



INTERNATIONAL **GAMBLING** LAWS  
AND **REGULATIONS** REVIEW  
2025 / 26



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# International Gambling Laws & Regulations Review 2025/26

## Contents

### International Association of Gaming Advisors (IAGA)

Mr John Stawyskyj “Navigating global growth and governance in the gambling industry” .....	3-6
---	-----

### Argentina – MF Estudio

Mr Tomas Enrique Garcia Botta “Key developments & the latest trends in argentina” .....	7-12
--	------

### Austria – Brandl Talos

Mr Nicholas Aquilina, Ms Angela Yonkova-Markov “Online gambling in Austria – between mass litigation and potential market liberalisation” .....	13-20
--	-------

### Belgium – Edson

Mr Pieter Paepe “recent developments in belgium – advertising and online games of chance in the spotlight?” .....	21-26
---	-------

### Brazil – Tozzini Freire

Mr Jun Makuta, Ms Adriana Ferreira “From regulation to protection: enhancing player safety in Brazil’s betting landscape” .....	27-34
--	-------

### Germany – Brandl Talos

Mr. Nicholas Aquilina, Mr. Jens Becker “The Highs and Lows of German Gambling Regulation” .....	35-41
--	-------

### Hong Kong – Johnson Stokes & Master (JSM)

Mr Vincent W. C. Law, Ms Ka Wai Leung “Navigating the legal landscape of gambling in Hong Kong: regulations, exceptions and emerging trends” .....	42-48
---	-------

### Ireland – Matheson

Mr Matthew Broadstock, Mr Carlo Salizzo, Ms Karen Reynolds “New rules for gambling in Ireland” .....	49-57
---	-------

### Israel – Herzog Fox & Neeman

Mr Liran Barak “Israel’s conservative stance on gambling: legal framework, exceptions and emerging trends” .....	58-63
---	-------

### Japan – Mori Hamada & Matsumoto

Mr Masafumi Masuda, Mr Masahiro Ueda, Mr Kouki Kadota “Navigating Japan’s gambling laws: regulations, esports, online games, and integrated resorts” .....	64-72
---	-------

### Luxembourg – BSP

Mr Michaël Kitai, Mr Alessandro Morini “The regulation of gambling in Luxembourg” .....	73-78
--	-------

### Romania – BACIU PARTNERS

Mr Andrei Cosma, Ms Adela Nuță “Gambling legal framework overview” .....	79-86
---	-------

### Sweden – WESTERBERG

Mr Stefan Widmark, Mr Hans Eriksson, Mr Petter Larsson “The International Gambling Laws & Regulations” .....	87-95
---	-------

### Switzerland – MME

Dr Andreas Glarner, Mr Stefan Keller “Switzerland’s regulatory structure for gambling under the Money Gaming Act” .....	96-103
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# FOREWORD

## INTERNATIONAL GAMBLING LAWS & REGULATIONS REVIEW



### BIO

John Stawyskyj is global head of Ashurst's gaming practice and is a recognised leader in real estate, hotels and gaming law. John is experienced in all aspects of land based and internet gaming issues, commercial transactions involving the gaming industry, including acquisitions, disposals, joint venture arrangements, development projects, leasing, financing arrangements, regulatory issues and drafting of management and operating agreements for gaming operations. John has had extensive experience in advising on interactive and online gambling services, SMS betting competitions and other internet gaming activities. John is the current outgoing President of the International Association of Gaming Advisors (IAGA).



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# INTERNATIONAL GAMBLING LAWS & REGULATIONS REVIEW

Digital innovation has facilitated the evolution of the global gambling industry. The proliferation of online platforms has revolutionised the way players engage with gambling activities, transcending geographical boundaries and creating a truly global market. As modern consumer preferences and practices increasingly prioritise convenience, accessibility to technology has facilitated the development of opportunities and risks for regulators, industry leaders, and policymakers to consider equally. As the industry progresses, the singular consistency remains that the legal and regulatory landscape is governed by flux and change.

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The global gambling industry's digital evolution blurs gaming boundaries, demanding regulators balance consumer protection with innovation and cross-border investment.

The gambling industry is faced with a timeless challenge - upholding a commitment to consumer protection without stifling economic intervention by way of over-regulating. The increased accessibility to technology has enabled the convergence of gambling and gaming. The line between the two sectors is becoming increasingly blurred, as the incorporation of

monetarily risk-based rewards reshape the traditional image of brick-and-mortar gambling enterprise practices. Australia's National Consumer Protection Framework is reflective of the prioritisation of consumer welfare, through the imposition of credit restrictions and self-exclusion registers at the cost of opportunities to maximise commercial benefit through increased taxation revenue streams. Yet, challenges in ensuring consumer protection arise as identity verification becomes increasingly difficult due to the heavy use of VPNs to access Australian markets from Asian and European jurisdictions.

The growth of the gambling industry is witnessed in its application as a vehicle for foreign investment. It has opened up new pathways to raising capital, fostering innovation and enhancing the global reach of gambling enterprises. Across Asia, countries such as Singapore and Japan have favoured stringent regulation to ensure the prioritisation of national interest and public health over increased foreign investment. Conversely, Malta and Gibraltar showcase the benefits of libertarian-based policies in becoming global gambling hubs. The challenge ahead lies in striking a balance between the approaches, promoting international platforms to accelerate industry growth whilst safeguarding consumer and national interests by limiting cross-jurisdictional risks.

The rapid adoption of digital currencies and artificial intelligence has accelerated growth within the industry – yet regulators must slow down to carefully consider it. The rise of digital currencies as avenues to entrance online and settlement methods in casinos has enabled greater access and convenience to players through seamless transactions and the anonymity imposed by decentralised currencies. Whilst the US has more commonly favoured acceptance of digital currencies in sports betting to maximise the recent sector surge, the UK's approach reflects the prioritisation of the long term goal of eliminating illicit financial practices from the industry over short-term opportunities to increase capital at the risk of consumer welfare. Such contrast is further demonstrated in data protection management practices, such as the European Union's General Data Protection Regulation which sets stringent data policies, whereas the US favours a sector-specific regulatory focus. It reinforces that the industry transcends geographic boundaries, challenging us to regulate accordingly.

The global nature of online gambling platforms complicates the enforcement of national regulations. The lack of a unified global framework can lead to regulatory arbitrage, where operators exploit discrepancies between jurisdictions to their advantage. The industry must navigate the complexities of cross-border gambling activities, requiring international cooperation through a regulatory and legislative lens.

Technology is the cornerstone of the industry and is defined by one characteristic – its susceptibility to flux and change. As such, regulators, industry players, and policymakers must uniformly accept the absence of consistency and embrace a nuanced and adaptive framework for decision-making. The industry must foster international cooperation and leverage technological advancements responsibly to successfully navigate the complexities of the global market whilst ensuring consumer protection and economic growth.

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Online gambling’s global reach demands adaptive regulations and international cooperation to balance innovation, consumer protection, and economic growth.



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# ARGENTINA

KEY DEVELOPMENTS & THE LATEST TRENDS IN ARGENTINA

– A LEGAL PERSPECTIVE ON THE GAMBLING MARKET


# MF ESTUDIO




## BIO

Tomás Enrique García Botta is a lawyer and graduated from the University of Buenos Aires. He specialises in gaming, gambling, administrative and tax law. Since 2019 he has been a member of MF Estudio – Abogados, the only law firm in Argentina that focuses on the provision of bespoke legal services to all verticals of the gaming industry. Prior to joining MF Estudio – Abogados, he was a senior associate at the largest local big law firm, advising multinational companies within many industries including gaming and gambling. He is a member of the Argentine Association of Fiscal Studies (‘AAEF’) and the only member in Argentina of the International Masters of Gaming Law (‘IMGL’) and the International Association of Gaming Advisors (‘IAGA’).

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MF ESTUDIO  
ABOGADOS

# KEY DEVELOPMENTS & THE LATEST TRENDS IN ARGENTINA

## – A LEGAL PERSPECTIVE ON THE GAMBLING MARKET

### Introduction

Argentina's gambling market is at a pivotal moment. After years of economic volatility, regulatory fragmentation, and limited access to foreign investment, the country is witnessing a slow but promising normalisation process. With President Javier Milei's reformist administration pushing for deregulation, fiscal discipline, and private-sector empowerment, there is renewed momentum in several strategic industries - including gambling. In this context, legal developments at both the provincial and national levels are shaping a market that offers significant opportunities for operators and suppliers alike.

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Argentina's gambling market gains momentum under Milei's economic reforms, but a national anti-addiction bill threatens provincial autonomy and industry growth.

At the same time, caution is warranted. A national bill passed by the House of Representatives on 27 November 2024, designed to prevent gambling addiction, threatens to undercut provincial autonomy and impose sweeping restrictions on advertising and customer acquisition strategies. If adopted into law, this bill

could stall the momentum of the regulated sector and also affect genuine revenue streams for the 24 states that form Argentina (23 provinces and the City of Buenos Aires). Nonetheless, this article offers a cautiously optimistic view: that with proper adaptation, Argentina's legal and economic evolution can foster a more robust, mature, and attractive gambling market.

### Political and Economic Context

Since assuming office in December 2023, President Javier Milei has launched a series of ambitious reforms aimed at reducing Argentina's fiscal deficit, lifting currency controls, and reorienting the country toward market-driven policies. These efforts have started to bear fruit. Inflation has slowed, the peso has stabilised, and capital inflows are gradually resuming. One of the clearest

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A B O G A D O S

indicators of normalisation has been the progressive relaxation of foreign exchange controls and the convergence of official and alternative exchange rates.

In April 2025, the government eliminated most currency restrictions, allowing individuals and companies to buy and sell US dollars without quotas or waiting periods. A managed floating exchange band was introduced, initially set between ARS 1,000–1,400 per USD, expanding by 1% each month. By May 2025, the peso had stabilised near ARS 1,138/USD, and the once-significant gap with the “blue dollar” had narrowed to less than 0.5%—a remarkable shift from a 40–50% spread just one year earlier. This convergence has reduced arbitrage opportunities, restored predictability for businesses, and improved investor confidence.

From a legal and commercial perspective, this environment creates a more predictable playing field for regulated industries, including gambling. The unification of the foreign exchange market and the removal of capital barriers has particularly benefited technology suppliers and payment processors seeking to operate or repatriate revenues.

However, Milei's government lacks a congressional majority, meaning that key legislative reforms are often subject to negotiation and compromise. The gambling sector, while not a priority for the executive, has become entangled in broader debates about consumer protection, federalism, and the reach of public health regulation. These tensions are most visible in the contrast between progressive provincial-level regulation and the more restrictive national bill passed by the House.

### National-Level Regulation and the 2024 Bill

The centerpiece of recent national-level legal activity is the “Bill for the Prevention of Gambling Addiction,” approved by the House of Representatives on 27 November 2024. This bill proposes a national framework for online gambling that emphasises consumer protection through strict limitations on advertising, marketing, and user engagement tools. The bill received 139 votes in favour, 36 against, and 59 abstentions. It is now pending review by the Senate.

Key provisions include:

- A nationwide ban on gambling advertising across media channels, including television, online platforms, and public spaces.
- Prohibition of gambling sponsorships for sports teams, stadiums, or public events.
- A ban on promotional tactics such as welcome bonuses, free spins, or matched deposits.
- The requirement that gambling operators implement biometric identification systems to prevent minors from accessing platforms.
- A cap on daily deposits by punters.

If enacted, the bill would mark an improper and unprecedented advance by the federal government into areas that fall squarely within the regulatory competence of the provinces, as established by Argentina’s Constitution. This shift would override the existing regime, where each province autonomously regulates gambling, including operational and promotional aspects. The regulated sector fears that such intervention would not only challenge the principle of federalism but also severely disrupt the business models of licensed operators, many of whom rely on legally compliant advertising and promotional tools to compete with unregulated platforms.

Moreover, the potential enactment of the bill could inadvertently strengthen the black market. By banning all advertising, prohibiting promotional incentives, and imposing high compliance burdens such as biometric verification, the legal offer would become less visible, less attractive, and more expensive to operate. In contrast, illegal operators -unburdened by compliance and enforcement- would continue to reach Argentine consumers via offshore channels and VPNs. This dynamic threatens to exacerbate the existing imbalance: it is currently estimated that less than 10% of online gambling activity in Argentina occurs through regulated channels, leaving the overwhelming majority in the shadows.

### Provincial Regulatory Frameworks

Despite the uncertainties at the national level, provinces continue to play a leading role in regulating gambling, as has been the case since the very foundation of Argentina. This foundational principle of provincial autonomy in matters of public entertainment and economic regulation, including gambling, remains a cornerstone of

Argentina’s federal structure. Argentina’s Constitution grants them broad autonomy over public entertainment and betting activities, and many have taken significant steps toward creating a regulated, transparent, and technologically advanced gambling environment.

Buenos Aires Province and the Autonomous City of Buenos Aires remain the most mature markets. The City enacted its online gambling framework in December 2018 and began issuing licenses in 2020, with the first operators going live in December 2021. The Province approved its regime in April 2019, with license awards beginning in 2021 and most operators launching in early 2022. Compliance requirements include local partnerships, responsible gaming tools, and technical certifications.



Argentina’s 2024 national anti-gambling addiction bill threatens provincial autonomy with strict ad bans and biometric mandates, risking a surge in black-market activity.

Other provinces are catching up:

- San Juan has recently opened its online market, publishing its regulatory framework and announcing its intent to issue online gambling licenses through a public tender process.
- Mendoza finalised its first licensing round in 2023, granting five online licenses, and continued expanding in 2024 and 2025 by issuing two additional licenses. As of early 2025, the province has seven active online gambling operators, reflecting one of the most proactive licensing frameworks in Argentina.
- Santa Fe has transitioned from merely drafting legislation to operating a regulated online market: City Center Rosario and Bplay began offering online games in late 2020.

This decentralisation creates both opportunities and challenges. For suppliers and operators, it means navigating a mosaic of legal requirements. But it also allows for legal experimentation and the tailoring of business models to local realities.

#### Comparative Table: Provincial Online Gambling Market Maturity

Jurisdiction	Online Gambling Law	Licenses Granted	Regulatory Features
Buenos Aires Province	Yes (2019)	7	Responsible gaming tools, local partnership required
Buenos Aires City	Yes (2018)	11	Strong technical requirements, active enforcement
Mendoza	Yes (2023)	7 (as of 2025)	Phased licensing, ongoing expansion, responsible gaming tools, local partnership fostered
Córdoba	Yes (2021, Law 10.793)	4	Responsible gaming tools, local partnership required
Santa Fe	Yes (2020)	2	Licensed via provincial decree, full feathered regulations pending.
San Juan	Yes (2024)	Tender in preparation	Published framework; pending licensing

#### Opportunities for Suppliers and Operators in a Normalised Economy

Argentina's economic stabilisation and the expansion of regulated markets open new doors for game providers, payment processors, and other relevant suppliers within the sector. As the rest of the provinces launch licensing regimes and a nationwide regulated sector consolidates, the demand and opportunities for suppliers is expected to continue to increase. On the operators' side, as Argentina has unique features and does not have a nationwide licensing regime, the opportunities reside on the M&A side.

From a commercial standpoint, the strengthening of the peso (ARS), alongside the normalisation of the foreign exchange transactions and the easing of import restrictions improve profitability for foreign suppliers. In just 18 months, the landscape for foreign suppliers as well as investors looking to do business in Argentina has shifted completely. At the moment when this piece is being written, the peso exchange rate spread (between the official exchange rate and the free exchange rates) is at minimum lows, reducing substantially the cost of transacting with Argentina.

Moreover, and unlike other countries in the region, there is no need to incorporate local entities to engage with licensed operators. This, combined with the range of double taxation treaties in force, make Argentina specially attractive.

Argentina is also at the forefront of the fight against unlicensed operators currently targeting this market. Being a federal country with a number of licensing regimes combined with the fact enforcement needs to be conducted locally, make the playing field particularly uneven. From the supplier and operator standpoint, Argentina is a jurisdiction to watch, as disruptive solutions (i.e. dynamic url blocking) are in the process of being rolled out.

