European Court of Justice: Human Dignity Is a Basic Right Protected by the Constitution

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In its judgment of 14 October 2004 in the case of Omega GmbH v. Bundesstadt Bonn, the Court of Justice of the European Communities answered the questions referred to it for a preliminary ruling by the Bundesverwaltungsgericht (Federal Administrative Court).

The main proceedings concern the question whether the service provided by Omega Spielhallen- und Automatenaufstellungs GmbH could be prohibited on the grounds that it violated human dignity (for a detailed description of the "Laserdrome" installation, see IRIS 2004-6: 3). The Bundesverwaltungsgericht raised the question in light of the fact that the prohibition order issued by the Oberbürgermeisterin of Bonn was based on grounds of public order, which, in the area of freedom of services relevant in this case, are subject to control in relation to Community law. The specific question referred to the ECJ was whether a common legal conception in all Member States was a precondition for one of those States being enabled to restrict the basic freedom. The ECJ followed the line of argument of the Advocate General, namely that human dignity was one of the general principles of law recognised by the Community as in need of protection, and that the measure taken in this context fulfilled the conditions for justifying the service restriction. According to the ECJ, this finding was not incompatible with the fact that the activity in question, which involved using laser guns to simulate homicide, was not subject to any restrictions in the United Kingdom. Omega had imported the Laserdrome concept as a service provider from a firm in the United Kingdom.

Urteil des Gerichtshofes (Erste Kammer) vom 14. Oktober 2004, C-36/02, Omega Spielhallen- und Automatenaufstellungs-GmbH gegen Oberbürgermeisterin der Bundesstadt Bonn.

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Court of Justice of the European Communities, Judgment of 14 October 2004, C-36/02, Omega Spielhallen- und Automatenaufstellungs GmbH v. Oberbürgermeisterin der Bundesstadt Bonn

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