



Press and Information

Court of Justice of the European Union

PRESS RELEASE No 6/16

Luxembourg, 28 January 2016

Judgment in Case C-375/14
Rosanna Laezza v Italy

National rules on betting and gaming may be contrary to the principle of proportionality if they require the licensee to transfer free of charge the equipment used for the collection of bets

The national court must determine the proportionality of such rules in the light of the conditions specific to the case, such as the market value of the assets which are the subject of the compulsory transfer

Italian law provides that the exercise of the activities of the collecting and managing bets is subject to the requirement to obtain a licence and a police authorisation. Any infringement of that law carries criminal penalties.

In 2002, Italy launched a call for tenders with a view to granting new licences. The draft licence agreement attached to the call for tenders, provided, in particular, that on the expiry, termination or revocation of a licence, the licensee was required to transfer free of charge the rights to use the tangible and intangible assets which constitute the network for managing and collecting bets.

Stanley International Betting, a UK company, and its Maltese subsidiary Stanleybet Malta, are engaged in the collection of bets in Italy through data transmission centres ('DTCs'). For about 15 years DTC owners have carried on their activities in Italy on the contractual basis of a mandate, without any licence or police authorisation.¹

In 2014, a check at the premises of a DTC managed by Ms Rosanna Laezza, affiliated to Stanleybet Malta, brought to light the unauthorised collection of bets. The police therefore seized certain equipment used for the reception and transmission of bets.

In the course of proceedings brought by Ms Laezza seeking the annulment of the order for seizure, the Tribunale di Frosinone (District Court, Frosinone, Italy) asks about the compatibility of the new licences with EU law, in particular, with regard to the obligation imposed on new licensees to transfer free of charge, on the expiry, termination or revocation of the licence, the equipment used to collect bets.

In today's judgment, the Court of Justice states that the obligation to transfer does not appear to be discriminatory in so far as it applies, without distinction, to all the operators who have taken part in the call for tenders launched in 2012.

However, the Court observes that such an obligation may render less attractive the exercise of the activity of collecting bets. The risk of an undertaking having to transfer the rights to use assets in its possession, without any financial consideration, may prevent it from obtaining a return on its investment and, thus, constitute a restriction on the freedom of establishment and the freedom to provide services guaranteed by EU law.

¹Before the Italian courts, the two companies successfully requested the annulment of the latest call for tenders for gaming licences and obtained the organisation of a fresh call for tender in 2012. Cases [C-72/10](#) and [C-77/10](#) Costa and Cifone, see Press Release No. [12/12](#), Case [C-463/13](#) Stanley International Betting and Others, see Press Release No. [10/15](#).

The Court recalls, nonetheless, that the objective of combating criminality linked to betting and gambling is capable of justifying restrictions on fundamental freedoms under those rules, **provided that those restrictions are proportionate, which is for the national court to ascertain.**

As part of the objective of combating criminality linked to betting and gambling, the compulsory transfer of equipment used for the reception and transmission of bets may be justified by the interest in ensuring **the continuation of the lawful activity** of collecting bets, in order to curb the growth of parallel illegal activities.

If the licence agreement is terminated or revoked, the transfer free of charge to the Independent Authority for the Administration of State Monopolies (Agenzia delle dogane e dei Monopoli, 'the CMA') or to another licensee of the rights to use the network for the management and collection of bets may be proportionate.

By contrast, where the cessation of business takes place solely as a result of the expiration of the licence, the principle of proportionality is not necessarily complied with if the objective of the continuity of the authorised activity of the collection of bets may be attained by less restrictive measures (such as a compulsory transfer, but in return for payment of the market price of the assets concerned).

The national court will therefore have to determine whether the principle of proportionality is complied with by taking account, inter alia, of the market value of the assets which are the subject of the compulsory transfer.

Finally, the provision, which provides that the transfer free of charge of the rights to use the assets which constitute the network for managing and collecting bets is to be made only 'at the express request of the CMA' and is not imposed systematically, does not specify the conditions and detailed rules pursuant to which such an express request must be made. It follows that that provision lacks transparency, which is likely to adversely affect the principle of legal certainty.

In any event, the judgment today is concerned only with the compatibility with EU law of the compulsory free-of-charge transfer of assets, and cannot be regarded as being intended to call into question the new licensing system put in place in Italy in 2012 in the betting and gaming sector in its entirety.

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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