

- (e) If the answer to question (c)(ii) above or any part of question (d) above is 'yes', where a taxable person gives a similar or identical gift of recorded music to two or more different individuals because of their personal qualities in being able to influence the level of exposure the artist in question receives, is the Member State permitted to treat those items as given to the same person solely because those individuals are employed by the same person?
- (f) Would the answers to questions (a) to (e) above be affected by the recipient being, or being employed by, a fully taxable person, who would be (or would have been) able to deduct any input tax payable on the provision of the goods consisting of the sample?

(<sup>1</sup>) Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ L 145, p. 1).

**Reference for a preliminary ruling from the Cour d'appel de Liège (Belgium) lodged on 29 December 2008 — Real Madrid Football Club, Zinedine Zidane, David Beckham, Raul Gonzalez Blanco, Ronaldo Luiz Nazario de Lima, Luis Filipe Madeira Caiero, Futebol Club Do Porto S.A.D., Victor Baia, Ricardo Costa, Diego Ribas da Cunha, P.S.V. N.V., Imari BV, Juventus Football Club SPA v Sporting Exchange Ltd, William Hill Credit Limited, Victor Chandler (International) Ltd, BWIN International Ltd (Betandwin), Ladbrokes Betting and Gaming Ltd, Ladbroke Belgium S.A., Internet Opportunity Entertainment Ltd, Global Entertainment Ltd (Unibet)**

(Case C-584/08)

(2009/C 55/29)

*Language of the case: French*

#### Referring court

Cour d'appel de Liège

#### Parties to the main proceedings

*Appellants:* Real Madrid Football Club, Zinedine Zidane, David Beckham, Raul Gonzalez Blanco, Ronaldo Luiz Nazario de Lima, Luis Filipe Madeira Caiero, Futebol Club Do Porto S.A.D., Victor Baia, Ricardo Costa, Diego Ribas da Cunha, P.S.V. N.V., Imari BV, Juventus Football Club SPA

*Respondents:* Sporting Exchange Ltd, William Hill Credit Limited, Victor Chandler (International) Ltd, BWIN International Ltd (Betandwin), Ladbrokes Betting and Gaming Ltd, Ladbroke Belgium S.A., Internet Opportunity Entertainment Ltd, Global Entertainment Ltd (Unibet)

#### Questions referred

The questions relate to the interpretation to be given, in the specific field of the internet, to Article 5(3) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (<sup>1</sup>).

Where, as in the present case, the alleged harm is caused by websites and

- (a) none of the companies being sued, which run the websites in question, has its company seat in Belgium,
- (b) none of the websites in question is hosted in Belgium,
- (c) none of the claimants is domiciled in Belgium,
- (d) the betting websites are available to Belgian internet users, who can place their bets on those sites, to the same extent as they are available to internet users in other contracting States since they are '.com' websites which have the purpose of extending their market to the whole of Europe, and they do not have the extension '.be' which is specific to Belgium,
- (e) those websites are available in a number of languages without the two most commonly used languages in Belgium always being among them,
- (f) those websites offer, inter alia, bets on Belgian matches, in the same way as for foreign championships,
- (g) the use of a particular technology or canvassing technique aimed at the Belgian public has not been proved,
- (h) the number of bets placed by the Belgian public is entirely marginal in comparison with the total number of bets taken by those sites, since, according to the figures submitted by the bookmaking companies for 2005, which were not disputed, all the Belgian betting on football matches represents less than 0.25 % of the bets taken on the websites 'bwin.com', 'willhill.com', 'betfair.com', 'ladbrokes.com', 'sportingbet', and 'miapuesta', while 'vcbet.com' refers to 40 Belgian bettors among all the bets placed with it,
  1. should it be held that the alleged harm occurred or is liable to occur in Belgium, so that the Belgian courts have jurisdiction to hear the actions relating to that harm because the websites in question are directed, inter alia, at the Belgian public?
  2. or should it be held that the alleged harm occurred or is liable to occur in Belgium, so that Belgian courts have jurisdiction to hear the actions relating to that harm, only if the existence of a sufficient, substantial or meaningful connection between the tortious events pleaded and Belgian territory is established?
  3. if so, what are the relevant criteria to be taken into consideration in assessing whether such a connecting factor exists?

(<sup>1</sup>) OJ 2001, L 12, p. 1.