## Strategic Recommendations for Suppliers and Market Entrants

Doing business in Argentina's regulated gambling sector requires more than technical expertise. It demands contextual awareness and local insight. Those seeking to enter or expand their presence in the market should consider the following bespoke strategies:

- **Secure trusted local counsel and operational intelligence early.**  
The regulatory landscape in Argentina is decentralised and politically sensitive. Understanding local nuances and maintaining direct communication with the relevant stakeholders within the public sector can save months of guesswork (with its financial implications).
- **Tailor your market-entry strategy province by province.**  
Jurisdictions such as Mendoza, Córdoba, and Buenos Aires have distinct licensing processes, responsible gaming rules, and technical standards. A one-size-fits-all approach will likely fall short. This is specially relevant when designing a technical compliance strategy to enter the market.
- **Anticipate regulatory change.** The potential enactment of the national bill and ongoing reforms in key provinces may dramatically alter advertising, onboarding, and KYC protocols. Build agility into your compliance roadmap.
- **Prioritise legal clarity in all commercial arrangements.** Whether you're entering into reseller agreements, tech licensing, or revenue-sharing deals, ensure your contracts reflect local enforceability and tax implications, including treaty benefits. While clear, any agreement should also allow some leeway to adapt to any regulatory changes, whether these refer to gaming and gambling or financial transactions. A special point to keep in mind here is the assessment of the impact of the Stamp Tax on contracts and the enactment of tax optimisation strategies.
- **Invest in cultural fluency.** Argentina's market is highly relationship-driven. Building trust with local partners, regulators, and stakeholders often depends as much on credibility and local engagement as on pricing or tech stack.
- **Map your cross-border structure early.** Argentina's network of double taxation treaties can be leveraged to optimise remittance strategies, provided your structure is pre-cleared and audit-ready.

## Conclusion

Argentina stands at a crossroads. Its gambling sector, once fragmented and opaque, is gradually evolving into a regulated, competitive, and socially responsible market. While the 2024 national bill introduces risks and uncertainties, it also reflects a new level of regulatory engagement and seriousness.

For suppliers and operators willing to adapt, Argentina offers a promising landscape. The key will be to align commercial ambitions with legal and social imperatives, leveraging regulatory developments not as obstacles, but as a framework for sustainable growth. With careful planning, the future of regulated gambling in Argentina can be not just viable, but vibrant. If channelisation can be improved, we are looking at a market worth USD 3 billion (GGR).

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Argentina's evolving gambling market demands tailored, province-specific strategies and agile compliance to capitalize on a potential USD 3 billion opportunity.

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# AUSTRIA

## ONLINE GAMBLING IN AUSTRIA

– BETWEEN MASS LITIGATION AND POTENTIAL MARKET LIBERALISATION

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Nicholas provides regulatory, corporate and transactional advice, and regularly represents clients before national courts and regulators, European associations, EU institutions and the CJEU. He has assisted clients in several licensing procedures across Europe and the US and advised on large-scale transactions in the gaming and betting sector. He is a co-author of *Social Gaming in Europe*, and frequently contributes to legal publications and international conferences.

*Chambers Global* ranks Nicholas as a leading gaming lawyer: "Nicholas Aquilina has played significant roles in corporate and regulatory mandates relating to high-profile transactions and international online sports betting."

"Nicholas is a first-class legal and regulatory professional."

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Angela Yonkova-Markov is an attorney at BRANDL TALOS. She specialises in international gaming, betting and entertainment law, EU law and gaming litigation.

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# BRANDL TALOS

# ONLINE GAMBLING IN AUSTRIA

## – BETWEEN MASS LITIGATION AND POTENTIAL MARKET LIBERALISATION

It is hard to believe: while the Austrian online gambling market is still heavily impacted by the player refund claims discussed in our [previous article](#), a lot has changed in the past year and there are further changes on the horizon.

The new Austrian coalition government that commenced its term in spring 2025 claims to have big plans for the gambling sector. The question is: will this lead to liberalising the online gambling market for Austria to finally come up to speed with the level of modern-day gambling regulation established in the vast majority of other EU Member States?

The new government planned a broad reform of the gambling sector, ranging from introducing higher taxes, which already happened, to adopting new enforcement measures.

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The new Austrian coalition government that commenced its term in spring 2025 claims to have big plans for the gambling sector.

However, the expiry of the single lottery license that also covers online gambling and is currently held by Austrian Lotteries (Österreichische Lotterien GmbH) in 2027 has led to a degree of urgency for a reform of the Austrian gambling market, in particular with regard to the online gambling market, which arguably is indeed most urgently needed.

And, finally, what are the developments with regard to the major topic of the past years, being the player refund claims? After years of vigorous battles before the Austrian civil courts, Malta is now increasingly in the spotlight, as Austrian players have started enforcement proceedings there. The litigation funders continue searching for alternative ways to maintain their business model, keeping operators and courts on their toes.

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## New regulation as a light in the tunnel for foreign online casino operators?

As a new federal government having started its term in spring 2025, the current Austrian government published its governmental program (Regierungsprogramm) for the years 2025-2029.

The governmental program refers to a broad reform of the gambling sector, aiming at increasing tax revenue by introducing higher taxes, enhancing regulatory oversight by creating a new independent regulatory authority instead of pooling competences within the federal Ministry of Finance (Bundesministerium für Finanzen), strengthening player protection, combatting illegal gambling by introducing new enforcement measures, and modernising the current licensing system.

Tax-related measures are central to the program, with gambling-related revenue proposed to rise from EUR 50 million in 2025 to EUR 240 million by 2031. This shall be driven, inter alia, by an increase in the betting and online gambling taxes. The betting tax based on turnover has been increased from 2% to 5% as of April 2025, and the online gambling tax from 40% to 45% as of July 2025. Further tax increases, in force as of July 2025, include increase of the tax applicable to the operation of Video Lottery Terminals (VLTs, currently operated exclusively by the holder of the single lottery license) from 10% to 11% and the introduction of a new tax of 7.5% on the administrative fee (Verwaltungskostenbeitrag), which forms a part of the stake and is stipulated for each product (i.e., separate tax on the administrative fee itself).

Another change that has been proposed but never implemented in the past is establishing a new independent authority, to take over from the Ministry of Finance, which currently serves as a supervisory and licensing authority, but at the same time holds a stake in the monopoly operator via the Austrian State Holding Company ÖBAG. The government's objective is to eliminate the conflict of interest and improve transparency through formal reporting and compliance obligations.

The governmental program also talks about introducing new player protection measures, such as limits on slot machine gambling and establishing a legal framework for loot boxes. In order to combat illegal gambling, the new government plans to expand enforcement measures by, inter alia, increasing penalties and introducing payment and internet blocking. However, the document does not include a lot of substance on any of these objectives.

The governmental program also refers to envisaged changes as regards the regulation of VLTs, which are currently part of the single lottery license and, thus, the de facto monopoly. According to the governmental program, the current license shall be left to expire and not be renewed, in order to eliminate any overlaps with the regulation of land-based slot machines offers, which falls in the competence of the Austrian Federal States (Bundesländer).

Further, there are increasing indications that the new government may take a step to finally liberalise the Austrian gambling market by introducing online gambling licenses.

In practical terms, now would be the perfect time to undertake such a significant reform. As the single lottery license that also covers online gambling expires on 30 September 2027, the license tender is expected to commence either in late 2025 or early 2026.

Separating online gambling from lotteries and making available online gambling licenses would be a significant step towards a reform of the Austrian gambling market and bring Austria in line with the vast majority of other EU Member States and, in fact, many other jurisdictions around the globe, which have moved from state monopolies to liberal licensing regimes for online gambling over the last decade.

Reshaping the current system in a broader way would require a change in the legislation. To date, there has been no concrete proposal from the new government in this regard, but a lot of speculation. The key question as regards the Austrian gambling market these days is whether Austria will follow Finland in its attempt to move from a monopoly to a licensing system and, thus, one of the last standing European online gambling monopolies indeed will finally be removed.

We cannot miss to mention that the Austrian retail market is also expanding. As of January 2026, the Austrian Federal State of Salzburg will allow the operation of 472 retail slot machines, opening a new retail market in Austria. The operation of retail slot machines in the Federal State of Salzburg will be subject to a local licensing procedure, whereby three licenses will be available. Retail slot machine gambling in Austria is regulated at the level of the Austrian Federal States with Salzburg being the sixth Federal State to allow retail slot machine gambling outside of fully-licensed casinos and VLT outlets.

## Online casino player claims: Enforcement in Malta and Austria and CJEU referrals

If you have read our [previous article](#), you know that for the past few years Austrian players have successfully argued that online casino losses with EU-licensed online gambling operators are refundable because such operators violate the Austrian gambling monopoly by offering without a license issued pursuant to the Austrian Gambling Act (Glücksspielgesetz).

In addition, some operators have stopped providing information following data subject access requests that players have filed. The operators argue that the sole purpose of requesting such information is that the players are preparing a legal suit concerning the refund of losses and, thus, the operators are not obliged to provide the data according to the GDPR. For this reason, Austrian players who have not received the requested information have brought civil claims requesting operators to provide transactional data. Austrian courts seem to largely maintain their player-friendly approach also in proceedings concerning the provision of data, inter alia referring to a decision rendered by the Austrian Supreme Court (Oberster Gerichtshof), in which the Supreme Court ruled that a request for information also serves a legitimate purpose under the GDPR if it is aimed at obtaining evidence for a legal suit.

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Separating online gambling from lotteries and making available online gambling licenses would be a significant step towards a reform of the Austrian gambling market and bring Austria in line with the vast majority of other EU Member States.

However, whether Austrian judgements can actually be enforced will ultimately depend on the success of the subsequent enforcement proceedings. In general, final Austrian court judgements can be enforced in any EU Member State. Based on this principle of mutual recognition of judgments throughout the EU, Austrian players have initiated enforcement proceedings in Malta, where many EU-based online casino operators are licensed.



The EU Commission initiated an infringement procedure against Malta in June 2025, arguing that amendments to the Maltese Gaming Act violate EU law by refusing recognition of foreign judgments against Malta-licensed gaming operators.

In 2023 Malta amended its Gaming Act (by means of the so-called “Bill 55”) and introduced Article 56A of the Gaming Act, according to which Maltese courts may refuse the recognition of foreign judgements against Malta-licensed operators, if they consider such judgements to infringe Maltese public order. This national provision reflects Article 45 of the Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012

on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (“**Regulation (EU) 1215/2012**”), directly applicable in each EU Member State, according to which the recognition of a judgment shall be refused, inter alia if such recognition is manifestly contrary to public policy in the Member State addressed.

While Maltese courts have recently refused the recognition of Austrian judgements based on Art 45 of Regulation (EU) 1215/2012 (rather than on Article 56A of the Gaming Act) taking the view that the Austrian judgments violated Maltese public order, players, their lawyers and, in particular, litigation funders, have not yet given up the fight.

Already in 2023, shortly after Bill 55 had been introduced, the EU Commission was prompted to commence investigations following complaints claiming that the amendment to the Maltese Gaming Act violates overriding EU law.

The EU Commission decided to act on this matter only in June 2025, by opening an infringement procedure against Malta. In its letter of formal notice, the Commission argues that Malta has failed to comply with the Regulation (EU) 1215/2012 by obliging its courts to refuse the recognition and enforcement of foreign judgements against Malta-licensed gaming companies and discouraging foreign litigants from pursuing legal action before Maltese courts.

Malta will address the concerns raised by the Commission by means of a formal response. In case the Commission does not consider Malta’s reply satisfactory, the Commission may issue a reasoned opinion and, ultimately, even refer the matter to the CJEU. In parallel, the aforementioned judgments in Malta refusing the enforcement of Austrian judgments against operators that have their corporate seat (or at least assets) in Malta, have been appealed and a decision by the Malta Court of Appeals will be direction-setting when it comes to the future of enforcement in Malta more generally, but also the future of Article 56A of the Maltese Gaming Act.

The success of enforcement in Malta (or any other EU Member State) remains closely linked to assessing and choosing the best litigation strategy before Austrian courts. In other words, everything starts in Austria where, luckily, we can provide legal advice based on our vast experience with gaming litigation.

In October 2024, the Commercial Court in Vienna (Handelsgericht Wien) filed a request for a preliminary ruling to the CJEU, inter alia tackling the justification of Bill 55 in light of EU law and, in particular, the EU’s principle of mutual recognition and enforcement of judgements rendered in other EU Member States (case number C-683/24, Spielerschutz Sigma). The case is currently pending before the CJEU and it is likely that an oral hearing before the judges in Luxembourg will be scheduled as a next step.

In light of the enforcement of Austrian judgments in Malta currently being “on hold”, players, lawyers and litigation funders have been looking into enforcement in other EU jurisdictions. As a general principle, a national court is considered to have jurisdiction in case the assets subject to enforcement are located in the respective jurisdiction. As many EU-licensed operators do not have significant assets in Austria, enforcement attempts in Austria do not seem to lead to the desired results. But is it possible that Austrian courts assume jurisdiction in connection with assets located outside of Austria?

Under Austrian law, an Austrian creditor seeking enforcement of an Austrian judgment can file an ex parte request to the Supreme Court to establish jurisdiction of Austrian courts for enforcement proceedings which would otherwise have to be initiated in another jurisdiction. The so-called ordination request (Ordinationsantrag) can be made if (i) the plaintiff is an Austrian citizen and/or has a domicile/habitual residence in Austria and (ii) the enforcement abroad would not be possible or unreasonably cumbersome.

The first Austrian players have indeed made use of this legal tool and requested the Supreme Court to establish jurisdiction of national courts for enforcement proceedings concerning, inter alia, online casino operators' Maltese bank accounts and internet domains, arguing that Maltese courts are currently refusing to recognise Austrian judgements due to Bill 55.

In a landmark decision published in February 2025 (case number 3 Nc 72/24d) the Supreme Court granted an ordination request in connection with the enforcement against assets held in an operator's bank account with a bank in Malta.

However, it currently remains unclear whether a potential decision of an Austrian enforcement court granting enforcement against funds held in a Maltese bank account would result in factual satisfaction of the creditor (i.e., the player whose claim for the refund of online casino losses was granted). One of the reasons for this is that, technically, there is no legal basis for the mutual recognition of enforcement decisions within the EU. Based on this, a court order by an Austrian court granting enforcement in Malta would not be recognised in Malta.

We have been handling player claims since the emergence of this "phenomenon" and advise operators on every step on the way: from the service of the initial court claim to enforcement attempts in various EU jurisdictions, and also in proceedings before the CJEU.

After many years of silence, Austrian courts have recently been more active in referring questions of EU law that are relevant for local proceedings to the EU's highest judicial instance in Luxembourg, the CJEU.

While these referrals have been made in the context of player claims litigation and the same is true for Germany, the referrals made by German courts are seeking clarifications on questions around the merits of the former German online gambling ban and certain parts of the German online gambling regulation, such as the strict limit regime in place in Germany ([Read more](#)). Unlike in Germany, however, the Austrian referrals only deal with procedural questions. Nevertheless, questions around the compatibility of the current Austrian de facto monopoly for online gambling were heatedly discussed during the oral hearings that have taken place before the CJEU in April and June 2025 in the Wunner (C-77/24) and Mr. Green (C-198/24) cases respectively.

The Wunner (C-77/24) case deals with damages claims filed against directors of online casino operators. In such claims as well as damages claims against holding companies (instead of the entities that have actually offered online gambling into Austria) players argue that the directors/group companies should also be held liable for the incurred online casino losses. Undoubtedly, the reason for such claims being filed is to increase the pressure on operators. Austrian courts have raised doubts concerning the applicability of Austrian law to such damages claims and filed requests for a preliminary ruling to the CJEU in the cases C-77/24, Wunner, and C-574/24, Flutter Entertainment.

In the Wunner case, the oral hearing took place on 1 February 2025. Advocate General Emiliou published his Opinion on 12 June 2025. As regards the main question, namely on the place of the occurrence of the alleged damages, the Advocate General concludes that the damage occurred in Austria, where the player took part in the online gambling offer. It remains to be seen whether the CJEU will follow the Advocate General's Opinion. The Flutter Entertainment case is suspended, until the CJEU renders its decision in the Wunner case.

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In a landmark February 2025 decision, the Austrian Supreme Court established jurisdiction of Austrian courts in connection with enforcement against assets held in an operator's bank account with a bank in Malta.

The CJEU decisions will be used as guidance by Austrian courts for the assessment of applicable law. Thus, the view taken by the CJEU is expected to “make or break” the damages claims business model currently used as a tool to put additional pressure on foreign operators.

## New “trends” in player litigation

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Videogames with loot box features and other features and mechanisms allowing for in-game purchases and spending have been subject to an increasing number of civil claims in Austria.

In the past two years, videogames with loot box features and other features and mechanisms allowing for in-game purchases and spending have been subject to an increasing number of civil claims in Austria. In such proceedings, which are also largely financed by commercial litigation funders, the players argue that the features allowing in-game purchases (such as via purchasing in-game currency, loot boxes and skin betting) are considered

games of chance. As the videogames are offered without a license pursuant to the Austrian Gambling Act, players claim that any real money paid is refundable as the underlying contract must be considered null and void. Insofar, they use the same argument as for online casino claims. However, the relevant legal questions are quite different: unlike in online casino player claims litigation, the relevant legal question regarding videogames is whether these games and the features described above actually qualify as games of chance pursuant to Austrian law.

While initially some Austrian courts declared certain loot box features to qualify as games of chance under Austrian law, in the past months the majority of first and second instance courts have largely dismissed such claims. However, it is impossible to give a general answer to this question as there are several different business models for using in-game currency, making in-game purchases, opening loot boxes and other gambling-like elements in videogames.

