

Interview with Dr. jur. Martin Bahr – Attorney at Law and Tutor

We are speaking with managers, directors, shareholders and personalities from the gambling house and the Casino industry. [key:IC] is questioning current issues and interesting news for you. Today we are talking with Dr. Martin Bahr, attorney at law (commercial legal protection and profit play right/gambling right) and lecturer.

Attorney Dr. Martin Bahr, single, 32 years old. Place of birth: Stade. After the three-year practical diploma training at the German Telekom AG in the years 1991 to 1994 in Hamburg of the civilian community service within the environmental educational range, followed with the federation for environment and natural environment protection (Hamburg).



In the years 1996 to 1999 the lawyer studied at the University of Goettingen and graduated there with the First State Exam. He has completed additionally the law studies course „Launch into the Japanese Civil Law“ at the Open University Hagen. From the beginning of the year 2000 up to the summer of 2002 he attained a doctorate with the title to the „Abuse competition-legal warning within the range of the Internet“ at the chair of Professor Dr. Abbo Junker. He received his junior lawyer training at the LG Paderborn from 2000 on to the end of October 2002. Since the beginning of the year 2003 he is a certified attorney in Hamburg with the interest emphasis Law of the new media, commercial legal protection and profit play right/gambling right. Besides he is active for several in

Hamburg located education carriers as a lecturer. Dr. Bahr speaks English, Spanish and Japanese.

[key:IC], Editor of Chief, Reinhold Schmitt: Which function do you exercise?

Dr. Martin Bahr: I am initial member of the chambers Heyms & Dr. Bahr and attorney in Hamburg.

[key:IC]: Are you still in other ranges active except that on-line Casino right?

Bahr: Yes. The areas in law, in which I am active, are the law of the new media, the commercial legal protection and the profit play and gambling law. Frequently these ranges in everyday practice overlap.

[key:IC]: How did you come to the section on-line Casino right?

Bahr: I was actually been used to it from my childhood on for to being interested always privately in the range of gambling. As a small boy I was fascinated of this multicoloured glitter-world. And it seems today still to me, as to be a own small world.

Vocationally I was approaching the gambling law, thus also that on-line Casino law, from the value added services (0190, 0137 etc...) on. At that time it concerned telephone profit plays with increase in value services and fast arose the question whether it concerns offence gambling. None of the lawyers at that time could or wanted to answer this question. That of course interested and provoked me. Thus I entered ever more deeply into the range of the gambling right. Due to mine both private and also vocationally referred Internet affinity is naturally clear that on-line Casino and the associated legal problems constitute a not insignificant part of my activity.

[key:IC]: Are there on-line Casinos in close/henceforth future

prospects for the industry that they are to be legalised?

Bahr: It is already whispered since longer that there will be given certain on-line Casinos soon from national side. For the private sector against it looks – however this would also be too desirable – just pitch-black to me. Just the straight sport bet range and the current events around the Gambelli decision showed that the State with all means defends its monopoly. Even if the Gambelli judgement should cause to obtain something on longer view, then this applies first of all only to the sport bets. The State will try with lion claws to keep its other gambling monopolies.

[key:IC]: How does the future in on-line bets look?

Bahr: The globalization will still increase. The tear in the monopoly wall, which Gambelli caused, will expand and last end to the fact will lead to that the whole German partitioning against foreign officers is led ad absurdum.

Already today there are so numerous offers in the net so that the German effort, to get order into the matter rather resembles the myth of Sisyphus than to bring any meaningful use.

We see the same also in the USA: Just the World Trade Organization condemned the USA that this also foreign on-line Casinos permit. Tries also here the USA to partition, however – like Germany – in the long term shipwreck will suffer itself.

The Internet – and concomitantly the on-line bets – are just an international medium.

[key:IC]: Is the Gambelli judgement a future pointing the way for suppliers in Europe?



Bahr: For me it means a clear: Yes, it is. The German jurisdiction against it is still relatively in a disagreement itself. Thus there are numerous decisions since Gambelli in favour of private provider, but also exactly as many decisions against it. Probably still years will pass, until one can expect a judgement of the Supreme Court over here. The BGH (Verdict from the 1st. April, 2004 – Reference: IZR 317/01) only recently scarcely devoted attention to it, but this was only a marginal remark. And those left most of it open. In each case Gambelli led to the fact that within a range already dead-believed the cards will be again shuffled.

