

PRESS RELEASE

For immediate release

Highest EU Court: State monopoly for internet gambling compliant with EU law

- *EU Member States can ban foreign online gambling operators such as Bwin, even if they are based and licensed in another EU Member State*
- *Clear and undisputable ruling by the highest EU Court*
- *Great victory for national governments and state lotteries*
- *Ruling puts end to online gambling hubs such as Gibraltar, Malta and the Channel Islands*

Luxembourg/Brussels, 8 September 2009 – Today the European Court of Justice has issued its much awaited ruling on the case (C-42/07) opposing the Portuguese Professional Football League 'Liga Portuguesa' and commercial online operator *bwin* against the Portuguese national lottery, Departamento de Jogos da Santa Casa da Misericórdia de Lisboa, a member of European Lotteries (**EL**).

For the first time, the Court explicitly confirmed that national governments can grant such a state monopoly not only for traditional land-based gambling and but **also for gambling via the Internet** and other electronic means of communication.

EL-President Friedrich Stickler welcomed the judgment: "Today's ruling by the highest European Court explicitly states that **governments can prohibit commercial online gambling operators** such as *bwin* from offering games of chance via the internet to their citizens, **even when these operators are based and licensed in another EU Member State.**"

ENDS

For further information please contact:

Friedrich Stickler, **EL** President and deputy CEO of Austrian Lotteries (English, German, French) Tel. +43.1.79070.1300, friedrich.stickler@lotterien.at

Rupert Hornig, **EL** General Delegate, EL (English, German, French)
Tel: + 32.(0)2.234.38.20, eu.representation@european-lotteries.org

Philippe Vlaemminck/Annick Hubert, EL legal advisors (French, Dutch, English)
Tel: + 32.(0)2.787.97.10, pv@vlaemminck.com; ah@vlaemminck.com

European Lotteries (EL) is the European umbrella organisation of national lotteries operating games of chance for the public benefit. EL has members from over 40 European countries including all 27 EU Member States. The association's EU members contribute more than 20 billion EUR p.a. to the state budgets and the funding of sport, culture, social projects, research and other causes of general interest. Unlike many commercial online gambling operators, EL members only offer gambling and betting services in the jurisdictions in which they are licensed by the respective national government.

Notes to the editor:

Key points/sections of the ruling:

- Court confirms previous case law: Member States are free to set their own policy objectives on betting and gambling and define in detail the level of protection they deem appropriate for their citizens (§59 of the judgment).

- Limited authorization of games on an exclusive basis has the advantage of confining operation of gambling within controlled channels and prevention of fraud (§ 64).
- Court even extends previous case law on the validity of a monopoly to **internet** monopolies (§ 67): grant of exclusive rights to operate games via the internet to a single operator, which is subject to strict control by the public authorities may confine operation of gambling within controlled channels.
- **For the first time, the application of the principle of mutual recognition in the gambling sector is explicitly denied** (§ 69): in the absence of harmonization, *an operator such as Bwin which lawfully offers its services via Internet in another MS, in which it is established and where it was already subject to statutory conditions and controls of the competent authorities in that state, cannot be regarded as amounting to a sufficient assurance that national consumers will be protected against the risks of fraud and crime.* The Court goes very far by saying that *the authorities of the Member State of establishment cannot assess sufficiently the professional qualities and integrity of operators.*
- Internet games involve different and more substantial risks of fraud compared with land based games (§ 70)