Several proceedings concerning loot box features are currently pending before the Austrian Supreme Court, which is yet to give a judgment on these questions.

One thing is clear: the situation in Austria remains dynamic and complex. We are looking forward to the upcoming changes and challenges.

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# BELGIUM

## RECENT DEVELOPMENTS IN BELGIUM – ADVERTISING AND ONLINE GAMES OF CHANCE IN THE SPOTLIGHT?

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### BIO

Pieter Paepe is a founding partner at EDSON and a member of the Brussels Bar, specialising in Belgian and EU business law, competition law, and regulatory affairs. He has built a strong reputation advising gaming operators on Belgian gaming law, state aid issues, and competition compliance. Pieter regularly represents clients in litigation before the Belgian courts, the Belgian Competition Authority, and the European Commission. He has also appeared before the Court of Justice of the European Union (CJEU) in several landmark cases, including on behalf of the Belgian government. His work has contributed to precedent-setting rulings that have shaped the European legal landscape in the gaming and digital services sectors. Known for his strategic insights and litigation experience, Pieter supports both national and international clients in navigating complex legal frameworks. He is a trusted advisor in the gaming industry, helping operators manage risk and regulatory challenges across international jurisdictions.



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# RECENT DEVELOPMENTS IN BELGIUM

## – ADVERTISING AND ONLINE GAMES OF CHANCE IN THE SPOTLIGHT?

### Introduction

Games of chance offered in physical venues have been regulated in Belgium since 1999, while the regulation of online games of chance began in 2011. Belgian gambling policy is based on a strict channelling approach. Rather than banning the commercial offering of games of chance, the Belgian legislature has opted to provide residents with access to a limited, safe, and strictly regulated offer of such games – both offline and online. This is achieved through a licensing system that permits only licensed operators to offer games of chance to players in Belgium.

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Belgium’s strict channelling approach regulates gambling through a licensing system, but the fragmented online framework lags behind detailed land-based rules.

### Fragmentary Regulation of Online Games of Chance

Although online games of chance have become regulated in Belgium in 2011, they remain largely unregulated in practice. In an opinion published in March 2022, the Belgian Gaming Commission acknowledged that the regulatory framework for

online games of chance is still highly fragmented, even a decade after their formal regulation.

Since 2011, the Belgian Gaming Act – the country’s primary piece of gambling legislation (the Federal Act of 7 May 1999 on games of chance, wagers, and player protection) – has empowered the government to establish detailed rules for online games of chance. This includes setting conditions for how these games may be offered, defining game rules, regulating payment methods, and determining limits on stakes, losses, and winnings per participation. However, more than a decade after receiving this authority, the government has only made limited use of it. As a result, the regulatory framework for online games of chance remains fragmented and incomplete.

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This stands in stark contrast to the regulation of land-based games of chance, which are governed in much greater detail. A Royal Decree specifies the games that may be offered in casinos (under an “A licence”) and gaming arcades (under a “B licence”). Additional Royal Decrees lay out comprehensive operational rules for these games. The Belgian Gaming Commission has also issued detailed “protocols” outlining the technical and operational specifications for gaming machines used in casinos and arcades. Betting shops are similarly subject to strict regulation – they are allowed a maximum of two gaming machines, and legislation limits the average hourly loss to no more than EUR 12.50.

In March 2022, the Belgian Gaming Commission issued a “preliminary opinion” containing recommendations for the government to consider when regulating online games of chance. A key feature of Belgian gambling law is the principle of regulatory parallelism between land-based and online gambling. Under the Gaming Act, only operators already licensed to offer games of chance or bets in the physical world (holding a principal A, B, or F1 licence) are eligible to obtain a corresponding online licence (A+, B+, or F1+). Additionally, online licence holders are, in principle, restricted to offering the same types of games that they are authorised to offer offline. However, the March 2022 opinion highlights a critical point: the Gaming Commission cautions against simply applying existing offline regulations to the online environment. It argues that many of these rules are outdated or ill-suited for the specific characteristics and challenges of online gambling.

The Belgian Gaming Commission put forward several policy proposals in its March 2022 opinion aimed at improving the regulation of online games of chance. These include:

- Enhancing player registration and identification, including linking accounts to reliable financial data;
- Mandating personalised and compulsory playing limits;
- Introducing a duty of care for licence holders;
- Strengthening complaint-handling procedures;
- Imposing stricter rules on the payment of winnings and the refunding of player account balances;
- Improving player awareness by introducing quality labels;
- Adding specific protections for younger players, particularly those aged 18 (now raised to 21) to 25, such as banning bonuses and imposing stricter playing limits; and
- Standardising the minimum age requirement across all categories of online games of chance.

### General amendments to the Gaming Act

In 2024, the Belgian legislator introduced a series of targeted amendments to the Gaming Act. These changes include:

- A complete ban on online bonuses and incentives: It is now explicitly prohibited to offer any form of gift, bonus, free participation, game credits, or similar advantages intended to influence player behaviour or attract or retain users.
- Prohibition on joint offerings under a single domain: Online gambling operators are no longer allowed to offer different types of games of chance – such as betting, online casino games, and online slots – under the same domain name or URL. Players must now create separate accounts for each type of licence (e.g., one for betting, another for online dice games, etc.), and fund transfers between these accounts are no longer allowed. For example, funds in a player’s online betting account cannot be moved to their online casino account.

- Uniform age restriction raised to 21: The minimum age to participate in any form of game of chance, including betting and online betting, has been increased to 21 years old. Previously, only (online) casino and arcade games had this higher age threshold, while betting was permitted from age 18.
- General ban on advertising for games of chance and bets, unless specifically permitted by Royal Decree. This represents a significant shift in the approach to gambling promotion.

These amendments mark a stricter regulatory stance, particularly in the online space, and reflect several of the Belgian Gaming Commission’s earlier recommendations. However, some operators have challenged the constitutionality of these reforms, and proceedings are currently pending before the Belgian Constitutional Court, with a ruling expected by late 2025 or early 2026.

### Strict Regulation for Advertising Games of Chance

The Belgian government has recently imposed strict advertising restrictions on licensed games of chance, introduced initially through a Royal Decree on 27

February 2023 and later incorporated into the Gaming Act in 2024. These rules apply uniformly to both land-based and online gambling activities.



Belgium’s 2024 Gaming Act amendments ban online bonuses, raise the gambling age to 21, and impose strict advertising limits to enhance player protections.

Under the revised Gaming Act, advertising games of chance is generally prohibited, unless specifically authorised by Royal Decree. The 2023 Royal Decree outlines limited exceptions to this general ban, identifying situations in which advertising is still permitted. It also sets out a range of general restrictions applicable to all authorised gambling advertising. For example, personalised advertising is banned, and all permitted advertisements must clearly state the minimum legal age for participation and include a gambling prevention message.

Incidental advertising related to the coverage of sports competitions and events is allowed.

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Belgium's strict gambling ad ban, with limited exceptions, and banks' de-risking practices challenge licensed operators, despite robust AML compliance expectations.

Sports sponsorship is permitted for non-professional sports associations and, until 1 January 2028, for professional sports associations as well. However, the sponsorship can only involve displaying the brand name and/or logo in specific ways: on the sports clothing of players and teams, excluding underage

players, and at the location where the sport is practiced, but this was allowed only until 1 January 2025.

Licensed operators may also broadcast sports sponsorship messages featuring their brand name and/or logo during international, European, and Belgian sports competitions. However, starting from 1 January 2025, this form of sponsorship will no longer be permitted in connection with Belgian sports competitions, while it may continue for international and European events. The broadcast of these sponsorship messages must adhere to certain rules, including that each message cannot exceed five seconds in length, no more than two messages can be broadcast per hour, and the messages must air within the 15-minute window before and after the live coverage of the sporting event, specifically from the actual start to the actual end of the event.

For online licence holders, advertising is restricted to their own websites and official social media accounts. The advertising must comply with several conditions: no interaction is allowed in connection with the advertising, no third-party compensation can be given for promoting the ads, and any advertising with moving images must not exceed five seconds in duration.

### De-risking of Licensed Gaming Operators by Belgian Banks

To play their role as an instrument in Belgium's channelling policy, licenced gaming operators need access to essential banking services. In fact, Belgian law requires all companies to have a bank account with a credit institution. The reality, however, is that it is increasingly cumbersome – not to say impossible – for licenced gaming operators to have a bank account with a Belgian bank to obtain financing for new investments, to obtain guarantee letters, etc. Belgian banks increasingly shut the door to licenced gaming operators – a practice referred to as “de-risking”.

Some banks justify this practice as the logical consequence of legitimate risk management under applicable anti-money laundering (“AML”) legislation. In a noteworthy opinion of 5 January 2022 on de-risking, the European Banking Authority (“EBA”) recalls that the de-risking of entire categories of customers – without due consideration of individual customers' risk profiles – can be unwarranted and a sign of ineffective risk management in the fight against money laundering and financing of terrorism. The National Bank of Belgium (“NBB”) has followed suit. On 1 February 2022, the NBB published a circular detailing the “prudential expectations in relation to de-risking”. The NBB clearly states that it is neither appropriate nor consistent with legal and regulatory AML requirements for a financial institution's customer acceptance policy to exclude by rule all business relationships with potential or existing clients on the basis of general criteria, such as the fact that these clients belong to a “particular industry”. Note that there are several procedures pending before Belgian courts where it is argued that banks infringe AML legislation, given that they exclude to the greatest extent all companies active in the gambling industry.

But there is more. Another trend is that banks also rely on environmental, social, and governance considerations (also known as “ESG”) to terminate agreements with licenced gaming operators or to refuse to deal with them. One major Belgian bank, for instance, has set a policy whereby all companies deriving a certain percentage of their total revenues from ownership or operation of gambling-related activities are “excluded” from all investment products, loans and other non-investment related activities. If all banks adopt the same or similar policies, access to (essential) banking services will become virtually impossible for licenced gaming operators and the question arises whether they can still play their instrumental role – as desired by the legislator – in Belgium’s channelling policy.

## Stricter Enforcement

Since the regulation of online games of chance in 2011, the Belgian Gaming Commission has blacklisted websites offering games of chance and bets without the required licence. Most Belgian Internet Service Providers (“ISPs”) block access to the blacklisted websites. In March of 2022, the Gaming Commission agreed on a co-operation with the Belgian telecommunications regulator, which will provide its expertise and technical assistance and raise awareness among ISPs through different information campaigns.

As of May 2025, 519 websites are blacklisted. In the past, these companies were generally not fined; however, this has changed recently. The Gaming Commission is increasingly initiating sanction proceedings against these illegal operators and imposing fines. The fines can amount to several hundred thousand euros. Some companies are challenging the lawfulness of these fines before the Belgian courts.

While the outcome of these proceedings is pending, the Belgian legislator adopted, in May 2024, a legal basis for this blacklisting mechanism. Under the new provision, the Gaming Commission is explicitly required to maintain a list of URLs for websites offering unlicensed games of chance in Belgium. This updated list is published in the Belgian Official Gazette, and the listed websites are reported to ISPs to ensure their access is blocked “as quickly as possible”.

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Belgium’s licensed gaming operators face banking exclusion due to ESG policies, while the Gaming Commission ramps up enforcement with website blacklisting and hefty fines.



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# BRAZIL

FROM REGULATION TO PROTECTION:  
ENHANCING PLAYER SAFETY IN BRAZIL'S BETTING LANDSCAPE

# TOZZINIFREIRE



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Jun Makuta is a partner in the Gaming & E-sports sector group at TozziniFreire Advogados. He has significant expertise in civil litigation, commercial law and corporate restructuring and recovery. He also has extensive experience in structuring betting transactions in Brazil, including lotteries, sports betting, and casinos, in addition to government relations on behalf of important players in the sector. Jun advised two multinationals in the lottery sector to sign with Loterias do Estado de Minas Gerais the first state lottery concession agreement after the 2020. Graduate of the Law School of USP (São Paulo University), he holds a specialized degree in Contracts from Centro de Extensão Universitária, in Economic and Corporate Law from FGV (Fundação Getúlio Vargas) and in Business Management from Business School São Paulo. Jun is recommended by Chambers Global, Chambers Latin America, The Legal 500, Latin Lawyer 250, and IFLR1000. Jun is also recognized by Latin Lawyer - Masters of M&A.



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Senior Associate in the Infrastructure and Administrative Law & Government Projects and Gaming & E-sports practice group, Adriana has broad experience assisting clients on the gaming sector that seeks to operate in the Brazilian market both at online and physical portfolios. She works very closely with international clients and can provide legal assistance in all stages of their operation in Brazil. Adriana has more than 10 years of expertise in Administrative Law and has been regularly advising on matters involving interactions before government agencies and controlling entities as well as mergers & acquisitions involving companies that provide services for the public sector. Since 2019, she has been supporting sportsbooks, online games and lottery companies on the ongoing regulation in Brazil.



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# FROM REGULATION TO PROTECTION: ENHANCING PLAYER SAFETY IN BRAZIL'S BETTING LANDSCAPE

The regulation of fixed-odds bets in Brazil marks a pivotal shift in the country's legal approach to the gaming industry. Federal Law No. 13,756/2018, Federal Law 14,790/2023 and the regulatory framework has framed gaming not merely as a private activity, but as a regulated service with implications of public interest.

As of now, the Secretariat for Prizes and Betting (*Secretaria de Prêmios e Apostas – SPA*) has issued a comprehensive set of ordinances to regulate the market. This framework encompasses includes authorisation procedures, operational rules, AML measures, certifications, and responsible gambling policies. Notably, Ordinance SPA/MF No. 1,231/2024,<sup>1</sup> establishes guidelines for responsible gambling practices and outlines the rights and duties of bettors and operators in the commercial operation of fixed-odds lottery betting.

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Brazil's robust gambling regulations, led by Ordinance SPA/MF No. 1,231/2024, prioritize responsible gaming and player protection, drawing inspiration from mature markets like the UK.

Additionally, Ordinance SPA/MF No. 1,225/2024,<sup>2</sup> regulates the monitoring and supervision of betting activities and operators, further reinforcing player protection measures. These ordinances demonstrate Brazil's commitment to creating a robust regulatory environment for the betting industry, aligning with international best practices to ensure market integrity and consumer safety.

Central to this framework is the principle of responsible gambling, aimed at minimising harm, especially among vulnerable individuals.

It is essential that not only regulatory entities, but also administrative and judicial courts thoroughly assimilate responsible gaming rules and player protection. They will play a crucial role in resolving disputes involving player losses, operator conduct, and compliance with consumer protection mandates. However, courts may face challenges when interpreting these norms due to the technical and behavioural complexities involved.

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In UK, for instance, the legal framework governing gambling activities has evolved to prioritise consumer protection, particularly concerning responsible gambling practices. The Gambling Act 2005<sup>3</sup> serves as the cornerstone of this framework, establishing the Gambling Commission as the primary regulatory authority. The Commission's Licence Conditions and Codes of Practice (LCCP)<sup>4</sup> impose obligations on operators to implement measures that promote responsible gambling and protect vulnerable individuals.

A fundamental aspect of this framework is the duty imposed on operators to identify and interact with customers, exhibiting signs of problematic gambling behaviour.

This includes the implementation of self-exclusion programs, affordability checks, and the provision of tools that allow customers to set limits on their gambling activities. The Commission's guidance emphasises that operators must act in a socially responsible manner, ensuring that marketing practices do not exploit vulnerable individuals.

In Brazil, SPA issued Ordinance No 1,231/2024, which outlines guidelines for operators regarding responsible gaming and player protection. These guidelines emphasise the importance of implementing tools to identify at-risk players, as well as establishing protocols for self-exclusion and affordability assessments. Another piece of evidence that Brazil has drawn lessons from mature markets in the law-forming process is using their regulatory framework as a model to shape its own standards.

Concerning self-exclusion rules, Ordinance No. 1,231/2024 establishes directives for the implementation of self-exclusion programs by operators. Notably, they are required to provide mechanisms that allow players to self-exclude for predetermined periods or indefinitely. These tools must be easily accessible and prominently displayed on the platform. Additionally, operators must inform players about the availability of self-exclusion and to provide clear instructions on how to utilise it.

1. Available here: <https://www.in.gov.br/en/web/dou/-/portaria-spa/mf-n-1231-de-31-de-julho-de-2024-575670297>

2. Available here: <https://www.in.gov.br/en/web/dou/-/portaria-spa/mf-n-1225-de-31-de-julho-de-2024-575691787>

3. See: Gambling Act 2005, c. 19

4. See: UK Gambling Commission, Licence Conditions and Codes of Practice (LCCP). Available at: <https://www.gamblingcommission.gov.uk/licencees-and-businesses/lccp>

As Brazil's legal framework is still in its early stages, it currently lacks robust judicial precedents regarding responsible gambling or player protection mechanisms in practice. However, the potential for future case law will be vital in shaping how these regulations are interpreted. The adoption of clear regulatory obligations, as outlined by the SPA, will help balance consumer autonomy with the necessary protection for vulnerable individuals, aiming to prevent gambling-related harm.

