



Press and Information

Court of Justice of the European Union

PRESS RELEASE No 139/14

Luxembourg, 22 October 2014

Judgment in Joined Cases C-344/13 and C-367/13
Blanco and Fabretti v Agenzia delle Entrate – Direzione Provinciale I di
Roma – Ufficio Controlli

**By taxing winnings from games of chance obtained in other Member States
although it exempts such winnings obtained on its territory, Italian legislation
restricts the freedom to provide services**

*According to the Court of Justice, that restriction is not justified by a need to prevent money
laundering and compulsive gambling*

In Italy, winnings from casinos are subject to income tax. However, winnings from casinos situated in Italy are exempt from that tax, to the extent that the taxation of winnings paid out by those casinos is included in the tax on entertainment. Ultimately, for people residing in Italy, only winnings obtained in casinos situated abroad are included in the basis of assessment for income tax.

Mr Cristiano Blanco and Mr Pier Paolo Fabretti are accused by the Italian tax authorities of failing to declare various winnings obtained in casinos abroad. They claim that the tax assessments infringe the principle of non-discrimination since winnings made in Italy are exempt from tax. The Italian authorities consider, in turn, that the national legislation is aimed at preventing money laundering abroad and at limiting the flow of capital abroad (or the arrival in Italy) of capital whose origin is uncertain.

Hearing the case, the Commissione tributaria provinciale di Roma (Provincial tax court of Rome, Italy) asks the Court of Justice, first whether national legislation may subject to income tax winnings from games of chance obtained in other Member States whereas those obtained in national casinos are not (existence of a restriction on the freedom to provide services) and second whether reasons of public policy, public security or public health can justify such a difference in treatment.

In today's judgment, **the Court of Justice finds that by exempting from income tax only winnings from games of chance obtained in Italy, Italian legislation has established different tax arrangements depending on whether the winnings are obtained Italy or in other Member States.** It notes that such a difference in tax treatment dissuades players from going to and playing games of chance in other Member States. The fact that gaming providers established in Italy are subject to the tax on entertainment does not rid the Italian legislation of its manifestly discriminatory character, since that tax is not analogous to income tax¹. **It follows that the Italian legislation gives rise to a discriminatory restriction on the freedom to provide services.**

As regards any justification for such discrimination, the Court of Justice recalls that a discriminatory restriction can be justified only if it pursues objectives of public order, public security and public health. In the present case, the Court notes, first, that it is not justifiable for the authorities of a Member State to assume, generally and without distinction, that bodies and entities established in another Member State are engaging in criminal activity². In addition, the general exclusion from the benefit of that exemption established by Italy goes beyond what is necessary to combat money laundering. Second, it is inconsistent for a Member State wishing to combat compulsive gambling, on one hand, to tax consumers who participate in games of chance in other Member States and,

¹ See, to that effect, Case [C-42/02 Lindman](#).

² Case [C-153/08 Commission v Spain](#)

on the other hand, to exempt those same consumers if they participate in games of chance in Italy. In fact, such an exemption is likely to have the effect of encouraging consumers to participate in games of chance and is therefore not suitable for ensuring that that objective be attained. **The Court of Justice concludes that such discrimination is not justified.**

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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