COURT OF JUSTICE
OF THE EUROPEAN UNION

Judgment of the Court in Case C-683/24 | Spielerschutz Sigma

Press release No 167/26

Luxembourg, 19 November 2026

References for a preliminary ruling: the request for a preliminary ruling from an Austrian court on the compatibility of Maltese legislation on gaming with EU law is inadmissible

The answer to the questions referred for a preliminary ruling is not necessary to decide the dispute before the Austrian court

Spielerschutz Sigma Prozessfinanzierungs GmbH, a company established in Austria, funds, *inter alia*, legal proceedings brought in that Member State by online gambling players residing there against operators of gambling sites who hold Maltese licences, on the ground that they offer their services in Austria without holding the licence required by Austrian law. Due to that lack of a licence, players can seek reimbursement of their losses before the Austrian courts. Spielerschutz Sigma has thus obtained, on behalf of its clients, numerous judgments ordering those operators to reimburse those losses and is seeking to have them enforced in Malta.

In June 2023, the Maltese gaming legislation was amended to prohibit, on the ground that they are contrary to public policy, actions brought against gaming operators holding a Maltese licence, as well as the recognition and enforcement by the Maltese courts of foreign judgments handed down following such actions.

In order to assess the risks that that legislative amendment might pose for its business, Spielerschutz Sigma sought the opinion of a legal advisor on the compatibility of that amendment with EU law. The legal advisor concluded that the amendment was manifestly in conflict with EU law and that it therefore will not be applied in enforcement proceedings in Malta. Later, a Maltese court nevertheless rejected a request for recognition and enforcement of an Austrian judgment lodged by Spielerschutz Sigma, on the basis of the legislative amendment at issue.

Following that rejection, Spielerschutz Sigma brought an action for damages against the legal advisor before the Commercial Court, Vienna (Austria), seeking reimbursement of the fees it had paid the legal advisor for its legal opinion and compensation for the damage resulting from funding proceedings brought between the date on which that opinion was given and the date on which Spielerschutz Sigma became aware that its request for recognition had been rejected. Taking the view that the outcome of the dispute depends on whether the legal advisor was at fault in its assessment of the compatibility of the Maltese legislation with EU law, that Austrian court referred several questions to the Court of Justice for a preliminary ruling.

The Court rules that the request for a preliminary ruling is **inadmissible**.

The preliminary ruling procedure is an instrument of cooperation between the Court and the national courts, by means of which the Court provides the national courts with the points of interpretation of EU law which they need for deciding the disputes before them. Thus, **a national court or tribunal may refer a case for a preliminary ruling to the Court only if the answer to the questions asked is necessary to enable it to decide the dispute before it**.

There must, in fact, be a connecting factor between the dispute in question and the provisions of EU law whose interpretation is sought, so that that interpretation is objectively required for the resolution of that dispute. That connecting factor must be real and concrete, not purely hypothetical, theoretical or speculative.

For the purposes of assessing the alleged lack of diligence shown by the legal advisor in drafting the legal opinion in question, it is necessary to determine, **in accordance with Austrian law**, whether that opinion is at the very least **reasonably defensible in the light of the legal framework and the information available at the time it was provided**. If that were the case, in particular if the legal opinion was consistent with at least some of the case-law or legal literature, the expert would not be held liable.

In those circumstances, the Court notes that **the lawfulness and proper performance of the reciprocal obligations of the parties to the legal consultation at issue are independent of the question of the compatibility of the** relevant **Maltese legislation with EU law**.

Consequently, the Court finds that **the interpretation of EU law** which it would need to adopt **in answer to the questions referred for a preliminary ruling would not meet an objective need for the resolution of the dispute in question and would not**, therefore, **be necessary for that resolution**. Thus, as there is no connecting factor with that dispute, the questions referred seek to obtain advisory opinions on general or hypothetical questions.

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 of the European Union about the interpretation of EU law or the validity of an EU act.

The General Court has jurisdiction to deal with requests for a preliminary ruling coming exclusively within the following areas (1) the common system of value added tax (VAT), (2) excise duties, (3) the Customs Code, (4) the tariff classification of goods under the Combined Nomenclature, (5) compensation and assistance to passengers in the event of denied boarding or delay or cancellation of transport services, or (6) the system for greenhouse gas emission allowance trading. The Court of Justice has jurisdiction to deal with all other requests for a preliminary ruling.

Neither the Court of Justice nor the General Court decides the national dispute itself. It is for the national court or tribunal to resolve the case in accordance with the ruling by the Court of Justice or by the General Court, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

Unofficial document for media use, not binding on the Court of Justice. The presentation of the facts and the legal context refers to the relevant period and is based on the case file.

The full text and, as the case may be, an abstract of the judgment is published on the CURIA website on the day of delivery.

Press contact: Jacques René Zammit ✆ (+352) 4303 3355.

Images of the delivery of the judgment are available on 'Curia Web TV' and on 'European Broadcasting Service' ✆ (+32) 2 2964106.

Stay Connected!