Operators in Brazil bear significant responsibility in the self-exclusion process. They must implement systems to identify players who may need to self-exclude, particularly those exhibiting signs of problematic gambling behaviour. Furthermore, staff members of the operators and AI tools should be well-trained to recognise risky behaviours and to assist players who wish to self-exclude. This proactive approach aims to foster a safer gaming environment and to support players in making informed decisions about their gambling activities.

Self-exclusion is a critical component of player protection, helping to prevent gambling addiction and associated harms. Operators are also expected to provide access to additional resources, such as support services and counselling for players struggling with gambling problems. Continuous monitoring and evaluation of the effectiveness of self-exclusion policies are essential to ensure that these measures meet the needs of vulnerable players.

Comparatively, examining how Brazil's self-exclusion rules align with international standards, particularly in countries like the United Kingdom, provides valuable context for the evolution of Brazilian regulations. In the UK, the Gambling Commission mandates clear requirements for self-exclusion, including the obligation for operators to offer robust player protection programs. By learning from international best practices, Brazil can enhance its regulatory framework to better protect players and promote responsible gambling.

Specifically analysing the movements of the courts in the UK, judicial interpretations have further clarified the extent of operators' responsibilities. For example, in **Calvert v William Hill Credit Ltd [2008]**,<sup>5</sup> the High Court examined whether a bookmaker owed a duty of care to a customer who had requested self-exclusion but was still allowed to place bets. The court concluded that while there was no general duty to prevent gambling-related harm, a limited duty arose once the operator voluntarily accepted the self-exclusion request. However, the claim failed due to issues of causation, as the claimant continued to gamble with other operators.

More recently, in **Gibson v TSE Malta LP (t/a Betfair) [2024]**,<sup>6</sup> the High Court reaffirmed that operators do not owe a general duty of care to customers under common law. The court held that unless an operator assumes responsibility, such as through a self-exclusion agreement, there is no obligation to prevent a customer from gambling. This decision underscores the importance of operators adhering to regulatory requirements and the limitations of legal recourse for consumers absent a breach of specific duties.

These cases illustrate the balance the UK legal system seeks to maintain between consumer autonomy and the protection of vulnerable individuals. While operators are expected to implement robust responsible gambling measures, the courts have been cautious in imposing broad duties of care, emphasising the need for clear regulatory obligations and the assumption of responsibility by operators.

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Brazil's evolving gambling laws emphasize operator-led self-exclusion and responsible gaming, drawing on UK precedents to balance player autonomy and protection.

5. See: *Calvert v William Hill Credit Ltd* [2008] EWHC 454 (Ch). Available at: <http://www.bailii.org/ew/cases/EWHC/Ch/2008/454.html>

6. See: *Gibson v TSE Malta LP (t/a Betfair)* [2024] EWHC 2900 (Comm). Summary available at: <https://www.woodswhur.co.uk/landmark-high-court-case-rules-against-gambler-seeking-repayment-of-losses/>

## Judicial Challenges, Interpretive Gaps, and Mechanisms of Legal Relevance

As the gambling landscape in Brazil continues to evolve, administrative and judicial courts have been increasingly confronted with diverse types of cases, many of them involving players seeking restitution after engaging in excessive or compulsive gambling.

These cases revolve around core legal questions that probe the

intersection between individual autonomy and operator responsibility. Based on this, key issues that emerge include:

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Brazil's courts grapple with balancing player autonomy and operator responsibility in gambling disputes, navigating uncharted legal terrain amid evolving responsible gaming mandates.

i. *Was the operator negligent in preventing foreseeable harm?*

This question addresses whether the gambling operator took adequate measures to protect players from potential harm resulting from excessive gambling behaviour. According to SPA guidelines, operators are required to implement effective responsible gambling tools, such as self-exclusion mechanisms, affordability checks, and player monitoring systems.

ii. Did the player voluntarily override protective tools? In many instances, players may have had access to self-exclusion or limit-setting features but chose not to utilise them. Courts must assess whether the players' decisions to engage in gambling activities, despite available protections, imply a waiver of their right to claim restitution.

iii. *Are self-imposed limits legally binding?* This question raises whether limits set by players on their gambling activities should be recognised and enforced by operators. If a player sets a limit and then surpasses it, should they still hold the operator accountable for their losses? These questions necessitate a nuanced analysis of the contractual obligations between players and operators.

These legal challenges require courts to carefully weigh individual autonomy against the responsibilities of operators, often in the absence of clear precedents on the matter. As the regulatory framework for gambling continues to develop, judges are navigating uncharted territory, and many may be unfamiliar with the operational and psychological dimensions of gambling systems. This knowledge gap complicates the assessment of whether operators have complied with regulatory requirements and whether they have fulfilled their duty of care to players.

In this context, responsible gambling tools, such as self-exclusion and limit-setting mechanisms, are not merely ethical features; they are legally mandated controls designed to protect players from the risks associated with gambling. The proper implementation and enforcement of these mechanisms are critical to ensuring player safety and well-being.

When making judicial or administrative decisions, it is crucial that courts consider the full range of obligations imposed on operators, as well as the various mechanisms available for player protection. Judges and regulators must be well-informed about these tools to ensure that their decisions are fair and proportionate. If courts do not consider the comprehensive framework of responsible gambling measures, their rulings may be unreasonable and disproportionate, failing to reflect the intent of the regulatory body overseeing the sector.

Moreover, courts must be vigilant in assessing whether operators acted on risk signals detected by automated systems. If an operator fails to intervene when a player exhibits signs of problematic behaviours - such as repeated high stakes or extended periods of play - the operator may be viewed as breaching their duty to protect the player.

Failing to consider the full spectrum of regulatory requirements and responsible gambling tools available can lead to judicial outcomes that do not align with regulatory intent. It is imperative that decisions reflect a comprehensive understanding of these mechanisms to avoid unjust outcomes that could undermine the protections intended by the regulator.

In summary, the legal landscape surrounding gambling is laden with challenges that require careful navigation. As players seek justice for the harm caused by excessive gambling, courts must grapple with complex questions of duty, responsibility, and the effectiveness of protective measures. The outcomes of these cases will likely shape not only the legal framework for gambling in Brazil but also the broader understanding of responsible gambling practices in an increasingly digital world.

To ensure a coherent application of responsible gambling norms in Brazil, it is essential to invest in the education of the courts. The complex and novel nature of gambling regulation, combined with the psychological dimensions of gambling behaviour, necessitates a well-informed judiciary capable of making decisions that uphold both legal mandates and public health goals. Several strategic initiatives can be implemented to enhance the understanding of judges and court officials regarding gambling regulation and its implications.

One of the most effective ways to improve judicial understanding of gambling issues is through specialised training programs focused on gambling regulation and behavioural risk. These programs should be designed to equip judges with knowledge about the various aspects of gambling, including the legal framework, the risks associated with gambling behaviour, and the responsibilities of operators to protect players. By fostering a deeper understanding of these issues, courts can make more informed decisions that balance individual autonomy with operator accountability.

As an example, many countries have successfully implemented similar judicial training programs:

- **United Kingdom:** The Judicial College offers continuous training for judges, including courses on gambling regulation and consumer protection. This helps judges understand the implications of gambling laws and manage related cases effectively.<sup>7</sup>
- **Australia:** Various jurisdictions in Australia have initiated training programs focusing on gambling issues, including the impact of problem gambling on society. These workshops, developed in collaboration with governmental and academic institutions, aim to enhance judges' understanding of gambling dynamics.<sup>8</sup>
- **Canada:** The National Judicial Institute in Canada provides training on a range of topics, including gambling and legal implications. Judges can participate in seminars and workshops addressing gambling regulation and consumer protection.<sup>9</sup>
- **United States:** In several states, judicial training programs address gambling law, particularly in states where gambling plays a significant economic role. These programs deliver insights into state gambling laws and the importance of consumer protection.<sup>10</sup>
- **New Zealand:** New Zealand has implemented training programs for judges that include modules on gambling regulation and consumer protection, ensuring that judges are well-informed about legal and social issues related to gambling.<sup>11</sup>

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Brazil’s judiciary needs specialized training to navigate gambling disputes, ensuring rulings align with responsible gaming mandates and protect vulnerable players.

7. See: Judicial College. (n.d.). Training and Development.  
 8. See: Australian Institute of Judicial Administration. (n.d.). Resources and Publications  
 9. See: National Judicial Institute. (n.d.). Educational Programming.  
 10. See: National Center for State Courts. (n.d.). Judicial Education  
 11. See: New Zealand Law Society. (n.d.). Continuing Legal Education.

The development of technical guidelines or manuals by SPA could serve as valuable resources for the courts and other controlling entities involved in the decision-making process. These guidelines should outline the legal obligations of gambling operators, the available responsible gambling mechanisms, and best practices for assessing compliance. By providing courts with clear and accessible information, these guides will enhance the consistency and

coherence of judicial decisions concerning gambling cases.



Another effective approach would be to incorporate expert testimony from psychologists and compliance specialists into court proceedings to enrich the judicial process.

This is something that other jurisdictions have already implemented since experts can offer insights into the psychological aspects of gambling behaviour, including factors that contribute to

compulsive gambling and the effectiveness of various responsible gambling measures. Their input can help judges understand the nuances of gambling-related cases, leading to more equitable and informed rulings.

Encouraging participation of all those involved in the decision-making process (such as judges, administrative courts staff and regulatory agencies) in regulatory dialogues alongside industry stakeholders and academic experts is another vital step toward enhancing judicial education. These dialogues can facilitate knowledge exchange, allowing judges to engage with the latest research, trends, and challenges in the gambling sector. By fostering collaboration between the judiciary, regulatory bodies, and industry representatives, Brazil can promote a more comprehensive understanding of gambling regulation and its impact on public health.

In line with enhancing judicial education, SPA has recently unveiled its regulatory agenda for the biennium 2025-2026.<sup>12</sup> This agenda aims to develop and refine regulations that govern various aspects of gambling, aligning them with responsible gambling practices and public health objectives. As part of this public hearing process<sup>13</sup>, the SPA has actively sought suggestions from stakeholders to ensure that the regulatory framework is comprehensive and effective.

Furthermore, the SPA launched a public consultation<sup>14</sup> regarding the second phase of its regulatory agenda, which is set to include measures that will directly impact how gambling is regulated in Brazil. This initiative underscores the importance of a collaborative approach that incorporates diverse perspectives from industry, academia, and the public. By engaging in these dialogues, the judiciary can better understand the regulatory landscape and the evolving standards that govern responsible gambling.

As Brazil moves forward in regulating betting, it is imperative that the education of the courts becomes a strategic priority to ensure player protection. Integrating responsible gambling norms is not merely about establishing regulations; it is a continuous commitment to promoting player safety and maintaining the integrity of the betting market. Through judicial training programs, the development of technical guidelines, and the inclusion of expert testimony, the judiciary can become better equipped to effectively interpret and apply player protection norms.

For the transition from a purely regulatory approach to one focused on player protection to be successful, it is essential for all parties involved in the decision-making process to collaborate. This collaboration will facilitate knowledge exchange and enable the judiciary to better understand the dynamics of gambling, fostering a culture of responsibility within the sector.

Thus, by aligning their decisions with public health objectives and consumer protection, the Brazilian judiciary can play a crucial role in the evolution of the betting landscape in the country. Establishing a regulatory framework that prioritises player safety will not only strengthen trust in the sector but also ensure that the well-being of bettors remains a top priority.

12. Available at: <https://www.gov.br/fazenda/pt-br/assuntos/noticias/2025/abril/spa-lanca-agenda-regulatoria-para-o-bienio-2025-2026>

13. More information at: <https://www.gov.br/fazenda/pt-br/assuntos/noticias/2025/fevereiro/secretaria-de-premios-e-apostas-ouve-sugestoes-sobre-agenda-regulatoria-2025-2026>

14. More information available at: <https://www.gov.br/fazenda/pt-br/assuntos/noticias/2025/fevereiro/secretaria-de-premios-e-apostas-lanca-consulta-publica-sobre-segunda-fase-da-agenda-regulatoria>

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# GERMANY

THE HIGHS AND LOWS OF GERMAN GAMBLING REGULATION  
WHEN CREATING LEGAL CERTAINTY COMES WITH TONS OF UNCERTAINTY

## BRANDL TALOS



### BIO

Nicholas Aquilina is a partner at BRANDL TALOS specialising in, international gaming, betting and entertainment law, EU law as well as new gaming products including loot boxes, social, skill and fantasy gaming and e-sports.

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# BRANDL TALOS

# THE HIGHS AND LOWS OF GERMAN GAMBLING REGULATION WHEN CREATING LEGAL CERTAINTY COMES WITH TONS OF UNCERTAINTY

## BRANDL TALOS

For the first time in history, Germany can now look back at the first few years of having implemented regulation that covers online gambling. In October 2020, the first online sports betting licenses were granted, following a decade of uncertainty and failed attempts of introducing a licensing system. In July 2021, revised legislation entered into force and paved the way for licensing online slots (*virtuelles Automatenspiel*). Also, for the first time in history, Germany now has a “real” gambling regulatory authority in place. The revised legislation of July 2021 also introduced a change in the regulatory competence for gambling in Germany as of 1 January 2023. Licensees are now supervised by the central regulatory and licensing authority of the federal states in Germany (*Gemeinsame Glücksspielbehörde der Länder*) competent for all of Germany and based in Halle/Saale in the federal state of Saxony-Anhalt.

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In October 2020, the first online sports betting licenses were granted, following a decade of uncertainty and failed attempts of introducing a licensing system.

However, the decade (and longer) of lacking regulation and the legal uncertainties that came with it are now catching up with the German gambling industry. Like in Austria, mass litigation relating to the refund of player losses is rampant in Germany. While Austria still maintains a gambling monopoly (as one of the last EU Member States) and as such also maintains its view that any foreign online casino

offer is illegal (please see our article on Austria for details), the situation in Germany seems even more bizarre: on the one hand, the federal states have amended the previous gambling legislation to rectify its lack of conformity with EU law. On the other hand, however, civil courts are granting players’ refund claims for losses that occurred during the time when the law was not in line with EU law.

This contradiction needs to be resolved. There are currently various courts in Germany as well as in Malta, where most of the operators that are licensed in Germany today have their corporate seat, that have referred or are considering referring questions for a preliminary ruling to the Court of Justice of the European Union (CJEU). At the time of writing this article, also the German Federal Supreme Court (*Bundesgerichtshof*, BGH) is considering a referral, because ultimately only the CJEU is entitled to rule on questions of EU law. Hence, in our view, at the end of the journey it will be the judges at the CJEU in Luxembourg who will decide the questions around the conformity of the previous German gambling legislation with EU law and thus also the questions around whether losses occurred during those periods are refundable. At this point in time, despite countless court decisions in Germany, it seems that – once again – everything is open and – once again – the industry is waiting for a directive decision on German gambling law.

But what got the industry into this situation? The reasons are multi-dimensional, and you need to go back many years to understand why we are where we are today, but also to understand how we think the matter could be resolved. Let’s travel back in time to Germany – and to Luxembourg – to get a clearer picture on the never-ending odyssey of German gambling legislation.

### The failed sports betting license tender of 2012

Prior to receiving German licenses as of 2020, operators based and licensed in the EU had been serving the German market with online gambling based on the EU freedom to provide services. This led to several national court cases, including cases that were referred to the CJEU for a preliminary ruling, such as in the *Markus Stoß*, *Carmen Media* and *Winner Wetten* cases that were decided in 2010.

In its Grand Chamber decision *Markus Stoß* (C-316/07) of 8 September 2010, the CJEU had given a clear decision finding the former German sports betting monopoly to infringe overriding EU law. The German legislator needed to rectify this situation.

To make things a bit more complicated, there is no federal gambling law in Germany and the sixteen federal states (*Bundesländer*) had put legislation in place in form of a State Treaty to ensure a – more or less – uniform legal framework to apply across all of Germany. The CJEU's decision required a change to this State Treaty. As a result, it required all federal states to agree on changes to the law following the *Markus Stoß* landmark decision. Some of the states wanted to see modern and business-friendly regulation, while other states wanted to maintain the sports betting monopoly or at least restrict the opening of the market to the furthest extent possible by restricting the number of concessions. And so the discussions around finding a compromise began.

Ultimately, the federal states agreed on a limited opening of the market, introducing a concession model for 20 sports betting concessions that would cover retail and online sports betting (depending on what an applicant would apply for). All other forms of gambling via the internet remained prohibited according to the so-called “internet prohibition” of the State Treaty.

