

Administrative Court Düsseldorf: No bad actor clause for online casino operators

Düsseldorf – Hambach & Hambach successfully represented two clients against prohibition orders from 2019, issued under the former Interstate Treaty on Gambling by (inter alia) the State of North Rhine-Westphalia. By judgement dated 10th May 2022, the court lifted both prohibition orders with immediate effect, ruling in favor of the operators.

From a legal perspective, the requirements for a prohibition order are not met. Pursuant to Section 4 (4) GlüStV 2021, the Internet ban on online casino games, virtual slot machine games and online poker has given way to a reservation of permission. For legal reasons alone, the operators can therefore no longer violate the internet ban. The court pointed out that:

> **“Ultimately, the entry into force of the new Interstate Treaty on Gambling in Germany on July 1, 2021 marked a turning point, which meant that the defendant would have had to base its risk prognosis on a new foundation, as violations under the old legal situation could no longer justify an unfavorable prognosis without the addition of further circumstances.”**

Even more so, the authority was wrong to criticize the operators for not applying for a slot license under the old Interstate Treaty in the first place, as Germany did not allow for a slot licensing procedure at all. In line with the recent judgement, several authorities have already withdrawn former prohibition orders.

Litigation counsel were salary partner Dr. Stefanie Fuchs,

senior associate Yannick Skulski and associate Phillip Beumer.