



Press and Information

Court of Justice of the European Union

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Judgment in Case C-98/14

Berlington Hungary Tanácsadó és Szolgáltató Kft. and Others v Magyar Állam

Hungarian legislation which prohibits the operation of slot machines outside casinos may be contrary to the principle of freedom to provide services

When the national legislature revokes a licence that allows its holder to exercise an economic activity, it must provide a reasonable compensation system or a transitional period of sufficient length to enable that holder to adapt

Up until 9 October 2012, slot machines could be operated in Hungary either in casinos or in amusement arcades. Until 31 October 2011, the flat-rate tax on the operation of slot machines amounted to HUF 100 000 (about €324) per playing position per month. As from 1 November 2011, that amount was increased to HUF 500 000 (about €1 620). From that date, the operation of slot machines in amusement arcades was also subject to a proportional tax which, for each playing position, amounted to 20 % of the net quarterly revenue from the machine in excess of HUF 900 000 (about €2 916). The operation of slot machines in casinos was subject to a separate system of taxation, which was not changed in the autumn of 2011.

Under a law adopted on 2 October 2012, the operation of slot machines was restricted to casinos, with effect from 10 October 2012, since then, that activity can no longer be carried out in amusement arcades.

Several companies that operated slot machines in amusement arcades brought an action before the Hungarian courts, claiming that EU law precludes measures which initially increased drastically their tax burdens and then, at a later stage, prohibited, with almost immediate effect, the operation of the machines concerned. Those companies seek compensation for the damage they claim to have suffered as a result of those measures. Those disputes having been brought before it, the Fővárosi Törvényszék (Budapest Municipal Court, Hungary) asked the Court of Justice whether those measures are compatible with EU law.

By today's judgment, the Court finds, first of all, that **national legislation which authorises the operation and playing of certain games of chance only in casinos constitutes a restriction on the freedom to provide services**. Likewise, a measure that drastically increases the amount of taxes levied on the operation of slot machines in amusement arcades can also be considered restrictive if it is liable to prohibit, impede or render less attractive the exercise of the freedom to provide the services of operating slot machines in amusement arcades. In that regard, the Court observes that that would be the case if the national court found that the tax increase prevented profitable operation of slot machines in amusement arcades, thereby effectively restricting it to casinos.

The Court also pointed out that the **objectives pursued by the contested measures**, namely the protection of consumers against gambling addiction and the prevention of crime and fraud linked to gambling, **are, in principle, capable of justifying restrictions on gambling**. Those restrictions must, however, pursue those objectives in a consistent and systematic manner. In that regard, the Court notes that Hungary seems, subject to verification by the referring court, to be pursuing a policy of controlled expansion of gambling activities, which includes the issuing of new casino operating licences in 2014. However, such a policy can only be regarded as pursuing the abovementioned objectives if, **first, it is capable of remedying, in Hungary, a real problem linked to criminal and fraudulent activities concerning gambling and addiction to gambling**

and, secondly, it is not on such a scale as to make it impossible to reconcile with the objective of curbing addiction to gambling, which it is for the national court to determine.

It is also for that court to determine whether the measures at issue comply with the principles of legal certainty and the protection of legitimate expectations and the right to property of amusement arcade operators. In that context, the Court notes that, **when the national legislature revokes licences that allow their holders to exercise an economic activity, it must provide a reasonable compensation system or a transitional period of sufficient length to enable that holder to adapt.**

Finally, the Court points out that, if it is found that there is an unjustified restriction of the freedom to provide services, the operators of amusement arcades could obtain from the Hungarian State compensation for the damage suffered as a result of the infringement of EU law, provided that that infringement is sufficiently serious and there is a direct causal link between that infringement and the damage suffered, which it is for the national court to determine.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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