



Univerza v Mariboru

Pravna fakulteta



Tempus

INTEREU[®]LAWEAST

European and International Law Master Programme Development in Eastern Europe

TEN YEARS OF SLOVENIAN EXPERIENCE WITH THE EU INTERNAL MARKET

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Two decades of the EU internal market

**GENERATION
1992.eu**
YOU IN THE EUROPEAN SINGLE MARKET



Free movement of goods

- **Case C-140/05, Amalia Valeško – excise duties on tobacco**
- **Mutual recognition of goods – lightning conductors with British certificates, but not in line with relevant Slovenian standards**
- **Karawankentunnel saga – limiting transport of trucks during summer weekends – meeting Schmidberger's standards?**



Karavanke: Tovornjaki stop!

Ljubljana, 29.07.2011, 09:44 | STA / N.S.

Skozi predor Karavanke od danes do jutri popoldne povečanega prometa v turistični sezoni se je za kamionavto prevoznike so nezadovoljni.





Free movement of goods

□ Promotion of Agricultural and Food Product Act (2011)

TRADICIONALNI
SLOVENSKI ZAJTRK



Zbirajte zvezdice in kupujte do -50% ceneje. Kako zbiram zvezdice? Kako unovčim?
VEČ KOT 300 IZDELKOV IN 80 STORITEV.

tuš
Vedno boljši

O Tušu • Tušev dobrodelni sklad • Kariera v Tušu • Medijsko središče • [vpiši iskalni niz](#)

[Trgovine Tuš](#) | [Tuš drogerija](#) | [Tuš gostinstvo](#) | [Tuš klub](#) | [Potovanja](#)

Vstopna stran > Akoje > »Spoštujemo slovensko!
Spoštujemo slovensko!

Tuš zaposluje več kot
4.300 ljudi.

Hvala vam, cenjeni kupci,
ker z nakupi v Tušu podpirate slovensko
gospodarstvo in delovna mesta.



KUPUJEM SLOVENSKO

Dobro ostane Dobro.
Kakovost. Varnost. Okus. Tradicija. Kupujem slovensko.

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- *Minister for Agriculture Dejan Židan*

"a buyer, who buys Slovenian food gives work to our farmer and worker; this way the state budget is being filled; high food safety is being guaranteed and an important step towards climate change prevention is being done (the transport is the greatest polluter)"



Free movement of goods

- Motor Vehicles Tax Act (72/2006):
 - Progressive tax on new vehicles
 - 5% tax on used vehicles
 - Definition of new vehicles: *»vehicles that are put on the market or are registered in Slovenia for the first time«.*



Free movement of workers

- Slovenian **frontier workers** working in Austria, Italy – what social and tax advantages can they benefit from in Slovenia?
 - Since 1.1.2012 they cannot claim the right for reduced payment for kindergardens;
 - Since 1.1.2013 they are no longer entitled to flat rate deduction on the income tax.



Protesti v Apačah: »Država v nas vidi le vir dohodka in polnjenje državne blagajne«



Tamara Duh | Apače, 05.01.2014 ob 9:00

 Všeč mi je 664

Civilna iniciativa Apače je v Športnem centru Osnovne šole Apače pripravila informativni shod za delavce zaposlene v Avstriji. Na shodu naj bi se zbralo več kot 3000 ljudi, izrazili pa so nezadovoljstvo proti novi zakonu o dohodnini, s katero je Državni zbor s 1. januarjem ukinil posebno davčno olajšavo za čezmejne delavce.

Agency workers – a threat for social dumping?

Prek slovaške agencije v Žitu delavcem ponujali 327 evrov plače

Žito: V pogodbe nimamo vpogleda

3. januar 2013 ob 19:11

Maribor - MMC RTV SLO/Televizija Slovenija

Delavcem v Žitu, ki so prisiljeni delati prek slovaške zaposlitvene agencije, je ta z 31. decembrom v podpis ponudila pogodbo, po kateri bi zaslužili 327 evrov in 20 centov bruto mesečno.

- Directive 2008/104 on agency work - seeks to guarantee those working through employment agencies equal pay and conditions with employees in the same business who do the same work.

Free movement of services

- Supplementary health insurance
- The only EU Court's ruling against Slovenia in the field of the internal market:

NEWS

26.01.12 | Health and Consumer Protection

EU Court Rules against Slovenia's Top-up Health Insurance

The European Court of Justice confirmed on Thursday the European Commission's claim that Slovenia's supplementary health insurance is not fully in line with non-life insurance directives. However, the court did not find that the insurance scheme limits free movement of capital and services.

According to the court, Slovenia has failed to implement the directives stipulating that insurance companies are not required to obtain permit from a national agency or to report to the agency.

- The judgment has not yet been enforced.



