

German Betting Tender Progresses As ECJ Sets Digibet Decision Date

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Europe's highest court will rule next week on a case into the enforceability of Germany's internet gambling restrictions, but lawyers believe it is unlikely to disrupt the country's contentious betting tender as applicants move into the final phase.

The European Court of Justice (ECJ) will release its judgment on June 12 into the Digibet case ([C-156/13](#) [2]) about whether Germany's gambling legislation is inconsistent and breaks EU rules.

The EU judges [were asked](#) [3] about the disparity of the Schleswig-Holstein region having an open licensing process compared with a more restrictive system in the rest of the country that bans online casino and poker.

In a complicated scenario, Schleswig-Holstein voted to [repeal its gambling law on the same day](#) [4] that the case was referred to the ECJ, but its [48 online casino and betting licences](#) [5] remain in force.

"I can't imagine the court will say all is fine. Even a legally blind person can see it's not a coherent situation," said Wulf Hambach, partner at Hambach & Hambach law firm in Munich.

"But I don't think they will make such a clear ruling either. It's going to be open and that will not help either side."

The European Commission said in its written response to the case that the divergence of Schleswig-Holstein does not cause inconsistency because the regulation of gambling exclusively rests with Germany's regions, and not the country as a whole.

But Matthias Spitz of Melchers law firm disagreed that the legislative powers for gambling regulation exclusively vest in the federal states. "As a consequence, the commission would have to conclude that interstate inconsistency exists," he said.

According to Hambach: "What we really need is a clear answer at the legislative level. Otherwise this issue will keep burning because operators aren't happy and do not have security."

The Digibet ruling will come out the same day as the World Cup kicks off in Brazil, but the unusual situation will continue in Germany where websites pay betting taxes even though they are not regulated there.

The minister in charge of issuing up to 20 German sports-betting licences said last month that he could not predict when they would be awarded.

Hesse minister for the interior and sport Peter Beuth said that lawsuits from at least four applicants have delayed the process.

The Hesse Interior Ministry has now started its [second attempt at the final interview stage](#) [6] for the licences, holding individual hearings from mid-May to mid-June.

More than 30 companies of the [41 left in the process](#) [7] have been invited for interviews, according to people who have taken part.

The ministry has not released a list of which companies are still in the running and the operators themselves have signed broad non-disclosure agreements.

German bookmaker Mybet broke the silence last month, revealing in a [stock exchange filing](#) [8] that it was one of the companies invited to present its social and safety strategies in Wiesbaden.

But the Frankfurt-listed company also warned: "It remains unclear when the licences will finally be awarded on a legally binding basis."

Hesse is aiming to release the results before the end of the year, but further delays are likely as unsuccessful applicants are expected to seek legal protection and some successful applicants will sue against the restrictions in their licences.

In the interviews, companies present for two hours on their IT security system, player protection, payment processing and marketing strategy, including control over affiliates.

Ministry officials then score the applicants out of five on a matrix of issues, with the companies that achieve the highest number of points the winners.



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