

Judgment of the Court (First Chamber) of 11 June 2015 (request for a preliminary ruling from the Fővárosi Törvényszék — Hungary) — Berlington Hungary Tanácsadó és Szolgáltató kft and Others v Magyar Állam

(Case C-98/14) ⁽¹⁾

(Reference for a preliminary ruling — Freedom to provide services — Games of chance — National taxes on the operation of slot machines in amusement arcades — National legislation prohibiting the operation of slot machines outside casinos — Principles of legal certainty and of the protection of legitimate expectations — Directive 98/34/EC — Obligation to notify draft technical regulations to the Commission — Member State liability for damage caused by legislation contrary to EU law)

(2015/C 270/11)

Language of the case: Hungarian

Referring court

Fővárosi Törvényszék

Parties to the main proceedings

Applicants: Berlington Hungary Tanácsadó és Szolgáltató kft, Lixus Szerencsejáték Szervező kft, Lixus Projekt Szerencsejáték Szervező kft, Lixus Invest Szerencsejáték Szervező kft, Megapolis Terminal Szolgáltató kft

Defendant: Magyar Állam

Operative part of the judgment

- 1) National legislation such as that at issue in the main proceedings, which, without providing for a transitional period, introduces a five-fold increase in the flat-rate tax to be paid on slot machines operated in amusement arcades and, in addition, introduces a proportional tax on that activity, constitutes a restriction on the freedom to provide services guaranteed by Article 56 TFEU provided that it is liable to prohibit, impede or render less attractive the exercise of the freedom to provide the services of operating slot machines in amusement arcades, this being a matter which it is for the national court to determine.
- 2) National legislation such as that at issue in the main proceedings, which, without providing for either a transitional period or compensation for operators of amusement arcades, prohibits the operation of slot machines outside casinos constitutes a restriction on the freedom to provide services guaranteed by Article 56 TFEU.
- 3) Restrictions on the freedom to provide services which may result from national legislation such as that at issue in the main proceedings can only be justified by overriding reasons in the public interest if the national court finds, after an overall assessment of the circumstances surrounding the adoption and implementation of that legislation:
 - that it actually pursues, primarily, objectives relating to the protection of consumers against gambling addiction and the prevention of criminal and fraudulent activities linked to gambling; the mere fact that a restriction on gambling activities incidentally benefits, through an increase in tax revenue, the budget of the Member State concerned, does not prevent that restriction from being considered actually to be pursuing, primarily, those objectives;
 - that it pursues those goals consistently and systematically, and
 - that it meets the requirements arising from general principles of EU law, in particular the principles of legal certainty and the protection of legitimate expectations and the right to property.

- 4) Article 1(11) of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services, as amended by Council Directive 2006/96/EC of 20 November 2006, must be interpreted as meaning that:
- the provisions of national legislation that introduce a five-fold increase in the flat-rate tax to be paid on slot machines operated in amusement arcades and, in addition, introduce a proportional tax on that activity, do not constitute ‘technical rules’ within the meaning of that provision, and that
 - the provisions of national legislation that prohibit the operation of slot machines outside casinos constitute ‘technical rules’ within the meaning of that provision, the drafts of which must be communicated in accordance with the first subparagraph of Article 8 (1) of that directive.
- 5) Article 56 TFEU is intended to confer rights on individuals, in such a way that its infringement by a Member State, including as a result of its legislative activity, gives rise to a right of individuals to obtain from that Member State compensation for the damage suffered as a result of that infringement, provided that that infringement is sufficiently serious and there is a direct causal link between that infringement and the damage sustained, this being a matter which it is for the national court to determine.
- 6) Articles 8 and 9 of Directive 98/34, as amended by Directive 2006/96, are not intended to confer rights on individuals, in such a way that their infringement by a Member State gives rise to a right of individuals to obtain from that Member State compensation for the damage suffered as a result of that infringement on the basis of EU law.
- 7) The fact that national legislation such as that at issue in the main proceedings concerns an area falling within the competence of the Member States does not affect the answers to the questions raised by the referring court.

⁽¹⁾ OJ C 142, 12.5.2014.

Judgment of the Court (Second Chamber) of 11 June 2015 — Association médicale européenne (EMA) v European Commission

(Case C-100/14 P) ⁽¹⁾

Appeal — Arbitration clause — Cocoon et Dicoems contracts, concluded in the framework of the 6th EU Framework Programme for Research and Technological Development and demonstration activities, contributing to the creation of the European Research Area and to innovation (2002 to 2006) — Irregularities — Ineligible expenditure — Termination of contracts

(2015/C 270/12)

Language of the case: Italian

Parties

Appellant: Association médicale européenne (EMA) (represented by: A. Franchi, L. Picciano and G. Gangemi, avvocati)

Other party to the proceedings: European Commission (represented by: S. Delaude and F. Moro, acting as Agents, and D. Gullo, avocat)