[DE] BayVGH Rules on State Sports Betting Monopoly

IRIS 2011-6:1/11

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On 21 March 2011, the Bayerische Verwaltungsgerichtshof (Bavarian Administrative Court - BayVGH) decided, in a temporary injunction procedure, that the state monopoly on sports betting based on the Glücksspielstaatsvertrag (Inter-State Gambling Agreement), which is valid until the end of 2011, does not comply with European legislation (see cases C-447/08 and C-448/08).

In the court's opinion, due to the steadily increasing number of licensed slot machines in amusement arcades, which can be much more addictive than sports betting, the objective of systematically and coherently limiting betting and gambling is not being achieved. Therefore, the state monopoly on gambling represents a disproportionate restriction of the freedom to provide services and the freedom of establishment in Europe and can no longer be used as the basis for prohibition orders.

In the case at hand, a sports betting provider's application for the temporary suspension of a prohibition order was nevertheless rejected because the court could not judge conclusively whether the conditions for the award of a licence had been met, regardless of the state monopoly on sports betting.

In decisions issued on 1 April 2011 in two other temporary injunction procedures, the BayVGH also ruled that the ban on Internet gambling still applied, regardless of whether the state monopoly of sports betting was valid. The Internet ban was not so inextricably linked to the state monopoly on sports betting that, if the said monopoly was incompatible with basic freedoms under EU law, the ban would also have to be considered invalid. Taking all gambling sectors into account, it was considered sufficiently systematic and coherent under the requirements of the Court of Justice of the European Union.

Beschluss des BayVGH vom 21. März 2011 (Az. 10 AS 10.2499)

http://www.vgh.bayern.de/BayVGH/documents/10a02499b.pdf

BayVGH decision of 21 March 2011 (case no. 10 AS 10.2499)

Beschluss des BayVGH vom 10. April 2011 (Az. 10 CS 10.589)

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http://www.vgh.bayern.de/BayVGH/documents/10a00589b.pdf

BayVGH decision of 10 April 2011 (case no. 10 CS 10.589)

Beschluss des BayVGH vom 1. April 2011 (Az. 10 CS 10.2180)

http://www.vgh.bayern.de/BayVGH/documents/10a02180b.pdf

BayVGH decision of 1 April 2011 (case no. 10 CS 10.2180)

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