



Court of Justice of the European Union

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Advocate General's Opinion in Joined Cases
C-475/20 Admiral Gaming Network, C-476/20 Cirsa Italia,
C-477/20 Codere Network, C-478/20 Gamenet, C-479/20 NTS Network,
C-480/20 Sisal Entertainment, C-481/20 and C-482/20 Snaitech

Press and Information

Slot machines: According to Advocate General Rantos, the fight against the risks associated with gambling addiction may justify a reduction in the commission and fees payable to licence holders

It is for the national court to identify the objectives actually pursued by such national legislation

By means of licensing agreements concluded in 2013, following a call for tender in 2011, companies were entrusted with the management of gambling activities using slot machines in Italy. That call for tender fixed the conditions for determining the commission payable to those licence holders.

In 2014, national legislation ¹ reduced the State resources paid as commission to those licence holders for the year 2015. That law provides that the licence holders, in exercising the public functions entrusted to them, in addition to what is paid ordinarily to the State, will also pay, annually, the sum of €500 000 000, in proportion to the number of machines registered to each of them as at 31 December 2014. They are to distribute the remaining amounts, available for their fees and commission. In application of that legislation, the amounts due were settled accordingly and the levy was distributed among all operators in the gambling sector and no longer among licence holders alone.

The licence holders brought actions against the levy on the ground that it significantly affected their profit margin and was contrary to EU law.

The Consiglio di Stato (Council of State, Italy), court of final instance, referred the questions to the Court of Justice for a preliminary ruling, seeking to establish, first, **whether the national legislation constitutes a restriction on the freedom of establishment or on the freedom to provide services guaranteed by Articles 49 and 56 TFEU** and, second, **whether that legislation is compatible with the principle of the protection of legitimate expectations.**

In his Opinion delivered today, Advocate General Rantos considers that **the Italian legislation is such as to constitute a restriction on the freedoms guaranteed by Articles 49 and 56 TFEU**, given that the reduction of State resources made available to the licence holders, after the licences were granted, is such as to render the exercise of gambling activities less attractive for those licence holders. Next, the Advocate General proceeds to examine **whether those restrictions may be justified by overriding reasons in the public interest.**

The Advocate General observes that the legislation on gambling is one of the areas in which there are significant moral, religious and cultural differences between the Member States. For this reason, the Member States enjoy a wide discretion as regards choosing the level of consumer protection and the preservation of order in society. **However, the restrictive measures that the Member States impose must be justified by overriding reasons in the public interest and must also comply with the principle of proportionality.**

¹ Article 1(649) of Law No 190 of 23 December 2014 (2015 Stability Law).

According to the Italian Government, the **national legislation** forms part of a broader context of restoring the balance within the gambling sector provided for by the Italian law.² The Italian Government submits that that legislation **pursues the objective of reducing the profitability of gambling activities in order to fight against the spread of illegal gambling activities and to protect the most vulnerable sections of the population from the effects of gambling, in particular from the risk of gambling addiction.** According to the Advocate General, **such objectives seem to prima facie constitute overriding reasons in the public interest** capable of justifying a restriction on the freedom of establishment or on the freedom to provide services.

That being said, **it is for the national court to identify the objectives actually pursued by the Italian legislation.** The Advocate General states in that respect that the Italian law in fact enabled the Government to reorganise current provisions relating to gambling, but he does not take the view that such general reorganisation was pursued by the national legislation which reduced the State resources for the licence holders.

It is also for the Italian courts to verify the proportionality of the restrictions and to establish whether the national legislation, by reducing the profitability of gambling activities, is necessary to attain the objectives referred to by the Italian Government and does not go beyond what is necessary in order to attain those objectives. To that end, among the circumstances which must be assessed by those courts, it cannot be overlooked, according to the Advocate General, that, despite having a temporary and partial nature, that legislation, far from being an isolated measure, is part of the broader context defined by the 2015 Stability Law and concerns the adoption of several measures, including measures relating to the consolidation of public finances in completely different areas.

As regards the principle of legitimate expectations, the Advocate General observes that the contractual relationship between economic operators and public administrators linked to the concession system has a 'dynamic character' which allows for State interventions justified by public interest objectives. He draws the conclusion that the evolving and uncertain nature of betting and gambling legislation as well as the temporary nature of the levy and its limited impact on the profitability of investments made by the licence holders ensure that the legislative intervention in question is far from exceptional or unforeseeable.

In conclusion, according to the Advocate General, **the principle of the protection of legitimate expectations does not preclude, in principle, national legislation which reduces, for a given year and in respect of limited amounts, the commission stipulated in a licensing agreement for gambling activities using slot machines.** It is, however, for the referring court to examine, in the context of a specific assessment of all the relevant circumstances, whether that principle has been complied with.

NOTE: The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

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 Opinion is published on the CURIA website on the day of delivery.

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² Law No 23 of 11 March 2014 concerning the delegation to the government of measures aimed at making a more equitable, transparent and growth-oriented tax system.