lotteries for charitable and similar purposes.

8 According to the order for reference, the 87th issue of the SKL was prohibited by virtue of those provisions.

9 Section 2 of the Act of 1976 as then in force provided:

'... every person who in connection with any lottery promoted or proposed to be promoted either in Great Britain or elsewhere —

...

(d) brings, or invites any person to send, into Great Britain for the purpose of sale or distribution any ticket in, or advertisement of, the lottery; or

(e) sends or attempts to send out of Great Britain any money or valuable thing received in respect of the sale or distribution, or any document recording the sale or distribution, or the identity of the holder, of any ticket or chance in the lottery; or

...

(g) causes, procures or attempts to procure any person to do any of the above-mentioned acts,

shall be guilty of an offence.'

10 In proceedings brought by the Commissioners for condemnation of the items seized, Gerhart and Jörg Schindler, defendants in the main proceedings, argued before the High Court of Justice that section 1 (ii) of the Revenue Act 1898 and section 2 of the Lotteries and Amusements Act 1976 were incompatible with Article 30, or in the alternative Article 59, of the Treaty since they prohibited the importation into a Member State of tickets, letters and application forms relating to a lottery lawfully conducted in another Member State.

11 The Commissioners contended that tickets and advertisements for a lottery did not constitute 'goods' within the meaning of the Treaty, that neither Article 30 nor Article 59 of the Treaty applied to the prohibition on importation in the United Kingdom legislation since that legislation applied to all large-scale lotteries whatever their origin and that in any event the prohibition was justified by the United Kingdom Government's concern to limit lotteries for social policy reasons and to prevent fraud.

12 Considering that resolution of that dispute required an interpretation of Community law, the High Court of Justice stayed the proceedings and referred the following questions to the Court:

'(1) Do tickets in, or advertisements for, a lottery which is lawfully conducted in another Member State constitute goods for the purposes of Article 30 of the Treaty of Rome?

(2) If so, does Article 30 apply to the prohibition by the United Kingdom of the importation of tickets or advertisements for major lotteries, given that the restrictions imposed by United Kingdom law on the conduct of such lotteries within the United Kingdom apply without discrimination on grounds of nationality and irrespective of whether the lottery is organized from outside or within the United Kingdom?

(3) If so, do the concerns of the United Kingdom to limit lotteries for social policy reasons and to prevent fraud constitute legitimate public policy or public morality considerations to justify the restrictions of which complaint is made, whether under Article 36 or otherwise, in the circumstances of the present case?

(4) Does the provision of tickets in, or the sending of advertisements for, a lottery which is lawfully conducted in another Member State constitute the provision of services for the purposes of Article 59 of the Treaty of Rome?

(5) If so, does Article 59 apply to the prohibition by the United Kingdom of the importation of tickets or advertisements for major lotteries, given that the restrictions imposed by United Kingdom law on the conduct of such lotteries within the United Kingdom apply without discrimination on grounds of nationality and irrespective of whether the lottery is organized from outside or within the United Kingdom?

(6) If so, do the concerns of the United Kingdom to limit lotteries for social policy reasons and to prevent fraud constitute legitimate public policy or public

morality considerations to justify the restrictions of which complaint is made, whether under Article 56 read with Article 66 or otherwise, in the circumstances of the present case?'

13 Read in the light of the arguments adduced before it by the parties to the main proceedings and the reasons given in its order for reference, the question put by the national court is essentially whether Articles 30 and 59 of the Treaty preclude the legislation of a Member State from prohibiting, subject to exceptions, lotteries in its territory — as does the United Kingdom legislation — and consequently the importation of material intended to enable its residents to participate in foreign lotteries.

14 The first and fourth questions are put by the national court to ascertain whether the importation of lottery advertisements and tickets into a Member State with a view to the participation by residents of that State in a lottery operated in another Member State constitutes an importation of goods and falls under Article 30 of the Treaty or whether such an activity amounts to a provision of services which as such comes within the scope of Article 59 of the Treaty.

