

## Case C-36/74 Walrave [1974]

**Facts:** Mr Walrave and Mr Koch, Dutch nationals who offered their services for remuneration to act as pacemakers on motorcycles in cycle races with so-called stayers, brought an action against the provision in the rules for world championships of the Union Cycliste Internationale according to which from the year 1973 the pacemaker had to be of the same nationality as the stayer. In connection with these proceedings, the relevant Court referred for a preliminary ruling whether this provision was compatible with Article 7, Article 48 and Article 59 of the EEC Treaty.

**Held:** The practice of sport is subject to Community law only in so far as it constitutes an economic activity. These abovementioned provisions prohibit any discrimination based on nationality in the performance of the activity to which they refer. This prohibition however does not affect the composition of sport teams, in particular national teams, the formation of which is a question of purely sporting interest and as such has nothing to do with economic activity. This restriction must remain limited to its proper objective and it is for the national court to determine the nature of the activity submitted to its judgment and to decide whether the pacemaker and stayer do or do not constitute a team. The main question with regards to the application of Community law is whether the rules of an international sporting federation, that is, a legal act of a person or association who do not come under public law, can be regarded as incompatible with the Treaty. The prohibition on discrimination based on nationality does not only apply to the action of public authorities but extends to rules of any other nature aimed at regulating in a collective manner gainful employment and the provision of services. The abolition as between Member States of obstacles to freedom of movement for persons and to freedom to provide services would be compromised if the abolition of barriers of national origin could be neutralised by obstacles resulting from the exercise of their legal autonomy by associations or organizations which do not come under public law. To limit these prohibitions to acts of a public authority would risk creating inequality in the application among Member States of the above provisions. Therefore, the provisions of Articles 7, 48, and 59 of the Treaty may be taken into account by the national court in judging the validity or the effects of a provision inserted in the rules of a sporting organization. Article 59 comprises an unconditional prohibition, and therefore from the end of the transitional period it creates individual rights which national courts must protect.