

EU- divided we stand to watch the fall of liberal Europe

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Not enough that the European Union has not managed, or does not want to manage, to come up with a unified stance on online gambling, but now the Union's Advocates seem to contradict each other as well.

After EU Advocate General Bot opined in the Winner Wetten case in January 2010 that German legislation constitutes a restriction to the freedom of movement of services, Advocate General Paolo Mengozzi now begs to differ.

Advocate General Mengozzi recently delivered his learned opinion on seven cases referred by German courts, stating that member states were not obliged to allow operators on their territory on the grounds that they were licensed in another EU member state. In addition, the Advocate General considers the ban on organising and publicising games of chance on the internet, as laid down by German law, as being compatible with the free provision of services, as long as it is proportionate and coherent with the general interest objective that is being relied upon.

To add insult to injury, Mr Mengozzi also stated that "offshore and extraterritorial licences granted by Malta and Gibraltar distorted the mutual trust between member states when it came to gaming laws". This was a direct criticism of the liberal market approach taken by Malta, accusing it of using loopholes in EU legislation to give an advantage to Maltese companies. But... isn't giving an advantage what democracy, capitalism and liberalisation of the markets are all about? Or are competition regulations also out of the window now?

The UK, which until now has also taken a liberal market approach within the European spirit of the freedom to provide services across member states, has recently changed its tone and is now even considering introducing a new licence for overseas online gambling operators, in line with French and Italian developments. This UK move may indeed isolate Malta even further and would turn Maltese liberal market aspirations into a mere fight against windmills.

In fact, some may argue that Maltese developments will also depend on the UK's next move and on the conditions placed on overseas gambling operators in the UK. What the inconclusive opinion of General Advocate Mengozzi does show, however, is the continued emphasis on high regulatory standards throughout Europe. These high regulatory standards may indeed be a solid basis and acceptable compromise to retain the Maltese liberal market approach.

If the Maltese Government and the online gambling industry is indeed serious about protecting the freedom to provide services across member states, maybe the next step should be to push for harmonised regulatory standards throughout Europe.

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