15 In those circumstances, those two questions should be considered together.

The first and fourth questions

16 In assessing whether Articles 30 and 59 of the Treaty apply, the Belgian, German, Irish, Luxembourg and Portuguese Governments argue that lotteries are not an 'economic activity' within the meaning of the Treaty. They submit that lotteries have traditionally been prohibited in the Member States, or are operated either

directly by the public authorities or under their control, solely in the public interest. They consider that lotteries have no economic purpose since they are based on chance. In any case, lotteries are in the nature of recreation or amusement rather than economic. The Belgian and Luxembourg Governments add that it is clear from Council Directive 75/368/EEC of 16 June 1975 on measures to facilitate the effective exercise of freedom of establishment and freedom to provide services in respect of various activities (ex ISIC Division 01 to 85) and, in particular, transitional measures in respect of those activities (Official Journal 1975 L 167, p. 22) that lotteries fall outside the scope of the Treaty except where they are operated by individuals with a view to profit.

17 The Spanish, French and United Kingdom Governments and the Commission argue that operating lotteries is a 'service' within the meaning of Article 60 of the Treaty. They submit that such an activity relates to services normally provided for remuneration to the operator of the lottery or to the participants in it, but not covered by the rules on the free movement of goods.

18 Finally, the defendants in the main proceedings argue that their activity comes within the scope of Article 30 of the Treaty. They submit that the advertisements and documents announcing or concerning a lottery draw are 'goods' within the meaning of the Treaty, that is to say in accordance with the Court's definition in Joined Cases 60 and 61/84 *Cinéthèque* v *Fédération Nationale des Cinémas Français* [1985] ECR 2605 they are manufactured material objects.

19 Since some governments argue that lotteries are not 'economic activities' within the meaning of the Treaty, it must be made clear that the importation of goods or the provision of services for remuneration (see on the latter point the judgments in

Case 13/76 *Donà* v *Mantero* [1976] ECR 1333, at paragraph 12, and Case 196/87 *Steymann* v *Staatssecretaris van Justitie* [1988] ECR 6159, at paragraph 10) are to be regarded as 'economic activities' within the meaning of the Treaty.

20 That being so, it will be sufficient to consider whether lotteries fall within the scope of one or other of the articles of the Treaty referred to in the order for reference.

21 The national court asks whether lotteries fall, at least in part, within the ambit of Article 30 of the Treaty to the extent that they involve the large-scale sending and distribution, in this case in another Member State, of material objects such as letters, promotional leaflets or lottery tickets.

22 The activity pursued by the defendants in the main proceedings appears, admittedly, to be limited to sending advertisements and application forms, and possibly tickets, on behalf of a lottery operator, SKL. However, those activities are only specific steps in the organization or operation of a lottery and cannot, under the Treaty, be considered independently of the lottery to which they relate. The importation and distribution of objects are not ends in themselves. Their sole purpose is to enable residents of the Member States where those objects are imported and distributed to participate in the lottery.

23 The point relied on by Gerhart and Jörg Schindler, that on the facts of the main proceedings agents of the SKL send material objects into Great Britain in order to advertise the lottery and sell tickets therein, and that material objects which have been manufactured are goods within the meaning of the Court's case-law, is not sufficient to reduce their activity to one of exportation or importation.

24 Lottery activities are thus not activities relating to 'goods', falling, as such, under Article 30 of the Treaty.

25 They are however to be regarded as 'services' within the meaning of the Treaty.

26 The first paragraph of Article 60 of the Treaty provides:

'Services shall be considered to be "services" within the meaning of this Treaty where they are normally provided for remuneration, in so far as they are not governed by the provisions relating to freedom of movement for goods, capital and persons.'

27 The services at issue are those provided by the operator of the lottery to enable purchasers of tickets to participate in a game of chance with the hope of winning, by arranging for that purpose for the stakes to be collected, the draws to be organized and the prizes or winnings to be ascertained and paid out.

28 Those services are normally provided for remuneration constituted by the price of the lottery ticket.

29 The services in question are cross-border services when, as in the main proceedings, they are offered in a Member State other than that in which the lottery operator is established.