On 1 July 2012, a new State Treaty on Gambling (*Glücksspielstaatsvertrag*) entered into force. For the very first time (with the noteworthy exception of a licensing system for online sports betting and online slots that was in place solely in the federal state of Schleswig-Holstein from 2012 until 2021), German legislation provided a licensing opportunity for private sports betting operators. The licensing of private operators was provided within the framework of a so-called “experimental clause” (*Experimentierklausel*), which would have allowed a private sports betting offer in Germany between 1 July 2012 and 30 June 2019. During this experimental phase of seven years, the sports betting monopoly would not have been applied.

The concession tender commenced on 8 August 2012, led by the Ministry of the Interior and Sports in the federal state of Hesse. Hopes were high in the industry. After roughly two years of back-and-forth, the Ministry finally issued a list of the 20 selected operators that would receive a license, accompanied by a list of further 15 operators that had met the minimum requirements to receive a concession, but did not make it under the “top 20”. Challenged by the latter, in 2014 the administrative courts in Hesse blocked the granting of concessions and ultimately found the concession tender to have been incompatible with EU law as well as German constitutional law. In 2015 and 2016, the administrative courts ruled that

complainants should have been granted concessions.

The state of Hesse appealed. On 4 February 2016, the CJEU issued its ruling on the *Ince* (C-336/14) case, stating that despite a theoretical option to receive a sports betting concession, the monopoly that the CJEU had already considered illegitimate in its *Markus Stoß* ruling persisted in practice.

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Hopes were high in the industry. After roughly two years of back-and-forth, the Ministry finally issued a list of the operators that would receive a license.

As the experimental clause was about to end on 30 June 2019, bringing the 2012 concession tender to an end, in order to prevent the sports betting monopoly from re-entering into force also de iure as of 1 July 2019, the German federal states agreed on a reform that resulted in abolishing the termination date of the “experimental clause” as well as the limitation to 20 concessions. These amendments entered into force in 2020, paving the way for awarding sports betting licenses later that year.

## Paving the way towards licenses online casino regulation

However, as the State Treaty was about to expire in its entirety by the end of June 2021, the German states were – once again – forced to work on further amendments of the law that entered into force on 1 July 2021 by means of a State Treaty on the re-regulation of gambling in Germany (*Staatsvertrag zur Neuregulierung*

*des Glücksspielwesens in Deutschland*, “State Treaty 2021”).

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The German states had understood that the internet ban on the other forms of online gambling was no longer sustainable.

Politically, it had already become clear much earlier that Germany would develop new legislation, which shall maintain the concept of a licensing regime for sports betting as of 1 July 2021 with an unlimited number of licenses.

In addition, the German states had understood that the internet ban on the other

forms of online gambling was no longer sustainable. Once again, there were discrepancies between the individual states as to which forms of online gambling should be allowed in the new legislation. This resulted in a compromise to allow a limited opening of the market by introducing a Germany-wide licensing system for online slots and online poker, while reserving online casino table games and live casino to the competence of each of the federal states, whereby those states that want to open their online casino market can do so on the basis of a private or public monopoly (which, for instance, Bavaria has implemented) or on the basis of a limited number of concessions, while the other states can opt to maintain a full prohibition.

In anticipation of the new State Treaty 2021 that would enter into force on 1 July 2021 and after the first sports betting licenses had been granted as of the beginning of October 2020, a so-called transitional regime for the operation of online slots came into force in mid-October 2020. The federal states had agreed that they would not prioritize enforcement into existing online slots offers operated by EU-licensed operators that already implemented certain key regulatory requirements of the new legislation as of mid-October 2020 and thus more than half a year prior to the new law entering into force and more than a year before the first online slots licenses were actually granted under the new law.

## Compliance does not shield from enforcement?

However, pressing the fast forward button to arrive in today's brave new regulated world, operators have had to experience quite the contrary to what was expected. Finally having obtained German licenses after more than a decade of back and forth, operators were assuming that they would now sail on calm waters, in particular now having a central regulatory authority, the *Gemeinsame Glücksspielbehörde der Länder*, in place to manage the licensed operations.

The reality is different: operators, including those who had fulfilled all the requirements in the tender procedure of 2012 without ever having been awarded a license and who had implemented the requirements of the transitional period for online slots, are facing a massive wave of refund claims. Unlike in Austria, where refund claims are basically limited to online casino products, claimants in Germany seek the refund of losses from online casino products (including online slots and poker) as well as from online sports betting. The argument is always the same: operators offered these products into Germany without complying with German law and without a German license.

Despite the *Markus Stoß* and the subsequent *Ince* rulings of the CJEU, which held that (i) the German sports betting monopoly was not compatible with EU law and (ii) that this monopoly persisted in practice despite the theoretical possibility to receive a license, courts in Germany have granted player claims for the refund of sports betting losses. The same applies to online casino products, which used to be subject to the inconsistent “internet prohibition” – a fact that also the German states understood and thus introduced licensing and concession systems for these products, as described above.

Once again, clarification will be sought from the judges at the CJEU in Luxembourg. Broken down to the simplest level of complexity, the question is whether operators may be sanctioned through the backdoor of civil law for a regulatory framework that remained in violation of the EU market freedoms for more than a decade. While the CJEU has already clarified early on in its *Placanica* (C-338/04) judgment of 6 March 2007 and its subsequent *Ince* judgment that criminal sanctions must not be applied in such circumstances, in its *Unibet* judgment (C-49/16) of 22 June 2017 the CJEU maintained the same logic for administrative sanctions. Such clarification is now required also for claims brought under civil law.

And the courts are seeking such clarification: in Malta, a player claim regarding losses that occurred in Germany has been referred to the CJEU with regard to online casino games (Case C440/23, *European Lotto and Betting und Deutsche Lotto- und Sportwetten*), referred by the Civil Court Malta (*Prim'Awla tal-Qorti Ċivili*) on 14 July 2023 and currently pending with the CJEU. As a result of this referral, the German Federal Supreme Court (BGH case I ZR 53/23) along with several German Higher Regional Courts (*Oberlandesgerichte*) have suspended cases to wait for the CJEU's preliminary ruling in this regard.

However, also with regard to online sports betting, a steer from Luxembourg is needed. While, at the date of writing this article, no reference for a preliminary ruling has yet been made, it is almost certain that this will happen (and may very likely already have happened at the time you are reading this).

As of April 2024, the German Regional Court of Erfurt has issued indicative orders (*Hinweisbeschlüsse*) in several proceedings, presenting its clear indication to request a preliminary ruling from the CJEU on sports betting and well as online casino.

Following the very first oral hearing in an online sports betting case, also the Federal Supreme Court (BGH case I ZR 90/23), indicated that it was considering a referral to the CJEU and announced that it will publish its decision on how to proceed in this case on 25 July 2024. The main question regarding sports betting will be whether the lack of a license can be held against EU-licensed operators in light of the failed license tender of 2012 and the monopoly – that was found to be incompatible with EU law – persisting in practice until German sports betting licenses were finally granted in late 2020.

It seems like something out of a bad film that now that there is finally new legislation, a licensing system and a dedicated regulatory authority, all introduced with the sole aim of bringing the legislation that has persisted for more than a decade into line with overriding EU law, and as a result Germany has finally become a regulated market, the legislative mistakes of the past are once again causing serious headaches for the operators licensed and regulated in Germany. However, ultimately it may not only be the operators suffering from headaches. Depending on how things develop, the German federal states, who were in charge of the 2012 tender, may be faced with state liability claims.

To sum up, the last word will have to be spoken by the judges in Luxembourg, and it is only a matter of time before they are asked to do so in order to provide legal certainty on an issue that seemed to have been resolved in 2020, when the licensing system finally started to work.

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Once again, clarification will be sought from the judges at the CJEU in Luxembourg.

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## Navigating the legal side of gaming



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# HONG KONG

NAVIGATING THE LEGAL LANDSCAPE OF GAMBLING IN HONG KONG:  
REGULATIONS, EXCEPTIONS AND EMERGING TRENDS

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# NAVIGATING THE LEGAL LANDSCAPE OF GAMBLING IN HONG KONG: REGULATIONS, EXCEPTIONS AND EMERGING TRENDS

## Overview

In Hong Kong, the most common types of lawful gambling are lotteries, horse racing and football betting. They are run by the Hong Kong Jockey Club (**HKJC**) which is the only local racing club and legal bookmaker. Casino gambling in a land-based or virtual casino is not legal in Hong Kong. It is also unlawful in mainland China. Macao, another Special Administrative Region in China and a major gaming city, is just about an hour away by road or ferry.

The legal position on non-traditional luck-based entertainment,

such as claw machines and online mobile games (for instance, mahjong, poker and slot machines), is less certain. The main statute on gambling looks at gambling traditionally where people have to be physically present in the same place to gamble. However, betting with illegal bookmakers, whether through the telephone, internet or otherwise, is specifically

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Hong Kong's strict gambling laws, led by the Gambling Ordinance, permit only specific activities like lotteries and horse racing and football betting while exploring new frontiers like basketball betting in 2025.

prohibited.

Nonetheless, gaming credit legally granted in another jurisdiction for the purpose of gambling in that jurisdiction may be enforced through the Hong Kong courts. Hong Kong is thus a useful forum for the enforcement of gaming credits owed by gamers who have assets in Hong Kong.

Regulatory licence is required for specific types of amusements, such as amusement game centre licence, lottery licence, mahjong/tin kau licence and tombola licence. Interestingly, in Hong Kong, even lucky draw for business promotion and marketing purposes requires a trade promotion competition licence to be lawful.



A recent significant development is that after legalising football betting more than two decades ago, the Hong Kong Government announced in 2025 that it will explore legalising basketball betting. Whether it will in any way be different from the football betting regime is to be seen.

## Major gambling-related laws and regulations in Hong Kong

The main legislation governing gambling in Hong Kong is the Gambling Ordinance (Cap. 148). The general position is that gambling is unlawful unless the gambling activity falls within one of the exceptions under the statute. Gambling is defined under the statute to include 'gaming', 'betting' and 'bookmaking'. Historically, the law is targeted towards gambling at unlicensed establishments and betting with illegal bookmakers. Private bets, gaming carried out in private premises on social occasions and certain types of games carried out in licensed premises on social and non-social occasions are not unlawful.

**Gaming** – A 'game' is widely defined to include 'a game of chance, a game of chance and skill combined and a pretended game of chance or chance and skill combined' and 'gaming' is defined to mean 'the playing of or at any game for winnings in money or other property whether or not any person playing the game is at risk of losing any money or other property'. Under these wide definitions, activities where an element of chance is involved and the participants stand to win something of value will be a form of gambling and will be unlawful. To lawfully conduct the game, the organiser has to obtain a licence and fulfil the conditions of the licence in conducting the game.



Playing of traditional social games such as mahjong, tin kau tiles or cards involving winnings in money or property is 'gaming' and is thus prima facie unlawful. Nonetheless, it remains very common to hear sounds of mahjong tiles shuffling from private premises, as there are exceptions to the general prohibition. For example, it is lawful if the game is played on a social occasion in private premises and is not promoted or conducted by way of trade or business or for private gain otherwise than to the extent of a person's winnings.

**Betting and bookmaking** – Betting with a bookmaker is specifically prohibited in Hong Kong, whether or not the bet is received within or outside Hong Kong. Betting with overseas bookmakers is an offence, even if the bookmakers are legal in the jurisdiction where they operate. Unauthorised bookmaking is also unlawful. As stated above, HKJC is the only lawful bookmaker in Hong Kong.

Where betting is made between persons where none of them is a bookmaker, it is not prohibited by statute and is lawful as long as the bet does not fall within the definition of 'wagering contract'. The term is not defined in statute and has been described judicially as one "by which two persons professing to hold opposite views touching the issue of a future uncertain event, mutually agree that, depending upon the determination of that event, one shall win from the other, and that other shall pay or hand over to him, a sum of money or other stake"<sup>1</sup>.

#### **Hong Kong Jockey Club**

The Government's power to license and authorise racing club and bookmaker comes from the Betting Duty Ordinance (Cap. 108). At present, HKJC is the only lawful racing club and bookmaker in Hong Kong. The profits made by HKJC are applied by a charity trust on donations and social projects for the general welfare of the public.

#### **Trade Promotion Competition Licence**

Interestingly, even a lucky draw conducted for the purpose of boosting the sale of a certain product or service requires a licence to be legal in Hong Kong. The Gambling Ordinance allows businesses to run competitions to promote a trade or business or the sale of any product if a 'Trade Promotion Competition Licence' is applied for and granted by the Government. In general, licence applications are considered on their merits. Considerations for licence applications include public interest, promotion of a business and undesirable effect of inducing people to participate in gambling.

#### **Sports betting**

All types of betting on sports had been unlawful until the Government started to authorise and regulate football betting in Hong Kong in around 2003, the purpose of which is "to combat illegal football gambling". The Government licensed HKJC as the sole operator of football betting in Hong Kong. However, the Government may

impose conditions on "categories of matches on which betting may be conducted".<sup>2</sup> At present, it is only lawful to bet on international football tournaments, but it remains unlawful to bet on overseas matches involving Hong Kong teams, and betting on any football match that takes place in Hong Kong is prohibited.<sup>3</sup>



Hong Kong's tightly regulated gambling landscape permits limited sports betting and social gaming while requiring licenses even for trade promotion lucky draws.

1. *Carilli v. Carbolic Smoke Ball Co* [1982] 2 QB 484, 490, per Hawkins J.

2. See section 61(5) of Betting Duty Ordinance.

3. Home Affairs Bureau of Hong Kong, Paper for the Bills Committee – Betting Duty (Amendment) Bill 2003 – Licences for Football Betting and for Lotteries, June 2003, accessible at: <https://www.legco.gov.hk/yr02-03/english/bc/bc59/papers/bc590606cb2-2339-1e.pdf>, paragraph 7; and Press Release of the Hong Kong Government, "Football betting licence renewed", 17 July 2013, accessible at <https://www.info.gov.hk/gia/general/201307/17/P201307170288.htm>.

On 26 February 2025, the Government announced that it will explore legalising basketball betting activities “to combat illegal basketball betting in Hong Kong”.<sup>4</sup> On 2 April 2025, the Government commenced public consultation on the proposed new legislation and proposed to establish a regulatory regime for basketball betting by modelling the existing regime for football betting.<sup>5</sup> For instance, it is proposed that the licensed operator shall not accept bets on basketball matches involving Hong Kong teams and/or matches that takes place in Hong Kong. As of the date of this article, public consultation is still underway. If the new law is passed, it is expected that the new regime will largely mirror that for football betting and

HKJC will remain to be the sole operator of basketball betting locally.<sup>6</sup>

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Hong Kong’s 2025 push to legalize basketball betting and regulate simulated online gambling signals a dynamic shift in tackling illegal activities while updating outdated laws.

**Non-traditional luck-based entertainment – Potential areas of gambling law amendment**

**Simulated gambling games**

Online games are easily accessible

on smartphones for leisure purposes, and simulated gambling games such as online mahjong, poker and slot machines have been increasingly popular. While some business models may not involve cash but generate revenue through advertisements, some may prompt players to make ‘in-game purchases’ of virtual coins and tools to be paid by cash. This calls for concerns on whether simulated luck-based entertainment is a form of ‘gambling’.

A game played on an online gambling platform or virtual casino which offers the players a chance to win money or other property falls within the definition of a ‘game’. Section 6 of the Gambling Ordinance makes it an offence for someone to gamble in a gambling establishment, whereas section 13 of the Gambling Ordinance makes it an offence for someone to gamble in a place that is not a gambling establishment, but this only applies when the place of gambling is the place where the other person operates or manages or otherwise controls the unlawful gambling. In other words, the gambler and dealer are expected to be in the same place. In the case of online gambling, the operator’s location is normally in a jurisdiction where such operations are legal and often differs from the players’ locations, so the law is arguably not applicable to a person gambling on an online medium. Nevertheless, there still remains a risk that an online gambler may be prosecuted under the catch-all provision in respect of ‘unlawful gambling’ under section 3(1) of the Gambling Ordinance.

In January 2024, the Consumer Council, a statutory body in Hong Kong, called for more stringent regulation of simulated gambling games, quoting online slot machines, poker and mahjong games as examples, and advocated for the introduction of specific laws that target simulated gambling games.<sup>7</sup> The Council found the existing gambling legislation to be “not fully effective in targeting a wide range of online gaming behaviours and businesses of a similar nature to gambling”. In particular, the Council pointed out that the legislation does not “explicitly prohibit minors from participating in gambling” and especially online simulated gambling games and urged the Government to review existing legislation.

As at the date of this article, the Gambling Ordinance has not been amended and no proposal for comprehensive review of the legislation in respect of simulated gambling games has been put forward.

4. The Financial Secretary, “The 2025-26 Budget Speech”, 26 February 2025, accessible at: <https://www.budget.gov.hk/2025/eng/budget42.html>, paragraph 209.

5. Press Release of the Hong Kong Government, “Government launches consultation on proposed regulation of basketball betting activities”, 2 April 2025, accessible at: <https://www.info.gov.hk/gia/general/202504/02/P2025040200282.htm>.

