

The Online World Is Not a Law-Free Zone: The Court of Justice of the European Union Sets a New Direction for Online Service Provision

In a recent judgment, the Court of Justice of the European Union ruled on an issue that extends far beyond the realm of online gambling and carries important lessons for all companies providing digital services. At the heart of the case was whether the executives of an online service provider may be held personally liable in another Member State because their company offered services there without the required authorisation, and which country's law applies to a claim for damages in such circumstances.

In the specific case, a player residing in Austria used the platform of a Malta-registered online gambling provider. While the company held a licence in Malta, it did not possess the necessary authorisation in Austria. The player suffered significant losses and brought an action before the Austrian courts not only against the company but also against two of its managing directors. The executives argued that neither jurisdiction nor the applicable law should be Austrian, as the company operated and was licensed in Malta.

The EU court's decision, however, clearly tilted the balance in favour of the consumer's place of residence. The Court held that, as a general rule, non-contractual claims for damages are governed by the law of the country in which the damage occurs. In the context of online services, damage is deemed to occur where the user resides, since that is where the effects of the infringement are felt, where the service is actually used, and where the interests protected by that Member State are harmed.

The Court made it clear that if company executives engage in conduct that infringes the mandatory provisions of another Member State — for example, by offering services there without the required authorisation — their personal liability may also arise. Such conduct does not constitute merely an internal corporate matter but an external infringement affecting third parties, to which the national rules on damages may apply.

The message of the judgment for corporate decision-makers is clear. The cross-border nature of digital services does not reduce legal risks; rather, it increases them. The fact that a company is licensed in one Member State does not mean it may automatically operate lawfully throughout the entire European Union. If a service is effectively accessible and used in another country, the provider must take into account that country's legal framework and the possibility that, in the event of a dispute, the courts and laws of that country may become applicable.

This decision is not limited to the online gambling sector. Its message is relevant to all platform operators, digital service providers and companies marketing their services internationally. Under the logic of EU law, legal liability in the online sphere arises where the effects of the service materialise. For corporate executives, this means that expansion strategies, licensing considerations and compliance decisions now carry not only business risks but also potential personal legal exposure.

The judgment of the Court of Justice of the European Union sends a clear signal: an online business model does not exempt companies from complying with the laws of individual Member States, and the legal consequences of digital presence must always be assessed from the perspective of users. This approach is likely to gain increasing importance in other digital industries in the coming years.