

German Federal Constitutional Court pronounced its Decision in the Case of Sports Betting

28th March 2006 – Today the German Federal Constitutional Court (Bundesverfassungsgericht) pronounced its long-awaited decision in the case of sports betting. As we already reported in our newsletter „German Gaming Law updated“, the case concerns a Munich based bookmaker, Ms. Katzinger-Göth, having filed constitutional complaint against a decision of the Federal Administrative Court’s decision (case-no. 1 BvR 1054/01). In particular she invoked the freedom to choose one’s profession as granted by Art. 12 of the German Constitution (Grundgesetz).

The Federal Constitutional Court’s Key Messages:

- The state monopoly on sports betting in its current form is unconstitutional.
- The legislator will have to enact a new law until the end of the year 2007 at the latest.
- Alternatives and criteria for a new regulation are set up by the Constitutional Court.
- ODDSET must not be advertised anymore, only factual information is allowed.
- Operating and procuring sports betting may be prohibited.
- The scope of application of Art. 284 German Criminal Code (Strafgesetzbuch), which punishes illegal gambling, is left to the criminal courts, until the new law is enacted.

The Impact of the Decision

The present regulation and situation regarding sports betting is not compatible with the freedom to choose one's profession as granted by Art. 12 of the German Constitution.

State operators in particular lack to consequently fight betting addiction and betting passion. The present advertisement for ODDSET, the sport betting offer of the state operators, inciting and encouraging betting is illegal. The present legal situation is unconstitutional.

The legislator is therefore called upon to enact new rules governing sports betting by end of the year 2007. Either the betting monopoly must be directed towards effectively fighting betting addiction or private operators are to be admitted to the market.

Until then ODDSET must not be advertised anymore, but the state operators may only report factually on the state betting offer. Police authorities may take action against betting shops. Criminal judgement of the cases remains with the courts in the meantime.