



PUBLIC-ADMINISTRATIVE LAW PRACTICE

Operating an online betting and gambling business in Greece: A lawful taxable activity

Operating an online betting and gambling business in Greece: A lawful taxable activity

BY CONSTANTINOS KAVADELLAS, DANAI LADEA

The Council of State Plenary ruled that the provision of online betting and gambling services is in accordance with the European and Greek legal framework.

In particular, by virtue of two recent decisions (1160-1161/2020), the Council of State dismissed the application, filed by casino companies holders of authorization to provide their services within the Greek territory, for annulment of the Regulation of the Deputy Minister of Finance which is providing for that companies offering online betting and gambling services, legally established in Member States of the EU and EEA and legally authorized to operate and provide such services there, should submit a voluntary application for subjection under tax regime during the transition period, until authorization to conduct online gambling within Greek territory is granted.

The Supreme Administrative Court pointed out in its ruling that the timely submission by the companies concerned of the aforementioned request for the subjection under tax regime is, above all, a procedural condition for the permissible provision of their services within the territory of Greece, and is not only one of the conditions for the taxation of this business.

The Court also stated that the obligation of these companies, under Greek law

4002/2011, to obtain a special license in the Greek territory in order to provide their services, is in accordance with the freedom of establishment and the freedom to provide services (articles 49 and 56 TFEU). Besides, these freedoms are subject to limitations for reasons of public order, public safety, public health and public interest. Online gambling games, in particular, are more dangerous relating to traditional betting and gambling games due to the lack of physical contact between the consumer and the business, the continuous access to them, the anonymity of the player and the lack of social control (see decisions of CJEU, C-390/12 R. Pflieger and others par. 45 of 22.01.2015, C-463/13 Stanley Int. Betting Ltd and others par. 52 of 22.6.2017, Unibet Int. Ltd).

Furthermore, it is worth mentioning that the Council of State, in majority, stated that during the transition period, the legislator in no way violated the principle of the rule of law and the principal of equality, leaving uncontrolled the aforementioned activity, based on the following factors:

- An initially prohibited activity may in the future be legalized through the adoption of operating rules in

accordance with Article 5 par.1 of the Greek Constitution

- This activity leads to an increase in government revenue;
- The activity at hand may be illegal in Greece, however is carried out by companies legally established and authorized by other member-states of the EU;
- Provision is made for the future introduction of a complete regulatory framework for the conduct of the business in question.

Moreover, the Court held that the purpose of Law 4002/2011 is to establish appropriate regulatory, supervisory and control mechanisms in order to ensure transparency and solvency of the conduct of these activities, to ensure that online gaming and betting are organized and conducted in accordance with the law, and do not result in illegal exploitation, to protect the consumers of the services concerned, in particular minors and other vulnerable groups of the population from addiction and also to entrust the betting activity in legal and controllable providers, so as to eliminate the illegal betting and the penal crimes that may provoke.

Last but not least, the Court ruled that this transition period does not constitute unacceptable restriction of the freedom to provide services (article 56 TFEU) since the ultimate purpose of the legislator is to keep the participation in betting in reasonable limits and to safeguard public interest by preventing the excessive waste of money. After all, according to the case-law of the ECJ, imperative reasons of general interest justifying restrictions on the betting and gambling industry are the protection of consumers and the prevention of fraud.

Contact Us



Constantinos Kavadellas

COUNSEL

c.kavadellas@kglawfirm.gr



Follow Us

ATHENS OFFICE

28, Dimitriou Soutsou Str.,
115 21 Athens

T +30 210 817 1500

F +30 210 685 6657-8

E kg.law@kglawfirm.gr

THESSALONIKI OFFICE

17, Ethnikis Antistasseos Str.,
551 34 Thessaloniki

T +30 2310 441 552

E kg.law@kglawfirm.gr

www.kglawfirm.gr

Disclaimer: This newsletter contains general information only and is not intended to provide specific legal, or other professional advice or services, nor is it suitable for such professional advice, and should not be used as a basis for any decision or action that may affect you or your business. Before making any decision or taking any action that may affect you or your business, you should consult a qualified professional advisor. We remain at your disposal should you require any further information or clarification in this regard.

©Kyriakides Georgopoulos, 2020