



Court of Justice of the European Union

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Judgment in Case C-49/16

Press and Information

Unibet International Ltd v Nemzeti Adó- és Vámhivatal Központi Hivatala

## **The Hungarian legislation on the authorisation of online games of chance is not compatible with the principle of the freedom to provide services**

*That legislation limited, first, in a discriminatory manner, and, second, by reason of its non-transparent nature, the opportunity for operators established in other Member States to organise such games in Hungary*

Unibet International is a company established in Malta whose business consists in particular in the organisation of online games of chance and which, to that end, holds licences issued by several Member States.

In 2014, the Hungarian authorities established that Unibet was providing, on Hungarian-language internet sites, services relating to games of chance even though it did not hold the licence required in Hungary to carry on such an activity. Subsequently, those authorities, first, ordered, on 25 June 2014, that access be temporarily blocked from Hungary to Unibet's internet sites and, second, on 29 August 2014, imposed a fine on that company.

Unibet thereupon brought an action before the Fővárosi Közigazgatási és Munkaügyi Bíróság (Administrative and Labour Court, Budapest, Hungary) seeking the annulment of those two decisions on the ground that the Hungarian legislation underlying them was contrary to the principle of the freedom to provide services. In that regard, Unibet takes the view that, although, during the periods in dispute, operators established in other Member States could, theoretically, have been granted a licence in Hungary to organise online games of chance (as the provision of such services was not reserved to a State monopoly), it was in practice impossible for them to obtain such a licence.

According to Unibet, during those periods, Hungary did not issue a public call for tenders for the purpose of concluding concession contracts which would have made it possible to obtain the required licences. Likewise, Unibet takes the view that Hungary in practice excluded it from the opportunity provided for under Hungarian law to conclude such contracts as a 'trustworthy' operator of games of chance.

In that context, the Hungarian court asks the Court of Justice whether the Hungarian legislation at issue is compatible with the principle of the freedom to provide services.

By its judgment delivered today, the Court of Justice states first of all that the national legislation at issue, which prohibits the organisation of games of chance without prior licensing by the administrative authorities, **constitutes a restriction of the principle of the freedom to provide services.**

The Court then goes on to point out that, according to the national legislation on the basis of which the decision of 25 June 2014 was adopted, operators of games of chance were required, in order to be deemed 'trustworthy', to demonstrate that they had, for a period of at least 10 years, carried out an activity involving the organisation of games of chance in Hungary. The Court considers that such a requirement constitutes **a difference in treatment** because it places at a disadvantage operators of games of chance established in other Member States in comparison with national operators, who may more easily meet that condition. For that reason, the Court rules that the

legislation being challenged is **discriminatory** and, therefore, **contrary to the principle of the freedom to provide services**.

With regard to the national legislation on the basis of which the decision of 29 August 2014 was adopted, the Court finds that the obligation imposed on undertakings wishing to be granted the status of 'trustworthy' operator of games of chance that they must have carried out an activity involving the organisation of games of chance for three years in a Member State does not give rise to an advantage for operators established in the host Member State and might, therefore, in principle, be justified by a general-interest objective, such as consumer protection or the safeguarding of public order.

However, that legislation **does not satisfy the requirement of transparency** in so far as neither the conditions governing the exercise by the national authorities of their powers during the procedures for awarding concessions to 'trustworthy' operators of game of chance nor the technical conditions which operators must satisfy when submitting their tenders **had been defined with sufficient precision**.

In those circumstances, the Court of Justice concludes that **the principle of the freedom to provide services also precludes that legislation**.

Finally, the Court of Justice states that no penalties may be imposed on the basis of rules held to be contrary to the principle referred to above.

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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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