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By PwC Deutschland | 02. November 2025

ECJ: Conditions for issuing a Preservation Order against foreign gambling company

An Austrian request for a preliminary ruling concerns a repayment claim against a Maltese online casino. Malta had introduced a law to prevent enforcement. However, Malta might perhaps find itself at odds with the ECJ. In his opinion, the Advocate General sees a fair chance of overturning this restriction and paving the way for numerous players in Europe to reclaim their losses.

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Background

A significant number of consumers in those target Member States participate in online games of chance, and many of them lose considerable amounts of money. In recent years, players have sought to recover their losses by bringing civil proceedings before their local courts against Maltese gambling companies. Typically, the claim is that (i) the consumer wagered and lost stakes in games of chance under a gambling contract concluded with one of those companies; (ii) since the company in question was not licensed by the authorities of the target Member State, the games of chance offered were illegal and, consequently, that contract was null and void under the local contract law; (iii) accordingly, that company is required to refund those stakes under the rules on unjust enrichment.

The Regulation (EU) No 655/2014 of the European Parliament and of the Council of 15 May 2014 establishing a **European Account Preservation Order** procedure to facilitate cross-border debt recovery in civil and commercial matters (**EAPO Regulation**) is at the heart of the legal dispute.

The referring court doubts whether such an application may be regarded as founded in the circumstances of the referred case. The **EAPO Regulation** lays down uniform rules governing the various issues pertaining to the 'birth', 'life' and 'death' of such a Preservation Order. **Article 7** of that regulation provides for substantive conditions for the issuance of such an order. It stipulates, in paragraph 1 thereof, that 'the court shall issue the Preservation Order when the creditor has submitted sufficient evidence to satisfy the court that there is an urgent need for a protective measure in the form of a Preservation Order because there is a real risk that, without such a measure, the subsequent enforcement of the creditor's claim against the debtor will be impeded or made substantially more difficult.'

Opinion

In his Opinion the Advocate General (AG) proposes the Court of Justice to decide (in brief) "that the condition laid down in the article in question is satisfied if sufficient evidence justifies a reasonable assumption of urgency due to an actual risk of circumvention - specifically: the risk of depletion, concealment or sale below value prior to enforcement, which would impede or greatly complicate recovery".

According to the view of the AG an application for a Preservation Order such as the one in the present case brought before the Austrian courts is clearly admissible. Notably, the situation falls within the scope of the EAPO Regulation. Indeed, the consumer in the main proceedings seeks, with his application, to safeguard the enforcement of a pecuniary claim in civil and commercial matters' in a cross-border case.

More on the detailed explanations set out in the Opinion of 30 October 2025 in the case C?198/24 *Mr Greene* to be found **here**.

Schlagwörter

gaming, online game