



Press and Information

Court of Justice of the European Union

**PRESS RELEASE No 10/15**

Luxembourg, 22 January 2015

Judgment in Case C-463/13

Stanley International Betting Ltd and Others v Ministero dell'Economia e delle Finanze and Others

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**EU law does not preclude the organisation in Italy of a new call for tenders for the award of gambling and betting licences whose period of validity is shorter than that of licences awarded previously**

In Italy the organisation of betting and gambling, including the collection of bets, is subject to possession of a licence and police authorisation. In 1999, publicly-traded limited liability companies were excluded from tendering procedures for the award of licences.<sup>1</sup> The Court of Justice declared that the exclusion of those companies was incompatible with EU law.<sup>2</sup>

In order to ensure its compliance with EU law, Italy reformed the gambling and betting sector in 2006,<sup>3</sup> and subsequently in 2012<sup>4</sup> following a new judgment by the Court.<sup>5</sup>

In 2012, the Customs and State Monopolies Authority (Agenzia delle Dogane e dei Monopoli di Stato) therefore held a tendering procedure for the allocation of 2 000 new licences.

The British company Stanley International Betting and its Maltese subsidiary Stanleybet Malta ('the Stanley companies') have been operating in Italy for approximately fifteen years through 'Data Transmission Centres' ('DTCs'), which are located in premises open to the public. DTCs place a computer link at the disposal of gamblers and transmit the data relating to each bet to the Stanley companies. They have neither a licence nor police authorisation. This system has been the subject of several decisions of the Court of Justice.<sup>6</sup>

Deeming themselves to have been excluded from the previous calls for tenders organised in 1999 and 2006, the Stanley companies requested the annulment of the 2012 call for tenders and the organisation of a new call for tenders. They complained that the period of validity of the new licences (40 months) was significantly lower than that of previous licences (between nine and twelve years), and criticised the exclusive nature of the marketing of the gambling products and the prohibition on the transfer of licences. They alleged that those restrictive conditions do not allow them to participate effectively in the call for tenders, in the light of the penalties associated with the grounds for revocation, suspension and withdrawal of licences (loss of deposit and transfer, without charge, of the right to use the tangible and intangible assets).

An appeal having been brought at final instance before the Consiglio di Stato (Council of State, Italy), that court asks the Court of Justice whether EU law precludes national legislation which, because of a reorganisation of the system seeking an alignment of licence expiry dates, provides

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<sup>1</sup> The purpose of those calls for tenders was the grant of a large number of licences for betting on sporting events and horse racing.

Case, [C-338/04 Placanica and Others](#) see also Press Release No [20/07](#).

<sup>3</sup> Decree-law No. 223 (the 'Bersani' decree) of 4 July 2006, converted into statute by Law No 248 of 4 August 2006 (GURI No 18 of 11 August 2006).

<sup>4</sup> Decree-Law No 16 of 2 March 2012 (GURI No 52 of 2 March 2012, p. 1), converted, after amendment, into statute by Law No 44 of 26 April 2012 (GURI No 99 of 28 April 2012).

<sup>5</sup> [C-72/10 Costa and Cifone and Others](#) see also Press Release No. [12/12](#).

<sup>6</sup> In the judgment in *Placanica* (see note 2 above), the Court held that the criminal penalties provided for under Italian law for the collecting of bets by intermediaries acting on behalf of foreign companies were contrary to EU law.

for the organisation of a call for tenders for licences whose period of validity will be shorter than that of previous licences.

In today's judgment, the Court first states that both the revocation and redistribution of previous licences and the award by public tender of an adequate number of new licences could be appropriate courses of action in order to remedy the unlawful exclusion of certain operators. In the non-harmonised area of betting and gambling, national authorities may, as a result of the discretion they enjoy, choose between those approaches.

The Court notes that existing licensees enjoy an unfair competitive advantage, in that they were able to commence their activities years before the operators which were unlawfully excluded; however, those existing licensees do not have 'even greater' competitive advantages, since the provisions at issue also apply to them. In addition, the Stanley companies cannot be truly described as 'new entrants on the market' since, even without licence or authorisation; they have been operating in Italy for approximately fifteen years. Moreover, even if the new licences have a shorter period of validity, they are less onerous and less economically restrictive.

**The Court concludes that the Italian legislation is consistent with the principles of equal treatment and effectiveness.**

The Court recalls that restrictions on gambling and betting activities may be justified by overriding reasons in the public interest (consumer protection and the prevention of fraud and incitement to squander money on gambling) as well as the objective of combating criminality. Betting and gambling are otherwise part of the areas in which there are significant moral, religious and cultural differences between the Member States. In the absence of harmonisation at EU level, each Member State may, in accordance with its own scale of values, identify the objectives pursued and determine what is required in order to ensure that the interests in question are protected.

The Court thus finds that, in this particular context, the reorganisation of the licensing system through the alignment of licence expiry dates may contribute to a coherent pursuit of the legitimate objectives of reducing gambling opportunities or of combating criminality linked to betting and gambling and does not go beyond what is necessary in order to achieve those objectives.

If, in future, the Italian national authorities wanted to reduce the number of licences granted or to exercise stricter control over activities in the field of betting and gambling, such measures would be facilitated in the event that all the licences were granted for the same duration and expired at the same time.

**Consequently, the Court declares that EU law does not preclude Italy from organising, in order to align the expiry dates of the various licences, a fresh call for tenders for the award of licences whose period of validity is shorter than that of licences awarded previously.**

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**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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