6. See Footnote 6 above.

7. Consumer Council, “Simulated Gambling Games Full of Tactics to Lure In-Game Purchases Tougher Regulation Urged to Steer Players Away from Addiction” (15 January 2024), accessible at: <https://www.consumer.org.hk/en/press-release/p-567-simulated-gambling-apps>.



## Claw machines

In recent years, claw machines<sup>8</sup> have almost become ubiquitous in Hong Kong.

Interestingly, despite that claw machines seem to be a form of entertainment, the operation of such business does not require a public entertainment licence under Hong Kong law. The Gambling Ordinance regulates the organisation and conduct of 'a game of amusement with prizes on places of public entertainment' (as defined in the Places of Public Entertainment Ordinance) (for example, family amusement centres) and they are only lawful if 'Places of Public Entertainment Licence' is obtained. Such licence is, however, not required for claw machines as a Hong Kong Court case in 2022 confirmed that claw machines do not meet the definition of 'entertainment' under the Places of Public Entertainment Ordinance<sup>9</sup> and accordingly claw machines are not subject to the 'Places of Public Entertainment Licence' requirement.

This does not mean that the operation of claw machines is necessarily lawful. Claw machines can be said to be purely games of 'skill' and may not be regarded as 'gaming'. However, it is also arguable that they are 'games of chance and skill combined' and players pay in return for the rewards.

Recently, the Government has proactively monitored individuals suspected of using claw machines for gambling activities. In November 2024, the Police mounted an operation to crack down suspected gambling establishment operating claw machines for winnings in money and the machines concerned are said to be 'gambling game machines in disguise'.<sup>10</sup> Responsible persons of the establishment, its staff and the suspected gamblers were arrested for being suspected to have committed offences under the Gambling Ordinance. To date, these cases remain under investigation by the Hong Kong police.

The Consumer Council has also urged people to be aware of indications where a claw machine may be used for gambling purposes, in particular, whether the total amount spent is worth the value of the desired prize.<sup>11</sup>

Given the rapid rise of the claw machine business locally, it is expected that the claw machine industry will continue to be under close watch of enforcement authorities.

## Outlook

The legal framework and jurisprudence in Hong Kong as regards gambling and enforcement of overseas gaming credit have been quite settled. Whilst there have been calls for tightening of consumer protection in relation to non-traditional luck-based entertainment, no law amendment proposal has been made. The regime for basketball betting, if legalised, is also expected to mirror that for football betting. That aside, the law is not expected to change in any material way in the foreseeable future, and HKJC is expected to remain as the only racing club and betting operator in Hong Kong in the years to come.



Hong Kong's claw machine boom skirts public entertainment licensing, but faces scrutiny as authorities crack down on potential gambling disguised as skill-based games.

8. Claw machines are cabinets with glass boxes filled with items (usually stuffed toys or snacks) and have a joystick-controlled claw at the top, and a player inserts coins to activate the machine and positions the claw before dropping it into the pile of items in an attempt to pick up the item(s) and unload it (or them) into a pick-up outlet. These machines are often operated in public places.

9. Secretary for Justice v. Claw Boss Limited [2022] HKCFI 2261 3. Home Affairs Bureau of Hong Kong, Paper for the Bills Committee – Betting Duty (Amendment) Bill 2003 – Licences for Football Betting and for Lotteries, June 2003, accessible at: <https://www.legco.gov.hk/yr02-03/english/bc/bc59/papers/bc590606cb2-2339-1e.pdf>, paragraph 7; and Press Release of the Hong Kong Government, "Football betting licence renewed", 17 July 2013, accessible at <https://www.info.gov.hk/gia/general/201307/17/P201307170288.htm>.

10. Press Release of the Hong Kong Government, "LCQ14: Regulating claw machine venues" (12 February 2025), accessible at: <https://www.info.gov.hk/gia/general/202502/12/P2025021200219.htm>.

11. Consumer Council, "Disorderly Claw Machine Market Undermines Consumer Rights Industry Urged to Uphold Business Conduct and Ensure Fair Gameplay" (16 December 2024), accessible at: <https://www.consumer.org.hk/en/press-release/p-578-claw-machine-complaints>.

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# IRELAND

## NEW RULES FOR GAMBLING IN IRELAND

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### BIO

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## BIO

Carlo is a partner in the Technology and Innovation Group at Matheson. Carlo advises a wide range of clients on all manner of commercial and regulatory issues, with a particular focus on technology-related matters. His practice reflects the ever-changing landscape of Irish and EU law and guidance, and Carlo regularly supports clients to position their businesses and products in the most effective manner possible in light of complex legal requirements.

Carlo regularly advises Irish and international businesses on their obligations under the current and incoming Irish gambling legislation, ranging from the application of exemptions for prize promotions (and the drafting of terms and conditions) through to licence applications and strategy for regulatory engagement. He also advises advertisers, broadcasters and on-demand service providers as to their obligations in respect of advertising under the Gambling Regulation Act 2024 and the existing ASAI rules.

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Karen Reynolds is a partner in the Commercial Litigation and Dispute Resolution Department at Matheson, and head of the firm's Regulatory Investigations team.

Karen advises clients on their interactions with regulators, from supervisory engagement to regulatory investigations and enforcement actions, often involving a number of regulators and jurisdictions. She has substantial experience in assisting regulated firms and individuals navigate highly complex and sensitive matters in the context of the ever-changing landscape of Irish and EU law, regulation and guidance to obtain compliant business solutions and optimum outcomes. Karen's practice also encompasses compliance and governance related matters, white collar crime and corporate offences, anti-corruption and bribery legislation and document disclosure issues. She has significant experience in handling regulatory investigations, providing strategic risk management counsel and conducting internal investigations (domestically and cross-border).

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# NEW RULES FOR GAMBLING IN IRELAND



On 23 October 2024, the historic Gambling Regulation Act 2024 (the “Act”) was signed into Irish law by the President, signifying a new era of gambling regulation in Ireland. <sup>1</sup> While majority of the provisions of the Act are still awaiting commencement by Ministerial Order as of May 2025, once in force, the Act will entirely replace the existing legal framework for gambling in Ireland by bringing the legislation in line with challenges of modern gambling, establishing a new regulator and introducing a new streamlined licensing regime.

Minister James Browne described the Act’s purpose as follows:

*“At its core, this legislation is a public health measure aimed at protecting our citizens from gambling harm, including younger people and those more vulnerable in our communities.”<sup>2</sup>*

“

Ireland’s Gambling Regulation Act 2024 ushers in a modernized framework, empowering the new GRAI to protect consumers and regulate a dynamic gambling landscape.

The Act is anticipated to have a significant impact across a wide range of business sectors, as in addition to betting, lottery and gaming activities, the Act also applies to the advertisement of those activities on both

traditional broadcast media, and on-demand services. Moreover, the Act is deliberately drafted broadly enough to capture operators and activities outside of the traditional gaming sector, depending on the nature of any promotions, lotteries or games offered. It does not affect the National Lottery, which is governed by separate legislation.

Although it was well accepted that the current regime was in need of modernisation and required additional safeguards to protect consumers and children against the harms of gambling, some measures and provisions of the Act were seen as controversial by gambling providers and stakeholders and were subject of robust debate and lobbying. In addition, a number of key restrictions and regulations provided for under the Act are yet to be introduced by the new supervisory authority and the Minister for Justice, so the full scope of the Act and its impact is yet to be defined. The below discussion reflects the anticipated operation of the Act, as of May 2025.

## A new regulator

First and foremost, the Act provides for the establishment of Údarás Rialála Cearrbhachais na hÉireann (in the English language, the Gambling Regulatory Authority of Ireland or “GRAI”), which will be responsible for implementing the new regime, as well as for monitoring compliance and taking any necessary enforcement action. It was formally established on a statutory basis on 5 March 2025, with seven members being appointed by the Minister of Justice. <sup>3</sup>

The Act provides that the GRAI will be funded by advances from the Government for this first 3 years, with €9.1 million designated for the GRAI in Budget 2025. After that initial 3 year period, the Act provides that the GRAI should fund itself from licensing charges, with the proviso that the Government may supplement its operational costs if necessary.

1. Department of Justice press release of 4 March 2025, “Minister O’Callaghan establishes GRAI approves appointment of members as new licencing & regulatory framework for gambling begins”, available [here](#).

2. Department of Justice press release of 16 October 2024, “Minister Browne welcomes passing of historic legislation to streamline, strengthen and modernise gambling regulation”, available [here](#).

3. Department of Justice press release of 4 March 2025, “Minister O’Callaghan establishes GRAI approves appointment of members as new licencing & regulatory framework for gambling begins”, available [here](#).

## Social Impact Fund

The Economic & Social Research Institute has estimated that 1 in 30 adults in Ireland suffer from problem gambling, which is ten times higher than measured in 2019.<sup>4</sup> In light of these figures and warnings of a new “public health emergency”,<sup>5</sup> the Act attempts to balance the business interests of gambling providers against the pressing need to ensure consumers and minors are protected from the risks and consequences of engaging in gambling activities.

As part of the strategy to address these risks, the Act introduces a Social Impact Fund, which is intended to finance research, education, training and other social initiatives to tackle and reduce compulsive or excessive gambling and its social impact. The fund is not yet active, but will be established and managed by the GRAI. The GRAI will raise monies for the fund through applying annual contributions on gambling providers (except licensees for charitable or philanthropic purposes) in proportion to their turnover (the percentage is to be set by the Minister of Justice).

Once the fund is established and its funding strategy finalised, charities and organisations involved in specific areas will be able to apply for funding annually.

## National Gambling Exclusion Register

Another element of the strategy to combat problem gambling is the National Gambling Exclusion Register, which is to be established and maintained by the GRAI. The register is designed to record and make available to B2C licensees details of persons who have applied to self-exclude from accessing online gambling or being contacted by B2C licensees. The Act goes a step further and prohibits B2C licensees from providing those persons with gambling services, accepting payment or inviting them to participate in gambling. Non-compliance with this obligation constitutes an offence punishable by a fine and / or imprisonment of up to 5 years.

## Licensing and Exemptions

The Act established a comprehensive new licensing regime for any “gambling activity”, which includes betting, gaming and lottery activities, as well as the sale or supply of a gambling product or a related gambling service.

Different types of licences – each of which may be for in-person and / or remote gambling - are provided for, including:

- business to consumer (“B2C”) gambling licences;
- business to business (“B2B”) gambling licences;
- gambling licences for a charitable or philanthropic purpose;
- betting licences;
- gaming licences; and
- lottery licences.

B2B licences in particular are a new form of licence to the system, as previously B2B service providers did not need a licence to operate games or lotteries in Ireland (though there was a comparable form of licence for betting intermediary service providers). The B2B licences will be required for “gambling products” and “gambling related service”, the definitions of which are drafted broadly to capture a number of gambling activities and ancillary services, such as risk and fraud management services, online hosting services and installation, maintenance or upgrading of software.

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Ireland’s Gambling Regulation Act 2024 introduces a Social Impact Fund and National Exclusion Register to combat problem gambling, backed by a robust licensing regime.

4. Economic & Social Research Institute, “Measures of problem gambling, gambling behaviours and perceptions of gambling in Ireland”, 5 October 2023, available [here](#).

5. Sean Murray, “Gambling has caused problems for 10% of Irish adults — ESRI”, Irish Examiner, 5 October 2023, available [here](#).

The concept of a gambling licence for charitable and philanthropic services is also new and will apply to gaming or lottery activities used for fundraising by non-profit organisations. This is intended to be a more streamlined process to acknowledge the difference between those organisations and other gambling operators. The Act provides an exemption from the licensing requirements for certain charitable lotteries for small amounts (winnings under €2,000) and lotteries held in conjunction with selling or marketing of products (winnings under €5,000), subject to meeting specific conditions.

The Act describes a detailed application process, including the requirement to publish a public notice 28 days prior to applying for a licence, and sets out various conditions that can be attached to each type of licence. The charges attaching to the various licences on offer have not yet been confirmed.

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Ireland’s Gambling Regulation Act 2024 tightens advertising rules with a 5:30am–9pm broadcast ban and strict child protections, while streamlining charitable gambling licenses.

The GRAI is taking a phased approach to accepting gambling licence application so as to allow for a smooth changeover for existing licence holders (whose licences will remain in force until expiry). The authority has not yet started the new process, but has invited interested parties to register their interest to apply for a licence once it commences. Until the new regime comes into effect, new and existing licence and permit holders can continue to apply for and renew their authorisations under the current licensing procedures.

### Advertising

Gambling advertising was one of the most debated and controversial parts of the Act, as there were calls for an outright ban on advertising to be imposed that ultimately was not implemented. The Act, as passed, contains broad-ranging provisions in relation to advertising, including via social media and video-sharing platforms.

One of the most contentious provisions of the Act is the prohibition on broadcasting gambling advertisements between the hours of 5:30am and 9pm. With respect to on-demand media and sound services, gambling advertisements are banned by default unless the persons being shown the ads have an account with the service provider and the licensee generally complies with other advertising rules. For social media and video sharing platforms, the same rules apply, but the intended recipient of the advertisement must also be subscribed to the licensee’s account on that service.

The Act also has strict provisions – possibly to be supplemented by additional GRAI rulemaking – prohibiting advertising gambling to children, including ads portraying gambling as attractive to children, condoning participation in gambling by children, encouraging or causing children to gamble, and exploiting children’s vulnerability. Furthermore, gambling advertisements cannot cause, condone or encourage excessive or compulsive gambling or mislead, deceive or confuse members of the public about the potential social or financial advantages of gambling. Charities and other non-profit organisations will, however, be exempt from some of the stricter rules in this area.

In keeping with its stated purpose to protect the public and tackle problem gambling, the Act empowers the GRAI to strictly regulate and monitor how gambling advertising can be broadcast, displayed or published, such as issuing regulations requiring advertisers to include certain information in their content, prescribe the times, places and events at which advertisements can be shown, their frequency and duration. The GRAI is also empowered to apply to the High Court to prohibit any advertising done in contravention of the Act.

## Inducements, Payments and Limits

The issue of gambling operators providing inducements to gamble was also the subject of debate during the legislative process. Ultimately, the outright ban on inducements included in the initial draft legislation was removed and replaced with a prohibition on providing inducements to specific persons or groups, but continuing to allow incentives to the general public.

Holders of B2C licences are prohibited from accepting payment for any relevant gambling activity by credit card or knowingly facilitating the provision of credit in relation to a gambling activity.

Another area of industry criticism has been the introduction of maximum limits on payments and winnings for lotteries, casino games and bingo. For example, for casino games such as roulette, the maximum stake is €10 and winnings are capped at €3,000. Industry stakeholders have opined that these provisions make some of the current gambling activities impossible to operate once the Act comes into effect.

## Compliance and Enforcement

To strengthen the regulation of the restrictions and protective measures introduced by the Act, the legislation grants GRAI wide-ranging sanction and enforcement powers, including the power to:

- issue a compliance notice;
- direct an investigation;
- apply to court for suspension or revocation of a licence or to block access to online services;
- conduct an oral hearing;
- apply for emergency orders to protect the public from serious consequences of an ongoing contravention, including blocking access to online services; and
- impose administrative sanctions including: financial penalties (up to €20,000,000 or, if greater, 10% of the licensee's turnover) or the suspension, revocation or imposition of a condition on any gambling licence.

The explanatory memorandum to the legislation states that “the overall policy intention is to encourage compliance rather than to enforce penalties for non-compliance”<sup>6</sup> and section 190(2) of the Act sets out various factors that the GRAI will consider when determining what course of action to take, which include a consideration of the nature, gravity and duration of the breach.

The GRAI must apply to the Circuit Court for confirmation of its decision in relation to a particular contravention and any administrative sanction imposed and an adjudication officer can refer any question of law relating to an administrative sanction to the High Court. Detailed provisions are included in relation to the process of appealing any enforcement powers applied.

A broad range of offences are also provided in the Act that can result in liability for a relevant officer or beneficial owner of a licensee, where it can be proven that they consented or connived in the offence or that they were guilty of wilful neglect. On summary conviction, this may result in the imposition of a class A fine (up to €5,000) and / or imprisonment for up to 12 months or, on indictment, to an unlimited fine and / or imprisonment for up to 5 years.

“

Ireland's Gambling Regulation Act 2024 curbs inducements, caps stakes and winnings, and empowers GRAI with robust enforcement to ensure compliance.

Finally, all licence holders have an obligation to report any suspicious gambling activity that suggests there is an attempt to influence the outcome of a relevant gambling activity to the GRAI.

6. Explanatory Memorandum to the Gambling Regulation Act 2024, available [here](#).

## Tax implications

To date, the licensing regime for betting and gaming has been governed and administered by the Irish Revenue Commissioners (“Revenue”). From a tax perspective, the main change introduced by the Act is that the GRAI will become responsible for issuing licences and levying licence fees, rather than Revenue.

