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Court upholds appeal by internet gaming company

The Court of Appeal has upheld an appeal filed by Zeturf Ltd, an internet gaming company holding a Maltese licence, revoking a judgment in which the First Hall of the Civil Court had ordered the execution of a French judgment in Malta.

The case originated in France when French betting syndicate Groupement d'Internet Economique Pari Mutuel Urbain (PMU) filed a case against Zeturf and, in a judgment delivered on July 8, 2005, a French tribunal ordered Zeturf to cease taking online bets on horse races organised in France.

The judgment was then confirmed by the Paris Court of Appeal on January 4, 2006.

PMU eventually sought to have the judgment recognised and enforced by the Maltese courts.

On March 1, 2006, the First Hall of the Civil Court (Malta) upheld PMU's request and ordered the enforcement in Malta of the judgment delivered by the Paris Court of Appeal against Zeturf.

Zeturf then resorted to the Court of Appeal, composed of Chief Justice Vincent Degaetano, Mr Justice Anton Depasquale and Mr Justice Albert J. Magri.

In its judgment on Tuesday, the appellate court noted that PMU had requested the enforcement of the judgment in Malta in terms of an EU regulation governing enforcement of judgments. But Zeturf claimed that the regulation was not applicable to the case as this involved administrative law and was not a civil or commercial issue. The Court of Appeal said that in order to determine whether the matter was an administrative one or a civil or commercial issue, it had to examine what powers had been exercised by the parties to the suit. If the powers were different or superior to those normally applicable between normal individuals in the area of private law, then the issue could not be deemed to be one of civil or commercial nature.

After hearing the evidence, the court found that PMU, although registered as a commercial company, exercised powers that were superior to those of private entities. This company had been established to regulate French public policy in connection with bets placed on horse racing.

It further resulted that PMU was controlled by the state and was a non-profit making organisation established to protect French public policy.

PMU had acted before the French courts in the realm of public law as it had tried to protect French public interests. It therefore followed that the judgment of the Paris Court of Appeal was, in reality, a judgment on a public law issue. As a result, this judgment did not fall within the ambit of the EU regulation governing the enforcement of foreign judgments.

The Court of Appeal concluded by revoking the judgment of the first court that had ordered the execution of the French judgment in Malta.

Lawyers Ian Refalo, Christian Farrugia and Mark Refalo represented Zeturf.

PMU was represented by lawyers Franco Vassallo and Brigette Zammit.

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