European Commission: Infringement Procedure Concerning Gambling Legislation

IRIS 2008-3:1/8

Nicola Lamprecht-Weißenborn
Cologne Media Law Research Centre

The European Commission has officially requested Germany to submit information on national legislation restricting the supply of gambling services, the first step in an infringement procedure under Article 226 of the EC Treaty. The European Commission wishes to investigate the possible infringement of Articles 43, 49 and 56 of the Treaty.

The Commission's inquiry focuses on a number of provisions of the new *Glücksspiel-Staatsvertrag* (Inter-State Gambling Agreement), which entered into force on 1 January 2008 having been agreed by the Minister-Presidents of the *Bundesländer* in December 2006. Under the new rules, private gambling services are subject to numerous restrictions. These include a ban on public games of chance on the Internet. Advertising for games of chance on TV, the Internet and via telephone is prohibited and is also restricted in terms of content. Private lotteries, sports betting and casinos are largely forbidden.

The Commission wishes to verify whether the measures in question are compatible with the internal market rules set out in the EC Treaty. It is particularly concerned about the total ban on games of chance on the Internet. The Commission had submitted detailed opinions to Germany concerning sports betting in March and May 2007. It had criticised the ban on public games of chance on the Internet, describing them as inappropriate and disproportionate for the achievement of the relevant objectives. In its recent request for information, the Commission refers, in particular, to case law of the European Court of Justice that states that any restrictions on gambling that seek to protect general interest objectives, such as consumer protection, and must be "consistent and systematic" in how they seek to limit activities (see Placanica, C-338/04, C-359/04 and C-360/04). The Commission adds that a member state cannot invoke the need to restrict its citizens' access to gambling services if at the same time it encourages them to participate in State games of chance. The Commission notes, for example, that horse race betting on the Internet is allowed in Germany, as is the advertising of games of chance by mail, in the press and on the radio.

Germany now has two months in which to respond.

European Commission press release of 31 January 2008 (IP/08/119)

© European Audiovisual Observatory (Council of Europe) 2026

http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/119&format=HTML&aged=0&language=EN&guiLanguage=en

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026