

Broj 141

Podgorica 3. 7. 20 13 god.

Association of Gambling Providers

Rimski trg 50,

Podgorica

T/F: +382 20 234 520

E: priredjivaci@upisigre.me

W: <http://www.upisigre.me>

Delegation of the European Union to Montenegro

H.E. amb. Mitja Drobníč

Ambassadors of the EU states to Montenegro

Your excellencies,

We are addressing you as diplomatic representatives of EU countries in order to draw your attention to a recently adopted act by the legislature of Montenegro that contradicts both the European practice and the governing EU directive.

On 19 June 2013 the Parliament of Montenegro adopted the Law on Amendments to the Law on VAT. The Law published in the Official Gazette of Montenegro 29/13, which entered into force on 1 July, contains, among other things, a norm that annuls the previous solution exempting the games of chance from the VAT.

The newest solution, adopted upon proposal by the controversial Nova MP (the New Serb Democracy) Emilo Labudović is at odds with the so called EU Sixth Directive (Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax), one of the most important norms in the overall system of free flow of goods, services and capital within the EU establishing a common system of value-added taxes in the Member States.

We believe that such an anti-EU solution is worth your attention and that you would not hesitate to use an opportunity to draw Montenegrin officials' attention to its anti-European nature.

Your Excellencies,

Allow us to use this opportunity and point out the reasons that brought to the adoption of this legal norm.

The Government of Montenegro, presenting to the Parliament a Proposal of the Law on Amendments to the Law on Value Added Tax as a proposer explained in an expert opinion by the Ministry of Foreign Affairs and EU integrations No 03/1/2-267/2 of 15 February 2013 that the Ministry "agrees with the statement by the authority that drafted the Law that there were no corresponding EU regulations requesting harmonisationⁱⁱⁱ". The Ministry of Foreign Affairs, as we see it, made no mistake since the fact is that the initial Bill contained no anti-European solutions as was later adopted through the amendment by the New Serb Democracy MP Emilo Labudović. The explanationⁱⁱⁱ of the Amendment of that controversial MP, however, does not mention the contradiction of it with the EU practice and the Directive. We do not find this surprising since this controversial person has a warmonger past as one of the loudest followers of Slobodan Milošević and member of a political party based on and still advocating an anti-Western and anti-European policy. What we do find surprising is the silence of the state officials as well as the support by a part of the ruling coalition, even applause by some MPs from the smaller coalition partner expressing support to this anti-EU solution. This is one more reason for us to appeal to you to use your authorities and, as accredited diplomatic representatives of EU countries, to point out this anti-European nature of such a solution.

Your Excellencies,

We are convinced that the EU Directive is not pointless, as the fact that a contradictory Law has been adopted in Montenegro suggests. Furthermore, we do believe that the Member States did not adopt these legal norms without a good reason and that we, the Montenegrins, are not smarter than 28 EU Member States, to the extent that we adopted a legal solution that exists nowhere in the world. The problem is that, obviously, not all the people think this way and that anti-European forces in Montenegro are, unfortunately, strong enough to adopt an anti-EU norm in the Parliament of Montenegro. Therefore, allow us also to point out three more elements of legal nonsense contained in this anti-European solution adopted through the amendment of a anti-EU political party's MP:

1. First, we find this solution contradictory to Article 59 of the Constitution of Montenegro that explicitly guarantees the freedom of entrepreneurship since this solution cannot be implemented and will close the companies providing games of chance together with 3000 jobs that will cease to exist;
2. We find this solution senseless, i.e. that the amended Law is contradictory in itself since Article 26 of the Law on Value-Added Tax says that "services of public interest are exempt from VAT" (and, at the same time, Article 5 of the Gambling Law defines the gambling providing as a public interest activity), while the amended Law requests a VAT to be imposed to gambling providing, contrary to the abovementioned legal norm;
3. We find that this solution violates the principle that double taxation should be avoided, since two more revenues are taxed in this case and the State keeps collecting those taxes, in accordance with the Gambling Law.

Finally, the most anti-European feature of this anti-European concoction is that with this anti-European solution some of the most endangered social categories like, for example, those with special needs and addicts would be left without the necessary funds since significant amounts (between 30 and 70 million euro per year) are collected from Montenegrin gambling providers

Allow us to express our satisfaction with the fact that the gambling providers gathered in two associations – AGP and Montenegro Bet - are unanimous in condemning this anti-European legal norm.

for Association of Gambling Providers



1. Member States shall VAT exempt the following transactions:

(i) betting, lotteries and other forms of gambling, subject to the conditions and limitations laid down by each Member State;

ⁱⁱⁱ http://skupstina.me/~skupcg/skupstina/cms/site_data/DOC25/ZAKONI%20I%20IZVJESTAJI/133/133_7.PDF