30 Finally, lotteries are governed neither by the Treaty rules on the free movement of goods (see paragraph 24 above), nor by the rules on the free movement of persons, which concern only movements of persons, nor by the rules on free movement of capital, which concern only capital movements though not all monetary transfers necessary to economic activities (see the judgment in Case 7/78 *Regina* v *Thompson* [1978] ECR 2247).

31 Admittedly, as some Member States point out, lotteries are subject to particularly strict regulation and close control by the public authorities in the various Member States of the Community. However, they are not totally prohibited in those States. On the contrary, they are commonplace. In particular, although in principle lotteries are prohibited in the United Kingdom, small-scale lotteries for charitable and similar purposes are permitted, and, since the enactment of the appropriate law in 1993, so is the national lottery.

32 In these circumstances, lotteries cannot be regarded as activities whose harmful nature causes them to be prohibited in all the Member States and whose position under Community law may be likened to that of activities involving illegal products (see, in relation to drugs, the judgment in Case 294/82 *Einberger* v *Hauptzollamt Freiburg* [1984] ECR 1177) even though, as the Belgian and Luxembourg Governments point out, the law of certain Member States treats gaming contracts as void. Even if the morality of lotteries is at least questionable, it is not for the Court to substitute its assessment for that of the legislatures of the Member States where that activity is practised legally (see the judgment in Case C-159/90 *Society for the Protection of Unborn Children Ireland* [1991] ECR I-4685, at paragraph 20).

33 Some governments stress the chance character of lottery winnings. However, a normal lottery transaction consists of the payment of a sum by a gambler who

hopes in return to receive a prize or winnings. The element of chance inherent in that return does not prevent the transaction having an economic nature.

34 It is also the case that, like amateur sport, a lottery may provide entertainment for the players who participate. However, that recreational aspect of the lottery does not take it out of the realm of the provision of services. Not only does it give the players, if not always a win, at least the hope of a win, it also yields a gain for the operator. Lotteries are operated by private or public persons with a view to profit since, in most cases, not all the money staked by the participants is redistributed as prizes or winnings.

35 Although in many Member States the law provides that the profits made by a lottery may be used only for certain purposes, in particular in the public interest, or may even be required to be paid into the State budget, the rules on the allocation of profits do not alter the nature of the activity in question or deprive it of its economic character.

36 Finally, in excluding from its ambit lottery activities other than those conducted by individuals with a view to profit, Directive 75/368, mentioned above, did not thereby deny those activities the character of 'services'. The sole object of that directive is to make it easier, by way of transitional measures, for nationals of other Member States to pursue specified activities as self-employed persons. Thus, neither the object nor the effect of the directive is, or indeed could have been, to exclude lotteries from the scope of Articles 59 and 60 of the Treaty.

37 Consequently, the reply to be given to the first and fourth questions should be that the importation of lottery advertisements and tickets into a Member State with a view to the participation by residents of that State in a lottery operated in another

Member State relates to a 'service' within the meaning of Article 60 of the Treaty and accordingly falls within the scope of Article 59 of the Treaty.

The second and third questions

38 It is clear from their wording that the national court's second and third questions are put only if the activity in issue in the main proceedings falls within the scope of Article 30 of the Treaty. Since that is not the case, those questions do not call for a reply.

The fifth question

39 The essence of the national court's fifth question is whether national legislation which, like the United Kingdom legislation on lotteries, prohibits, subject to specified exceptions, the holding of lotteries in a Member State constitutes an obstacle to the freedom to provide services.

40 The Commission and the defendants in the main proceedings argue that, on any view of the matter, such legislation, being in fact discriminatory, restricts the freedom to provide services.

41 The Spanish, French, Greek and United Kingdom Governments accept that such legislation may restrict freedom to provide services even though it is applicable without distinction.

42 The Belgian and Luxembourg Governments submit that legislation such as the United Kingdom legislation does not restrict freedom to provide services because it is applicable without distinction.