However, Revenue has confirmed that the existing licensing regime remains in operation until the relevant sections of the Act enter into force and Revenue will continue to issue relevant licences under

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Ireland’s Gambling Regulation Act 2024 shifts licensing to GRAI while maintaining betting duty and VAT exemptions, signaling a gradual transition for gambling providers.

Betting Act 1931 and the Gaming and Lotteries Act 1956 in the interim. Both new applicants and current licence holders seeking to renew licences should continue to engage with Revenue and existing licence authorities until the Act has been fully commenced.

There has been no indication that there will be any material change

in how excise duty is applied to bookmakers or remote betting intermediaries (ie, providers of betting exchanges) under the new regime. The Finance Act 2024 amended some definitions in the relevant excise legislation and we expect further amendments may be required, once the main provisions of the Act are commenced, to refer to licences which will be issued under the new legal framework. The rate of betting duty was not changed but the Act now provides for a separate ‘remote betting duty’ which applies to bets placed by remote means (as distinct from a single duty which previously applied to both in-person and remote betting). Betting duty and remote betting excise duty continue to apply at a rate of 2% on the value of bets entered in person and remotely, respectively. A 25% betting intermediary duty continues to apply on the commission charged by a remote betting intermediary to persons in Ireland for using the facilities of the intermediary to make bets.

The VAT treatment of betting transactions has not been affected by the Act and we expect that the current exemptions in respect of betting services and remote betting intermediary services will continue to apply. Betting duty essentially replaces VAT on betting transactions. The supply of gaming and e-gaming services by contrast, is subject to VAT in Ireland.

## Conclusion

Whilst modernisation of the current system for gambling regulation in Ireland was certainly overdue, at a time when the media in particular is already grappling with increased regulation from ComReg and Coimisiún na Meán, and charitable organisations are imminently facing an increased administrative burden on the coming into force of the Charities (Amendment) Act 2024, the restrictive nature of the Act will undoubtedly present some immediate challenges to gambling providers. However, it does appear that the intention is for the new regime to be introduced gradually, with CEO-designate of the GRAI, Ms Anne Marie Caulfield, noting that there will be “a *phased introduction of our functions, with a focus on licensing initially*.”<sup>7</sup> The Government has also indicated that it intends to fully commence the Act within 2025, so gambling providers and stakeholders have some time to prepare and adapt for the incoming regulation. In the meantime, the impact on the gambling sector and the success of protective measures remain to be seen.

7. Department of Justice press release of 16 October 2024, “Minister Browne welcomes passing of historic legislation to streamline, strengthen and modernise gambling regulation”, available [here](#).

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# ISRAEL

## ISRAEL'S CONSERVATIVE STANCE ON GAMBLING: LEGAL FRAMEWORK, EXCEPTIONS AND EMERGING TRENDS


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# ISRAEL'S CONSERVATIVE STANCE ON GAMBLING: LEGAL FRAMEWORK, EXCEPTIONS AND EMERGING TRENDS

## Introduction

Israel's approach towards gambling activity has always been, and remains to this day, a highly conservative one. This approach is rooted in a confluence of religious and socialist values, characterized by stringent regulations which form a ban on both land-based and online gambling services in the country.

The blanket ban over gambling services as set by the primary legislation governing gambling in Israel, the Israeli Penal Law 5737-1977 ("**the Penal Law**"), has three exceptions:

1. Mifal Hapayis (the National Lottery) – which since its establishment in 1951, offers a variety of scratch cards, a weekly subscription-based lottery, and other types of lotteries and raffles. The operations of Mifal Hapayis are subject to the supervision and regulation of the Israeli Ministry of Finance.
2. The Israel Sports Betting Board ("**ISBB**") – which since its establishment in 1967 under the Law for the Regularisation of Sports Betting 5727-1967, has the exclusive right to organize and regulate sports betting activity in Israel.
3. A very limited exemption provided for gambling activities which are purely social in nature.

Against this backdrop, Israel, a nation synonymous with innovation and entrepreneurial spirit (often hailed as the "*startup nation*"), presents a fascinating paradox within the global online gambling industry. Despite having one of the most restrictive B2C markets for domestic online gamblers, Israel has become a hidden powerhouse behind the scenes. This tech-savvy nation boasts a thriving ecosystem of online gambling companies, ranging from software development giants to prominent operators. One would be hard-pressed to find an online gambling operator without an operation based in Israel, or a link to the country's gaming industry. While Israelis themselves may have limited online gambling options at home, their expertise and ingenuity are fueling the operations of countless international gambling platforms.



## Regulatory framework for Gambling in Israel

Israel's Penal Law imposes broad prohibitions related to gambling activities, criminalizing both the organization of most gambling activities as well as the participation in specific forms of gambling. Despite changes in technology and society, as well as several proposals for a partial relaxation of the restrictions relating to certain gambling activities (like professional poker), the legislation has remained largely unchanged in recent years.

Under the Penal Law, there is a complete ban on all gambling activities, with the three exceptions listed above – the activities of Mifal Hapayis (the National Lottery), the ISBB (which regulates sports betting) and activities which are purely social by nature.

The relevant legal definitions, as well as prohibitions relating to gambling activities in Israel, are contained in chapter twelve of the Penal Law, titled '*Prohibited Games, Lotteries and Betting*'. The chapter sets out a prohibition on the organization of "*lotteries, betting and prohibited games*" (Section 225), and a prohibition on "*participating in prohibited games*" (Section 226).

The relevant definitions in chapter twelve are as follows:

- "*Lottery*" – any arrangement under which it is possible – by drawing lots or by some other means – to win money, valuable consideration or a benefit, the outcome depending more on chance than on understanding or ability;
- "*Betting*" – any arrangement under which it is possible to win money, valuable consideration or a benefit, the outcome depending on a guess, including lotteries connected to the outcome of games and sporting competitions;
- "*Prohibited game*" – a game at which a person may win money, valuable consideration or a benefit according to the outcome of a game, that outcome depending more on chance than on understanding or ability; and
- "*Place of prohibited games*" – premises on which prohibited games are regularly conducted, whether open to the public or open only to certain persons, whether or not they are also occupied for some other purpose.

The Penal law therefore outlines three separate gambling categories. However, due to the broad nature of these categories, together they effectively capture most, if not all, types of gambling activities. Notably, the definitions overlap, potentially resulting in certain gambling forms falling under multiple classifications.

The Israeli Penal Law prescribes the following penalties for unlawful gambling:

- Organizers and facilitators of illegal games, lotteries, or betting operations face a maximum penalty of three years in prison or a fine of up to ILS 452,000;
- Participants in prohibited gambling activities can be sentenced to up to one year in prison or fined up to ILS 29,200;
- Providing, selling, or distributing lottery or betting tickets to minors is punishable by up to six months' imprisonment.

### Israeli Courts' Role in Regulating Gambling

Israeli courts have significantly influenced the regulation of gambling. Most notably, they have interpreted the Penal Law to include online gambling, despite the lack of a specific reference to online activities in the Penal Law, given that it predates the internet. Other governmental bodies had issued opinions supporting this interpretation, amongst them the Ministry of Justice, the Israel Police, the State comptroller, and others. Additionally, the Bank of Israel prohibits financial institutions from processing transactions related to gambling activities. The State Comptroller has urged authorities to limit internet gambling, and the Israel Police have taken enforcement actions (including website blocking) against online gambling operations, particularly against those operators with connections to Israel.

Recognizing the heightened risks to the social interest associated with online gambling, the Israeli Supreme Court has called for more stringent enforcement measures and harsher punishments for those involved in illegal online gambling activities, compared to those dealing in land-based gambling.<sup>1</sup>

Israeli courts have applied and developed the predominance test to determine whether a game is “*based on chance more than understanding or ability*”, as the Penal Law sets out. The test assesses whether chance or skill is the predominant element influencing the outcome of the game. In a 2011 ruling, the District Court of Tel Aviv addressed the legality of activities combining skill and chance, with the court determining that the “*social interest and utility*” of the underlying game should also be considered in reaching a conclusion under the predominance test.<sup>2</sup> In an additional ruling in a 2017 criminal case, the Tel Aviv Magistrate’s Court further developed the predominance test, by ruling that the assessment of the determining factor influencing the result should be based on an amateur player participating in a single round of the activity.<sup>3</sup> While not setting a binding legal precedent, this ruling exemplifies the restrictive stance of Israeli courts towards gambling activities.

### The Social Exception

Section 230 of the Penal Law provides a narrow exception to the general prohibition on gambling. This exception applies to a prohibited game, lottery, or betting activity that meets all the following conditions:

1. It is intended for “a particular circle of persons”;
2. It “may not exceed the scope of amusement or entertainment”;  
and
3. It is not conducted in “a place of prohibited games or a place for the conduct of lotteries or betting”.



Israel’s courts enforce a strict gambling ban, extending to online platforms, with harsh penalties and a narrow social exception under the Penal Law.

1. See Administrative Appeal (Supreme Court) 3782/12 *The Commander of the Tel Aviv-Jaffa District Israel Police Israel v The Israel Internet Association*; Special Criminal Appeal (Supreme Court) 7064/12 *Or Pando v The State of Israel*; Criminal Appeal (Supreme Court) 6889/11 *The State of Israel v Eliran Oved*.  
2. Class Action (Tel Aviv) 30284-01-10 *Simon Davush v Connective Group Ltd*.  
3. See Criminal Case [Tel Aviv] 34939-07-15 *The State of Israel v Nir Lashowitz et al*.

Israeli courts have emphasized that this exception must be narrowly interpreted. Special emphasis is placed on the first requirement under Section 230, which limits the game's targeted audience to a specific circle of persons, especially in the context of online gambling.<sup>4</sup>

Unlike many other jurisdictions, Israeli law does not require the payment of consideration for an activity to be deemed a prohibited game. Consequently, even a social game that doesn't require payment for participation, can be considered a "prohibited game" if those playing would stand a chance to gain something of value.

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Israel's stringent gambling enforcement, including ISP blocks and financial transaction curbs, reinforces its conservative stance, with limited exceptions like poker.

As the prohibition set out in the Penal Law extends to any game of chance where the player may obtain a benefit, the prohibition may apply mutatis mutandis to games where the player stands to win virtual tokens without monetary value, but may provide credit for extended gameplay, or participation in other games. The legal assessment might differ

where the social game does not offer any benefits holding real world value, including the waving of payment for participation in games or extending gameplay. There are conflicting court rulings on this issue, and each case would have to be individually assessed.

### Enforcement

When it comes to illegal online gambling activity, enforcement action in Israel has traditionally focused on operators of online gambling websites that target and service customers in Israel, or operations associated with Israeli criminal organizations. Operators who carry out their operation outside of Israel, without local presence or specific targeting of Israeli consumers, have not been the target of enforcement action.

Cases of enforcement action by Israel Police taken against illegal online gambling operations included ISP blocking orders, raids on venues used in the course of operating the illegal offering, and confiscation of associated equipment.

### Trends and Developments

There have been limited developments relating to regulation of land-based gambling activities in Israel in recent years. The developments that did occur, illustrate the ongoing trend of increasing restrictions on gambling activities in Israel, reflecting the country's stringent regulatory stance.

In 2017, the permit allowing the National Lottery to operate a limited number of physical video lottery terminals (VLTs) at various locations was revoked by the Ministry of Finance. Soon thereafter, in 2018, the Ministry of Finance disallowed the Israel Sports Betting Board (ISBB) from offering wagers on foreign horse racing events.

Also in 2018, Israel had successfully implemented ISP blocking of gambling websites operating from outside the country. Under the Powers to Prevent the Commission of Offences by Means of an Internet Website Act, 5767-2017, district court judges were allowed to issue warrants to ISPs to block access to illegal gambling websites upon request by the Israel Police or the State Attorney's office.

In 2021, the Bank of Israel introduced stringent measures to prevent financial transactions related to unlicensed gambling through Conduct of Banking Business Procedure No. 411. This procedure imposes severe restrictions on Israeli financial and credit institutions concerning transactions linked to online gambling.

While Israel's gambling laws remain restrictive, there have been some recent positive developments relating to gambling activity regarding poker, however narrow in scope.

4. See Criminal Appeal (Supreme Court) 9140/99 Amos Romano v The State of Israel.

Poker, which is not defined by Israeli legislation, has been repeatedly ruled by Israeli courts as constituting a prohibited game as defined in the Penal Law. In 2018, a Supreme Court case offered a glimmer of hope regarding the legal classification of the game. In its ruling, the majority opinion suggested that poker, particularly in the context of poker tournaments, might be considered a game of skill, potentially exempting it from gambling restrictions.<sup>5</sup> The court also challenged the approach taken by lower courts in previous rulings, whereby they had ruled that the predominance test was to be applied to the game of poker in relation to an amateur player's experience whilst playing a single hand. However, it's important to note that this view was made in a non-legally binding obiter dictum, and therefore doesn't constitute legal precedent binding on lower courts.

In 2022, a private member's bill was introduced in the Israeli Parliament (the "Knesset"), aimed at regulating real-money poker tournaments. The bill proposed that certain types of games, under specific circumstances and with a permit issued by the Minister of Finance, would be excluded from the definition of a "prohibited game." The private member's bill is still awaiting the Parliament's decision, to either have it removed from the agenda altogether, or forward it to the appropriate committee for preparation before its first reading. It should be noted that the bill was introduced several times over the last few legislative sessions in Israel, without success.

## Outlook

Due to Israel's highly conservative approach to gambling, Israeli Parliament (Knesset) members rarely propose changes to the existing gambling industry framework. This conservative outlook has led to a cautious legislative environment, where the focus remains on enforcing and potentially expanding restrictions rather than considering liberalization or reform measures. Consequently, any substantial amendments to the gambling regulations are anticipated to further restrict rather than expand gambling activities within the nation.

Increased enforcement actions by the police and the Attorney General's Office, possibly involving ISP blocking orders, are likely to be expected.

Additionally, the Ministry of Finance might become more involved in imposing further restrictions on offerings by the National Lottery and the ISBB, or even place restrictions on commercial sweepstakes and promotional prize draws.

That said, in early 2025, preliminary discussions were conducted among several Israeli ministries regarding the potential legalization of "live betting" on Israeli sports under the auspices of the ISBB.

Representatives from the Ministry of Finance, Ministry of Welfare, Ministry of Culture and Sports, and the Police convened an initial discussion in April 2025 on the potential legalization of live betting on Israeli football and basketball, under the ISBB. While the police, the Budget Department and the Ministry of Welfare opposed the initiative, Sports Minister Miki Zohar expressed his support for the idea. Finance Minister Bezalel Smotrich requested a thorough study outlining the implications and potential impact of introducing live betting. The proposal, which has been under consideration since at least 2020, has the primary goal of combating the illegal gambling market in Israel.

The results of these discussions remain to be seen.

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Israel's conservative gambling stance persists, but a potential shift looms with proposed poker regulation and live sports betting discussions in 2025.

5. See Civil Appeal [Supreme Court] 476/17 Amit Amishvili Rafi v Assessing Officer Tel Aviv 4.



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# JAPAN

## NAVIGATING JAPAN'S GAMBLING LAWS: REGULATIONS, ESPORTS, ONLINE GAMES, AND INTEGRATED RESORTS

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MORI HAMADA 

# NAVIGATING JAPAN'S GAMBLING LAWS: REGULATIONS, ESPORTS, ONLINE GAMES, AND INTEGRATED RESORTS

## 1. Overview

In Japan, gambling and the sale of lottery tickets are criminal activities under the Penal Code,<sup>1</sup> and only licensed forms of public gambling (horse racing, bicycle racing, boat racing and auto racing)<sup>2</sup> and lotteries may be legally conducted. Also, gambling, including online forms thereof, is widely punishable by law if it involves the acquisition or loss of economic value by means of chance and probability. It should therefore be noted that, for example, random-type sales (where the value of the goods or services purchased by the purchaser is randomly determined to be higher or lower than

the paid amount) may be considered gambling under the Penal Code.

“

Any contest for the acquisition or loss of economic value by chance and probability, whether online or offline, is widely punishable under the Penal Code as gambling.

In addition, the Act against Unjustifiable Premiums and Misleading Representations (the “AUPMR”) regulates the provision of certain economic benefits as “premiums” if such benefits are provided incidentally to any transactions for products

or services, and the value of these premiums must not exceed a certain threshold. While these are essentially consumer protection regulations, they play a similar role to gambling-specific regulations.

In this article, we discuss (i) esports and (ii) online games as major venues where criminal gambling activity has increased and where regulations on premiums have recently been tightened in Japan. We also explain the present status of integrated resort (“IR”) policy planning, as IRs are currently being considered for introduction in Japan.

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## 2. Major gambling-related laws and regulations

### 2.1. Penal Code (Crime of gambling)

In Japan, the crime of gambling is punishable by a fine of up to JPY 500,000 or a petty fine.<sup>3</sup> The same does not apply to gambling occasionally for recreation (e.g., if the players wager immediately consumable items, such as food, drinks or cigarettes), but this exemption is rarely applied.

