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PRESENTE:

French PMU wins its first legal battle against online bookmaker

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Thème: Criminalité et droit pénal

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The Pari Mutual Urbain (PMU) has successfully overcome its first legal hurdle in a case it filed in June 2005 against the online bookmaker ZeTurf. As in most other remote gambling cases are the facts of this case relatively simple: The bookmaker, duly registered and incorporated in Malta, provides French internet users the possibility to bet on horse races, whereas this type of gambling services falls under the exclusive right of the PMU.

The act of 16 April 1930 grants the PMU the monopoly to organise betting activities on horse races. In addition and since 1964, is the PMU also holder of the exclusive right to take bets on horse races that take place outside France.

During the summary proceedings, the PMU recalled further that the so-called Perben II Act of 10 March 2004 sanctioned the unauthorized organisation of lotteries with two years of imprisonment and a fine of € 30 000.

Important to note is that the Maltese bookmaker seemed in fact directly or indirectly linked to the French company Eturf. Even though the debate focused more on aspects of intellectual property and the exclusive rights of the PMU, and thus not on the cross-border provision of gambling services, the case illustrates that the de-localization of a gambling operation is not that easy and that proper attention should be paid to the principles of Regulation 44/2001 on the execution of civil decisions throughout the European Union.

In its decision of 8 July 2005, the Court of Paris followed the PMU's requests and argumentation. It pointed out that *"the management of organization has been entrusted to the PMU by the companies authorized to be active in the field of pool betting outside the hippodromes, as it was provided by article 27decree no 97-456 of 5 May 1997 modified by the decree no 02-1346 of 12 November 2002"*.

Consequently *"by taking online bets without proper authorisation Zeturf inflicts an obviously illicit perturbation to the PMU"*.

The Court then ordered *"Zeturf Ltd to put an end to the activity of taking online bets on horse races organised in France, this on a penalty of € 15 000 per day following 48 hours from notification of the present decision .</p>*

Zeturf has announced that it would appeal the decision. If it does so, one of the main arguments in the appeal procedure should be the compliance of French gaming restrictions, as evoked by the PMU, with the requirements of European law. Even though the French Supreme Court held in the 1997 Dellner case, that the restrictions imposed to the cross-border activities of a UK bookmaker were justified, it can be questioned whether the actual French gaming policy meets the 2003 Gambelli and Lindman ECJ judgments.

The so-called 2002 Trucy Report of the French Senate, for instance, raises questions on the legality of the French gaming policy, in particular because the French State is a majority shareholder of the Française des Jeux. Moreover, the French Senate does not exclude an initiative of the European Commission or that the gaming market could be regulated in a more liberal, but highly regulated and monitored manner.

The decision of the Court of Paris is available on this site [available on this site](#).

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