43 According to the case-law of the Court (see the judgment in Case C-76/90 *Säger* v *Dennemeyer* [1991] ECR I-4221, at paragraph 12) national legislation may fall within the ambit of Article 59 of the Treaty, even if it is applicable without distinction, when it is liable to prohibit or otherwise impede the activities of a provider of services established in another Member State where he lawfully provides similar services.

44 It is sufficient to note that this is the case with national legislation such as the United Kingdom legislation on lotteries which wholly precludes lottery operators from other Member States from promoting their lotteries and selling their tickets, whether directly or through independent agents, in the Member State which enacted that legislation.

45 Accordingly, the reply to the fifth question should be that national legislation which, like the United Kingdom legislation on lotteries, prohibits, subject to specified exceptions, the holding of lotteries in a Member State is an obstacle to the freedom to provide services.

The sixth question

46 The national court's sixth question raises the issue whether the Treaty provisions relating to the freedom to provide services preclude legislation such as the United Kingdom lotteries legislation, where there are concerns of social policy and of the prevention of fraud to justify it.

47 First, as the national court states, legislation such as the United Kingdom legislation involves no discrimination on the basis of nationality and must consequently be regarded as being applicable without distinction.

48 It is common ground that a prohibition such as that laid down in the United Kingdom legislation, which applies to the operation of large-scale lotteries and in particular to the advertising and distribution of tickets for such lotteries, applies irrespective of the nationality of the lottery operator or his agents and whatever the Member State or States in which the operator or his agents are established. It does not therefore discriminate on the basis of the nationality of the economic agents concerned or of the Member State in which they are established.

49 The Commission and the defendants in the main proceedings argue, however, that legislation such as the United Kingdom lotteries legislation is in fact discriminatory. They submit that, although such legislation prohibits large lotteries in the United Kingdom in an apparently non-discriminatory manner, it permits the simultaneous operation by the same person of several small lotteries, which is equivalent to one large lottery and further the operation of games of chance which are comparable in nature and scale to large lotteries, such as football pools or 'bingo'.

50 It is true that the prohibition in question in the main proceedings does not apply to all types of lottery, small-scale lotteries not conducted for private gain being permitted in the national territory and the prohibition being set in the more general context of the national legislation on gambling which permits certain forms of gambling similar to lotteries, such as football pools or 'bingo'.

51 However, even though the amounts at stake in the games so permitted in the United Kingdom may be comparable to those in large-scale lotteries and even though those games involve a significant element of chance they differ in their object, rules and methods of organization from those large-scale lotteries which were established in Member States other than the United Kingdom before the enactment of the National Lottery etc. Act 1993. They are therefore not in a comparable situation to the lotteries prohibited by the United Kingdom legislation and, contrary to the arguments of the Commission and the defendants in the main proceedings, cannot be assimilated to them.

52 In those circumstances legislation such as the United Kingdom legislation cannot be considered to be discriminatory.

53 That leads to the question whether Article 59 of the Treaty precludes such legislation which, although not discriminatory, nonetheless as stated above at paragraph 45 restricts the freedom to provide services.

54 All the governments which have submitted observations consider that legislation such as that at issue is compatible with Article 59 of the Treaty. They argue that the legislation must be regarded as justified by overriding public interest considerations of consumer protection, prevention of crime, protection of public morality, restriction of demand for gambling and the financing of public interest activities. They consider, furthermore, that such legislation is proportionate to the objectives pursued thereby.

55 In contrast the Commission considers that although it is based on overriding public interest considerations a prohibition on lotteries such as that provided under United Kingdom law is not compatible with Article 59 of the Treaty since the objectives it pursues may be achieved by less restrictive measures.

56 The defendants in the main proceedings argue for their part that the reasons invoked to justify the prohibition at issue cannot constitute overriding considerations of public interest since legislation such as the United Kingdom legislation does not contain an equivalent prohibition of gambling of the same nature as large-scale lotteries.

57 According to the information provided by the referring court, the United Kingdom legislation, before its amendment by the 1993 Act establishing the national lottery, pursued the following objectives: to prevent crime and to ensure that gamblers would be treated honestly; to avoid stimulating demand in the gambling sector which has damaging social consequences when taken to excess; and to ensure that lotteries could not be operated for personal and commercial profit but solely for charitable, sporting or cultural purposes.

