



**IN THE SMALL CLAIMS TRIBUNAL**

**Adjudicator: Dr. Claudio Żammit**

**Sitting of Monday 30th August 2021**

**Claim Number: 13/20 CZ**

**Steven Hopp**

**vs.**

**Rootz Ltd.**

**The Tribunal,**

Having seen the Notice of Claim filed in virtue of Regulation (EC) 861/2007 of the European Parliament and of the Council establishing a European Small Claims Procedure, filed on 5<sup>th</sup> June 2020 in virtue of which claimant premised that:

The defendant with Rootz Ltd. is the operator of the online casino site Wildz Casino. In Germany it is not allowed to play in online casinos. I lost the amount of 1400 Euro in this casino. Based on the reviews on the internet, I must assume that the casino is not legal and that no regulation takes place. Due to the current German laws, the defendant has to transfer the amount back to me.

Defendant company files its reply on 30<sup>th</sup> July 2020, and declared:

- (a) Rootz Ltd, a company validly incorporated under the laws of Malta bearing the registration number C 83903, is duly authorised by the Malta Gaming Authority to undertake B2C Gaming Services Licence Type 1. Rootz Ltd. is in possession of a valid licence to provide or carry out a gaming service from Malta, or to any person in Malta, or through a Maltese legal entity, pursuant to Regulation 3 (1) of the Gaming Authorisation Regulations, S.L. 583.05.
- (b) Clause 21 of T & Cs duly consented to by the claimant clearly state that the defendant shall not accept any responsibility under the laws of any other jurisdiction. In addition to this, the claimant has also consented to and declared the fact that it is his sole responsibility to know whether online gambling is legal in his country of residence, pursuant to clause 4.3 of the T&Cs. It is evidently clear therefore, that the onus is on the claimant to ensure that the gaming services being supplied by the defendant comply with the laws of Germany prior to engaging in said services.

Based on the above grounds, the defendant hereby respectfully and categorically rebuts the claim brought forward by the claimant in its entirety.

The Tribunal considered:

Plaintiff is claiming the payment of one thousand four hundred Euro (€1,400) from defendant company, a sum which he lost while playing in an online casino operated by defendant company. He bases his claim on two allegations 1) In Germany online casinos are not allowed; 2) The casino is not legal.

From a review of the documentation submitted by defendant company, it has been proven that defendant company has the required licence to operate a gaming service from Malta. This licence was granted on the 30<sup>th</sup> April 2019 and is valid for ten (10) years. Plaintiff's allegation that the casino is illegal therefore is unfounded.

Regarding the first ground in that plaintiff alleged that in Germany online casinos are not allowed, it must be stated that the contract binding the parties in this case was the terms and conditions offered by defendant company prior to plaintiff starting playing the games in question. From a reading of Article 1.12 of the same, it results that the governing law shall be the laws of Malta, and the Courts of Malta shall have exclusive jurisdiction to resolve any dispute. Since the governing law is not that of Germany, plaintiff is not justified in claiming a refund on the premise that in Germany such online casino is illegal.

The Tribunal therefore cannot uphold plaintiff's request.

On the basis of these considerations, the Tribunal is upholding defendant company's defence pleas, and is rejecting plaintiff's claims. Plaintiff shall pay all the costs of this claim.

**Dr. Claudio Zammit**

**Adjudicator**

Susanne Fenech

Deputy Registrar