[key:IC]: Could the jurisdiction of the on-line service proprietor/ provider be altered and if so, how?

Bahr: Also private provider with a foreign, European gambling permission must become certified to the German market. It is altogether a little trustworthy, if on the one hand it is claimed, the State wants the public to protect of Gambling addiction, on the other hand however is spending amounts of millions for the advertisement of the „Oddset bets“ and rakes in appropriate profits. I therefore see no objective reason that not also private supplier could become authorised, if they fulfil certain minimum requirements.

[key:IC]: Are linking permitted to Online Casinos?

Bahr: Here it has to be differentiated between two constellations. Once there are on-line Casinos, which do not have a license of a European state. If I was to be linking up on these, I would be committing an offence and commit myself besides, if I move in the trade, a competition-adverse action, which can be warned liable to pay the costs. Then there would be still the on-line Casinos, which have a foreign license of

a European state. Here is – as I already meant – a straight controversy over this question been inflamed.

[key:IC]: May one make linking up within articles or reports to Online Casinos?

Bahr: In addition there is a current decision of the BGH (Verdict of 1. April 2004 – Reference: I ZR 317/01). The newspaper „Die Welt“ (The World) reported about an abroad gambling provider, about its company etc. In the context of this report also the homepage was twice linked. The BGH rejected an adhesion of the magazine here under expressively stressing of the Freedom of the Press. Same will apply also to other articles and reports.

Pleasing it is here in particular that the judges stress expressly that a meaningful use of the Internets without the appliance of hyperlinks is operatively excluded. Therefore the characteristics of this medium are to be considered with the legal evaluation.

[key:IC]: Are there at present any Online Casinos existing in Germany or in Europe, to the best of your knowledge?

Bahr: In Germany there are, to the best of my knowledge, at present no legal providers of on-line Casinos at all. On European level the market is almost difficult-to-understand, particularly since it constantly is in motion and alters.

[key:IC]: Which providers are legally in Europe certified and may advertising for it on web pages or in the media?

Bahr: Roughly formulated: All, which have an appropriate national permission. Whereby here it is controversial whether it must also concern a national license or another European state is sufficient.

[key:IC]: You are writing with large success publications for the [key:IC]. For whatever institutions do you make this still, too?

Bahr: I publish both off-lines and online. Off-line it concerns mostly specialized magazines like „Multimedia and Law“, „Competition in Law and Practice“ or „Computer and Law“ („Multimedia und Recht“, „Wettbewerb in Recht und Praxis“ oder „Computer und Recht“). Online although it is the circle more broadly strewn, here I address consciously also a multiplicity of legal amateurs. The portals, on which I publish, are e.g... „Affiliate and Recht.de“, „DrWeb.de“, „Jurawelt.com“ or „PC Special.net“.

[key:IC]: Could you imagine that the German Casinos should provide on-line market a common on-line Casino together on that, if it permits the legal situation?

Bahr: In view of the present legal situation and due to the circumstance that to me at present no legal German on-line Casino admits is, I can fancy that only very hardly.

[key:IC]: Would you dare a prognosis like how the judgement with the BVerfG will be effected?

Bahr: That is a difficult question. Content wise it concerns in particular the question of the agreement of the restrictions of occupation with the Law by Article 12 GG. To that extent it is another, although cognate constellation than Gambelli. I consider the constitutional complaint personally quite comprehensible, but I am afraid however that the BVerfG (German Federal Constitutional Law) will reject it.



[key:IC]: What occurs to you spontaneously, if you think of amusing occurrences during your activity?

Bahr: O Dear, that reminds me already of a quantity, however unfortunately it falls everything under the lawyer's professional pledge of secrecy.

[key:IC]: If you had your three wishes freely, what are you thinking of, apart from wealth, spontaneously?

Bahr: Health and personal satisfaction for all. And that everyone can carry out itself fulfilment privately and vocationally in such a way as one would like.

[key:IC]: How does your leisure time reconciliation look like?

Bahr: I read very much, both technical experts literature, as well as of the range of fiction and poetry. And I am very, very much curious person. With me private and working lives unite very strongly. Not only the entire technical and social development in the matter of Internet interests me, but I look for in principle an interdisciplinary beginning. New humans and things off and on-line to become acquainted with, constitutes for me the special attraction.

[key:IC]: Many thanks for the conversation.