58 Those considerations, which must be taken together, concern the protection of the recipients of the service and, more generally, of consumers as well as the maintenance of order in society. The Court has already held that those objectives figure among those which can justify restrictions on freedom to provide services (see the judgments in Joined Cases 110 and 111/78 *Ministère Public* v *Van Wesemael* [1979] ECR 35, at paragraph 28; Case 220/83 *Commission* v *France* [1986] ECR 3663, at paragraph 20; Case 15/78 *Société Générale Alsacienne de Banque* v *Koestler* [1978] ECR 1971, at paragraph 5).

59 Given the peculiar nature of lotteries, which has been stressed by many Member States, those considerations are such as to justify restrictions, as regards Article 59 of the Treaty, which may go so far as to prohibit lotteries in a Member State.

60 First of all, it is not possible to disregard the moral, religious or cultural aspects of lotteries, like other types of gambling, in all the Member States. The general tendency of the Member States is to restrict, or even prohibit, the practice of

gambling and to prevent it from being a source of private profit. Secondly, lotteries involve a high risk of crime or fraud, given the size of the amounts which can be staked and of the winnings which they can hold out to the players, particularly when they are operated on a large scale. Thirdly, they are an incitement to spend which may have damaging individual and social consequences. A final ground which is not without relevance, although it cannot in itself be regarded as an objective justification, is that lotteries may make a significant contribution to the financing of benevolent or public interest activities such as social works, charitable works, sport or culture.

61 Those particular factors justify national authorities having a sufficient degree of latitude to determine what is required to protect the players and, more generally, in the light of the specific social and cultural features of each Member State, to maintain order in society, as regards the manner in which lotteries are operated, the size of the stakes, and the allocation of the profits they yield. In those circumstances, it is for them to assess not only whether it is necessary to restrict the activities of lotteries but also whether they should be prohibited, provided that those restrictions are not discriminatory.

62 When a Member State prohibits in its territory the operation of large-scale lotteries and in particular the advertising and distribution of tickets for that type of lottery, the prohibition on the importation of materials intended to enable nationals of that Member State to participate in such lotteries organized in another Member State cannot be regarded as a measure involving an unjustified interference with the freedom to provide services. Such a prohibition on import is a necessary part of the protection which that Member State seeks to secure in its territory in relation to lotteries.

63 Accordingly, the reply to be given to the sixth question must be that the Treaty provisions relating to freedom to provide services do not preclude legislation such

as the United Kingdom lotteries legislation, in view of the concerns of social policy and of the prevention of fraud which justify it.

Costs

64 The costs incurred by the Belgian, Danish, German, Greek, Spanish, French, Irish, Luxembourg, Netherlands, Portuguese and United Kingdom Governments and the Commission of the European Communities, which have submitted observations to the Court, are not recoverable. Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court.

On those grounds,

THE COURT,

in answer to the questions referred to it by the High Court of Justice (Queen's Bench Division, Commercial Court) by order of 3 April 1992, hereby rules:

1) The importation of lottery advertisements and tickets into a Member State with a view to the participation by residents of that State in a lottery operated in another Member State relates to a 'service' within the meaning of Article 60 of the Treaty and accordingly falls within the scope of Article 59 of the Treaty;

2) National legislation which, like the United Kingdom legislation on lotteries, prohibits, subject to specified exceptions, the holding of lotteries in a Member State is an obstacle to the freedom to provide services;

3) The Treaty provisions relating to freedom to provide services do not preclude legislation such as the United Kingdom lotteries legislation, in view of the concerns of social policy and of the prevention of fraud which justify it.

Due Mancini Moitinho de Almeida

Díez de Velasco Kakouris Schockweiler

Rodríguez Iglesias Grévisse Zuleeg

Kapteyn Murray

Delivered in open court in Luxembourg on 24 March 1994.

R. Grass
Registrar

O. Due
President