

District Court of Karlsruhe: Conveying sporting bets to an Austrian bookmaker is not to be regarded as anticompetitive

Four months before the decision of the Administrative Court of Karlsruhe, the District Court of Karlsruhe (Commercial Court) in its decision of January 21st 2004 (case no. 14 O 3/04) – KfH III) decided that a provider for sporting bets may also convey sporting bets to a bookmaker established in Austria.

That (Austrian) business was licensed in Austria. Similar to the decisions of the Administrative Court of Karlsruhe this decision holds Art. 284 German Penal Law as well as the state laws of Baden-Württemberg to be a restriction not in compliance with European Law.

The court found that conveying sporting bets to a business licensed in Austria could not be regarded as anticompetitive in terms of Art. 1 of the law against unfair competition, since the principles of the freedom of establishment and the freedom to provide services were further concretised for the relevant area of procuring sporting bets by the decision of the European Court of Justice of November 6th 2003 (Gambelli-Decision). Consequently it is necessary to create national licensing provisions. The relevant state law of Baden-Württemberg did not contain such provisions yet. As long as adequate provisions did not exist, the fact that a business established in the state of Baden-Württemberg relied on a license issued by the competent Austrian authority cannot be regarded as anticompetitive in terms of Art. 1 of the law against unfair competition.

Invoking the Gambelli decision as well as the meanwhile leading jurisdiction in Germany is consequent and is to be seen as a sign towards the high court jurisdiction respectively the legislator. It will probably not take until too long for the state gambling monopoly to be deprived of its current form.

Die hier zur Verfügung gestellten Inhalte stellen nicht in jedem Fall die Meinung der [key:IC] Presseagentur – Redaktion dar.