

# U.S. Supreme Court Finds RICO Statute Applies to Activity Offshore

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The **U.S. Supreme Court** on June 20, 2016, in ***RJR Nabisco Inc. v. European Community***, 579 U.S. \_\_\_, addressed the application of the ***Racketeer Influenced and Corrupt Organizations Act, RICO***, statute 18 U.S.C. Section 1961 et seq., to activities outside the U.S. and the injury that must be suffered by private litigants in order to recover. This case involved a global money-laundering scheme, wherein drug traffickers smuggled narcotics into Europe and sold the drugs for Euros that through a series of transactions involving black-market money brokers, cigarette importers and wholesalers were used to pay for large shipments of RJR cigarettes into Europe.

First, the Supreme Court decided whether RICO's substantive prohibitions apply to conduct that occurs in foreign countries. The Court emphasized that foreign conduct must violate "a predicate statute that manifests an unmistakable congressional intent to apply extraterritorially". The Court stated that it was clear that RICO was intended to have some extraterritorial effect . The Court determined that the predicate acts of money laundering, material support of foreign terrorist organizations, mail fraud, wire fraud and violations of the Travel Act alleged in the complaint expressly provide for extraterritorial application.

Second, the Supreme Court decided whether RICO's private right of action apply to injuries that are suffered in foreign countries. The Court found that a private RICO plaintiff "must allege and prove a domestic injury to its business or property." Otherwise, the remedy "creates a potential for international friction beyond that presented by merely applying U.S. substantive law to that foreign conduct", including allowing for treble damages.

Therefore, a racketeering action can involve foreign activities, but must result in domestic injuries for a private plaintiff to prevail on its claim.

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