Free movement of services



Casinò Larix

IGRALNI SALON

Kranjska Gora, Slovenija

hit casinos



HIT& Hit Larix, C-176/11

- In Austria, the advertising of casinos located abroad requires prior authorisation.
- In order to obtain such a permit, the operator of a casino located in another Member State must prove that the **legal protection for gamblers** that is provided for in that State ‘**at least corresponds to the Austrian legal protection.**
- E.g. only persons who have attained the age of majority may enter a casino,
- the casino’s management must observe gamblers’ conduct in order to determine whether the **frequency and intensity of their participation** in gaming jeopardise the minimum income required for their subsistence;
- customers may bring a **direct civil action** against the management for breach of those obligations.

HIT& Hit Larix, C-176/11

- The Slovenian companies HIT and HIT LARIX operate casinos in Slovenia. They applied to the Bundesminister für Finanzen for permits to carry out advertising in Austria for their casinos located in Slovenia. The ministry rejected their applications.
- The Verwaltungsgerichtshof, before which HIT and HIT LARIX brought an action against those decisions refusing a permit, asked the Court of Justice whether legislation such as the Austrian legislation is compatible with the freedom to provide services that is guaranteed by EU law.
- **AG Mazak (17.4.2012)**: „Article 56 TFEU should be interpreted as **precluding the legislation** of a Member State which makes the grant of a permit to advertise casinos located outside the national territory subject to an obligation on the casino operator to prove that the level of legal protection for gamblers in the Member State in which the casino is established is equivalent to that of the Member State in which the advertising is to be carried out.“

HIT& Hit Larix, C-176/11

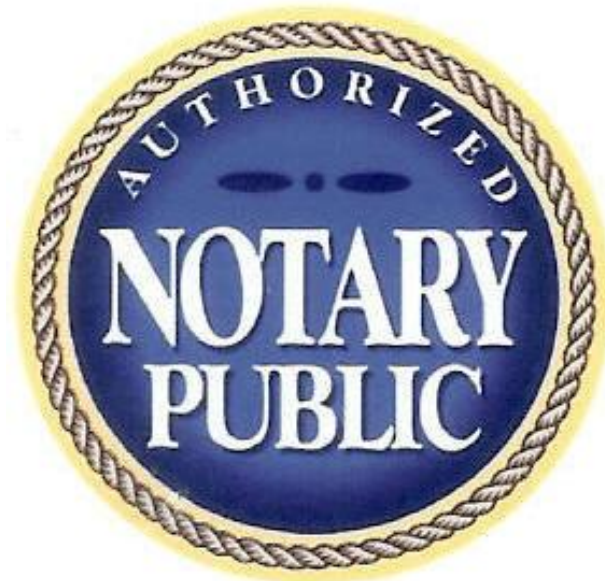
- **the Court of Justice:** „legislation on games of chance is one of the areas in which there are significant moral, religious and cultural differences between the Member States. Accordingly, in the absence of harmonisation in the field, **the Member States are free to set the objectives of their policy on games of chance** and to define in detail the level of protection sought.“
- **EU law does not preclude the Austrian legislation** provided that it merely requires, in order for authorisation to carry out advertising to be granted, that it be established that in the other Member State the applicable legislation ensures protection against the risks of gaming that is in essence of a level equivalent to that which it guarantees itself.
- Such legislation, which restricts the freedom to provide services, is justified by the objective of **protecting the population against the risks connected with games of chance.**

Slovenian open issues in the field of gambling

- **Gaming Act:**
 - Lotteries may only be performed by public limited companies having their seat in Slovenia;
 - Concessionaires of any gaming form must be organised in a form of a plc;
 - See C-409/06, Winner Wetten GmbH; C-64/08, Ernst Engelmann;
- **Advertising** of games of chance – coherent and systematic restriction?
- Increasing awareness of EU law by the Slovenian courts:
Ips 91/2012 – Supreme Court sets aside pecuniary penalty for illegal advertising by a foreign games' provider.

Freedom of establishment

- Ambit of public authority derogation
 - Private security – Act of 2003 required Slovenian nationality;
 - Notaries public Act – required Slovenian nationality;



Freedom of establishment

- Duty to register a branch
 - Companies Act: Article 676
- (1) A foreign undertaking may pursue an activity with a view to profit in the Republic of Slovenia through branches.
- EU Services Directive – preamble recital 37:
„An establishment does not need to take the form of a subsidiary, branch or agency, but may consist of an office managed by a provider’s own staff or by a person who is independent but authorised to act on a permanent basis for the undertaking, as would be the case with an Agency.“

Free movement of capital

Citizens' initiatives „Kras“ and „za Primorsko“ called the Government to apply for the European Commission to grant protective clause on real estate trade...

deadline: 1 May 2011.

- The economic crisis effectively „protected“ Slovenia from sell-out of Slovenian land to foreigners.



Future challenges

- Privatisation of state-owned companies – prohibition of golden shares under EU law;
- Implications of Koller (C-118/09) on Slovenian state bar exam – title-shopping?



Future challenges

- Cross-border health services – what will be the implications for the Slovenian health care system?
- Free movement of beggars – what measures against them are legitimate?





Thank you for your attention!