

# Administrative Court of Munich grants sports betting agent relief from judicial execution of a prohibition order

In a new decision, the Bavarian Administrative Court of Munich (Verwaltungsgericht München) granted a sports betting agent relief from judicial execution of a prohibition order issued by the city of Munich (decision of 7 April 2008, file-no. M 16 08.851). The sports betting agent, who's case was pleaded by Arendts Anwälte law firm ([www.wettrecht.de](http://www.wettrecht.de)), can thus keep operating his business and transferring sports bets to a privately owned and state licensed bookmaker in the EU. The Administrative Court of Munich has thus changed its previous line of reasoning, after having refused to grant relief from judicial execution in similar cases in recent years. The court granted relief subject to the sports betting agent filing for a license under gambling law.

In the court's opinion, the outcome of the main proceeding can be estimated to be open. The outcome depended significantly upon the question, whether the normative standards under the Interstate Treaty on Gambling and its Bavarian implementing act, as well as the measures adopted by the Bavarian state government complied with the ECJ's requirements for fundamental rights limiting "gambling policies". This had to be determined comprehensively during the main proceedings in application of the requirements set forth by the Federal Constitutional Court (Bundesverfassungsgericht) and the European Court of Justice (ECJ). The following criteria were decisive: whether an active prevention policy was provided for the state offer, to which extent advertisement would be

placed, how large the distribution channels would be and to which extent sports bets would be made a good of everyday life. One also had to examine, what risk potential was inherent to the individual gambling sectors and whether, pursuant to the ECJ's jurisdiction, one did not have to find a "comprehensive solution" for the entire gaming sector.

The Administrative Court of Munich enjoined the sports betting agent to file for a license, even if granting of the same could be ruled out under the current Interstate Treaty on Gambling. One could reasonably expect from the sports betting agent –this being sufficient at the same time – to make an effort in order to obtain a license and, if need be, to seek judicial clarification after the proceedings of interference (administrative proceedings reviewing an individual administrative decision upon a protest by the party aggrieved) had ended.