In order to constitute “gambling” as referred to in the crime of gambling, “property” must be wagered and the “acquisition or loss” of that property must “be contested” in conditions involving “chance.” Here, “chance” means a state that cannot be predicted or controlled by a party at that party’s discretion, and thus it remains subjectively uncertain for the party. “Property” is not necessarily limited to money or any other tangible objects but refers to economic benefits in a broad sense. “Contesting the acquisition or loss” of property means that there is a winner who gains and a loser who loses the property.

Even if not engaging in gambling themselves, any person who, for the purpose of profit, runs a place for gambling or organizes a group of habitual gamblers shall be punished by imprisonment for at least three months to five years.<sup>4</sup> Therefore, it should be noted that the act of providing gambling services for users may also be punishable under the Penal Code.

1. Articles 185 to 187 of the Penal Code.

2. Pachinko, a popular form of amusement in Japan, is not considered gambling.

3. Article 185 of the Penal Code. A “petty fine” is a fine of at least JPY 1,000 to 10,000 (Article 17 of the Penal Code). Any person who habitually gambles may be punished by imprisonment for up to three years (Article 186(1) of the Penal Code).

4. Article 186(2) of the Penal Code.

Recently, the police have been cracking down aggressively on online gambling, and the number of those who were arrested for engaging in gambling online or running an online platform for gambling has increased in recent years. It is noteworthy that the number of arrests increased dramatically from 59 in 2022 and 107 in 2023 to 279 in 2024.<sup>5</sup> The Ministry of Internal Affairs and Communications is considering regulations for online casinos and plans to compile a holistic summary of issues by the end of 2025. Regulation methods being considered include blocking access to sites, filtering of devices to prevent the viewing of sites, and displaying warning messages. Additionally, in May, 2025, the Financial Services Agency requested financial service providers (the Japanese Bankers Association, etc., the Japan Payment Service Association and the Japan Virtual and Crypto assets Exchange Association) to take necessary measures (including suspending payments when service providers detect that a user is attempting to make payments at online casinos in Japan or overseas) to prevent customers from participating in online casinos.<sup>6</sup>

Furthermore, the amendment to the Basic Act on Countermeasures Against Gambling Addiction has passed the Diet on Jun 18th, 2025 and the amended act is scheduled to become effective in autumn of the same year. Under the amended act, for the public in Japan, the provision of websites and programs that offer online gambling via the Internet, as well as the online distribution of information redirecting to online gambling are going to be prohibited, although penalties for violation is not stipulated.

In Japan, the government has not published any official guidelines regarding gambling. However, organizations across various industries have expressed certain thoughts about this topic, as explained in section 3 below, which may be helpful for business operators when considering whether their services are punishable as gambling.

**2.2. Regulations on premiums**

In Japan, when a business operator offers economic benefits to consumers as a means of inducing them to purchase goods or services that the business operator itself supplies, such economic benefits are deemed to be “premiums” that are subject to regulations under the AUPMR. The regulations set the maximum value to prevent the inducement of customers to make purchases based on unjustifiable premiums. Specifically, the AUPMR distinguishes between two methods of offering premiums, each with a different maximum:

(i) General Prizes - When a premium is offered by chance, such as in a raffle, by the superiority of a specific act, or the like (e.g., by participation in a lottery, athletic event or game)

Transaction Value	Limit of Premium	
	Maximum Value	Total Value
Less than JPY 5,000	20 times the transaction value	2% of the total expected sales related to the premium
JPY 5,000 or more	JPY 100,000	

(ii) Premiums Offered to All - When a premium is offered to general consumers without a general prize (e.g., by registering for a service)

Transaction Value	Limit of Premium (Maximum Value)
Less than JPY 1,000	JPY 200
JPY 1,000 or more	20% of the transaction value

Business operators that violate these restrictions are subject to guidance and cease-and-desist orders from the relevant administrative agencies. Although these measures themselves are not criminal penalties, any person (not legal entities) who violates a cease-and-desist order will be punished by imprisonment for up to two years or a fine of up to JPY 3 million, and the employer will also be punished by a fine of up to JPY 300 million.<sup>7</sup>

“Offering economic benefits by chance, such as raffles, superiority of specific acts, or the like are regulated as prizes under the AUPMR.”

5. <https://www.npa.go.jp/bureau/safetylife/hoan/onlinecasino/onlinecasino.html> (in Japanese only)  
 6. <https://www.fsa.go.jp/news/r6/sonota/20250515/20250515.html> (in Japanese only)  
 7. Articles 46(1) and 49(1) of the AUPMR.

### 3. Major recent topics for gambling laws and regulations in Japan

#### 3.1. Prize money in esports

##### (a) Gambling and the JeSU Report

Where participants pay an entry fee to take part in an esports tournament to receive prizes (including money), the question arises whether the conduct of the participants and the operation of the tournament by the organizer fall under gambling and running a place for gambling respectively, as the participants are contesting

the “acquisition” of the prize money or the “loss” of their entry fee. In this regard, according to the “Report on the Status of Efforts to Address Legal Issues Related to E-sports” (the “**JeSU Report**”)<sup>8</sup> published by the Japan esports Union (“**JeSU**”) in September 2019, JeSU concludes that it is permissible to conduct competitions by collecting participation

“

Organizers of e-sports tournament need to pay attention to the Penal Code and the AUPMR when they offer prizes (including money)

fees from participants in cases where:

- (i) the prize money and/or prize(s) are provided by a third party (such as a sponsor) other than the participants or the organizer;
- or
- (ii) (even if the organizer offers prize money) the participation fee is used solely to cover the costs of running the competition, such as venue expenses and staff activities, and not for the prize money/prizes itself/themselves.

This conclusion is based on the assumption that if the winnings are not funded out of the participation fee, the participants are not considered to be contesting the “acquisition or loss” of the prize money/prizes among themselves.

##### (b) Premiums

If the prize money in an esports competition is awarded on the basis of certain transactions (e.g., if the game is offered for a fee or if the amount charged affects the performance of the player), it may qualify as a provision of “premiums” by means of general prizes under the AUPMR. In such case, the prize money must be offered within the limits described in section 2.2 above. However, according to paragraph 5(3) of the “Implementation Standards for Public Notice on Designation of Premiums, Etc.” (the “**Implementation Standards**”) published by the Consumer Affairs Agency, “the provision of money or goods that are recognized as compensation for work” does not constitute the provision of “premiums.” Thus, for example, if prize money is offered to participants selected by a certain method as compensation for their attractive performance to enhance the competitiveness and entertainment value of a competition, it is reasonable to consider that the provision of such prize money constitutes the provision of “compensation for work” above (and, therefore, the prize money is not a “premium”). The JeSU Report also expresses a similar opinion.

#### 3.2. “Gacha” in online games

##### (a) Gambling

In Japan, offering so-called “gacha” (random in-game items, a.k.a. loot boxes or mystery boxes in other jurisdictions) in online games has generally been considered not to be gambling if those items cannot be redeemed for money. However, in the play-to-earn blockchain games that have emerged in recent years, users are allowed to sell NFTs (non-fungible tokens) obtained through gacha services (“**Gacha NFTs**”) to third parties through in-game or external marketplaces and convert them into cryptoassets and/or money. The question arises whether such schemes are considered gambling due to the apparent “acquisition or loss” of the property being contested between NFT game providers and users, or among the users themselves.

8. [https://jesu.or.jp/contents/news/news\\_0912/](https://jesu.or.jp/contents/news/news_0912/) (in Japanese only)

In this regard, the Council for Sports Ecosystem Promotion published the “Guidelines for the Establishment of an NFT Package and Secondary Distribution Market for NFTs Using Sports Content”<sup>9</sup> regarding services that combine packaged NFT sales and secondary distribution in September 2022, and the Blockchain Collaborative Consortium published the “Guidelines for Random-type Sales of NFTs” with four other organizations (collectively, “**BCCC, et al.**”)<sup>10</sup> in October 2022. Additionally, the Computer Entertainment Supplier’s Association (CESA) published the “Guidelines for Blockchain Games” with two other organizations (collectively, “**CESA, et al.**”)<sup>11</sup> in July 2024. According to these sets of guidelines, regarding the relationship between the seller (a *gacha* service provider) and the user, in principle, it can be interpreted that the service provider will receive money or other consideration (property) equivalent to the actual sales price and the user will receive an NFT (property) whose value is equivalent to the actual amount paid. Therefore, it can be said that there is no “acquisition or loss” of property (unless the possible *gacha* result includes so-called “drawing a blank” (e.g., no NFTs are delivered)).<sup>12</sup> CESA, et al. also explain their idea that the transaction prices between users in the secondary distribution market are usually determined based on different factors from those of the transaction prices between the seller (a *gacha* service provider) and the user, so the existence of the secondary market and the difference between the transaction prices above do not create a relationship of “acquisition or loss” of property in principle.

These interpretations are all attempts to explain that the “acquisition or loss” of property does not arise in *gacha* services based on the assumption that the user always obtains a Gacha NFT of a value equivalent to the money they paid for the *gacha* service itself. However, it is not sufficient for NFT game providers to simply make such assertions. For example, if part of a Gacha NFT is sold at a lower price than the price of using the *gacha* service, the users who obtained the Gacha NFT through the service may be considered to have incurred a “loss” of property equivalent to the difference in price.

#### (b) Premiums

If Gacha NFTs are considered to be “premiums” by means of general prizes under the AUPMR, they must be offered within the limits of premiums described in section 2.2 above. However, according to paragraph 4(4) of the Implementation Standards, “transaction incidentality,” which is one of the requirements for “premiums,” is repudiated when a source of economic gain that would ordinarily constitute the essence of a transaction in light of general commercial customs is provided. Therefore, if users will purchase *gacha* services for the purpose of obtaining Gacha NFTs, the Gacha NFTs would be regarded as a source of economic gain that would, in light of general commercial customs, ordinarily constitute the essence of transactions comprising the conduct of the purchased *gacha* services, and thus it would be possible to understand that Gacha NFTs are not incidental to any of the transactions.

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Offering so-called “gacha” (random in-game items) in principle, are not considered gambling, and industry associations have provided interpretations of Gacha NFTs.

9. <https://csep.goleadgrid.com/api/documents/share/0caa404d1591139d6a0a0875d8e37c15> (in Japanese only)

10. <https://bccc.global/wp-content/uploads/2022/10/NFT-guidelines.pdf> (in Japanese only)

11. [https://www.cesa.or.jp/assets/pdf/information/blockchain\\_guideline20240710.pdf](https://www.cesa.or.jp/assets/pdf/information/blockchain_guideline20240710.pdf) (in Japanese only)

12. However, when a separate sales price is set in the primary distribution market, it is possible that a relationship of “acquisition or loss” of property between the seller and the user can be conceived.

#### 4. IRs

In December 2016, Japan enacted the Act on Development of Specified Integrated Resort Districts (the “**IR Act**”) for the establishment of IRs. An IR is a group of facilities envisioned to consist of an international convention center, exhibition hall, hotels, restaurants, shopping malls, entertainment facilities, casinos, etc. to be established and operated by private business operators. Under the IR Act, a certified facilities operator may, when it has received a license from the Japan Casino Regulatory Commission, legally conduct licensed types of casino business and provide

casino gaming methods in the licensed area.<sup>13</sup>

According to publicly available information, however, Japan’s first IR is not expected to open until autumn 2030 at the earliest.

#### 5. Conclusion

Although gambling-related regulations may be concerning for broad service providers that

randomly provide goods and services for a fee, they are quite general and abstract. Therefore, stakeholders must conduct individual analyses based on the specific circumstances to determine whether such random-type sales violate the Penal Code or the AUPMR. In conducting that research, it is essential to review the most recent standards and guidelines published by both the government and industry organizations because valuable reference materials in these areas have been frequently made available to the public.

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Stakeholders must make individual analyses based on the specific circumstances to determine whether random-type sales violate the Penal Code or the AUPMR.

<sup>13</sup> Article 39 of the IR Act.

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# LUXEMBOURG


## THE REGULATION OF GAMBLING IN LUXEMBOURG

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# THE REGULATION OF GAMBLING IN LUXEMBOURG

## Definition of Gambling under Luxembourg Law

The legal framework of the Grand Duchy of Luxembourg adopts an implicit functional approach to the definition of gambling, without providing a single codified definition. The principal legislative source is the Law of 20 April 1977 on the operation of games of chance and betting on sporting events, as amended (the **Law of 20 April 1977**).

The scope of the notion of “game of chance” (*jeu de hasard*) can be inferred from the prohibitive structure of the law, which aims to regulate gambling activities in order to protect players from the

professional and personal risks inherent in such games. Although national case law on the subject remains limited, it has affirmed that gambling qualifies as a game where chance predominates over the physical or intellectual skill of the player and constitutes the determining element thereof (Judgment of 13 November 1958).

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Luxembourg’s gambling laws, rooted in the 1977 framework, tightly restrict games of chance to state-controlled authorisations, with Casino 2000 as the sole licensed casino.

This understanding aligns with the jurisprudence of the Court of Justice of the European Union (the **CJEU**), which has offered a functional definition of gambling. In *Schindler* (Case C-275/92, 24 March 1994, §27), the Court described services in the field of games of chance as those “provided by the operator of the lottery to enable purchasers of tickets to participate in a game of chance with the hope of winning, by arranging for that purpose for the stakes to be collected, the draws to be organized and the prizes or winnings to be ascertained and paid out”.

Consistent with the EU case law, gambling in Luxembourg is thus generally understood to include any activity where the outcome is not predominantly determined by skill and where monetary value is at stake.



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## General Prohibition and Authorisation Regime

The Law of 20 April 1977 prohibits the organisation of games of chance within Luxembourg territory unless such activities are expressly authorised by law or regulatory act. Specific exceptions have been granted through targeted legislative or regulatory authorisations, resulting in a restrictive and monopolistic framework. This prohibition applies to both land-based gambling establishments and, by implication, to online gambling platforms, which are not currently subject to a formal authorisation or licensing regime, with the sole exception of the online portal operated by the *Loterie Nationale*.

Authorisation to operate games of chance is available only in narrowly defined circumstances and is always subject to State or municipal control. Aside from Casino 2000, which remains the only authorised casino in Luxembourg, private establishments may be authorised to provide gambling services under the strict conditions laid down in Articles 5 to 13 of the Law of 20 April 1977. These conditions were further tightened following the entry into force of the Laws of 25 February 2021 and 7 August 2023, which, *inter alia*, introduced requirements to assess the honourability of applicants and their employees as preconditions for authorisation.

Furthermore, small-scale lotteries for charitable or promotional purposes may be authorised by local municipalities, provided that the total ticket value does not exceed EUR 12,500. Games or lotteries exceeding this threshold must be authorised by Grand Ducal regulation or by the Ministry of Justice directly. In contrast with other EU jurisdictions, Luxembourg has not established an independent regulatory authority, such as a dedicated gambling commission, to oversee the sector, whether for land-based or digital operations.

## Luxembourg Permitted Gambling Operators

### a. The Loterie Nationale

The *Loterie Nationale* is operated under the auspices of the *Œuvre Nationale de Secours Grande-Duchesse Charlotte*, a non-profit public institution placed under the supervision of the Prime Minister of Luxembourg. Created by Grand Ducal decree of 13 July 1945, the *Œuvre Nationale* has historically played a central role in fostering solidarity within Luxembourg, with the net proceeds from the *Loterie Nationale*'s gambling activities originally devoted primarily to charitable purposes.

The *Œuvre Nationale* benefits from an exclusive right to operate lottery games in Luxembourg and offers its services both in person (via a network of authorised retail agents) and online (through its official website). Its activities are governed principally by the Law of 22 May 2009 on the Grande-Duchesse Charlotte National Relief Organization and the National Lottery (the **Law of 22 May 2009**).

As a monopoly operator, the *Loterie Nationale* pursues public-interest objectives, with profits regularly earmarked for cultural, social, and health-related projects. It is exempt from corporate income tax, and in accordance with its mission, net proceeds are redistributed for charitable purposes.

### b. Casino 2000

Located in Mondorf-les-Bains, Casino 2000 is the only licensed casino in the Grand Duchy. No other private land-based or online casino operations are currently authorised under Luxembourg law. Casino 2000 operates under the legal regime established by the Grand Ducal Regulation of 12 February 1979, as amended. The current licence, most recently renewed in 2019, is valid for a twenty-year period.

Casino 2000 offers a range of traditional casino games, including roulette, blackjack, and slot machines. It is subject to close regulatory oversight by both the Ministry of Justice and the Ministry of Finance, particularly with respect to anti-money laundering compliance, taxation, and operational integrity. The casino is taxed on a progressive scale applied to its gross gaming revenue, with rates reaching up to 80% for revenue exceeding EUR 8,100,000.

## 2. Online Gambling in Luxembourg and the European Union Framework

### Absence of an Online Gambling Licensing Regime in Luxembourg

Luxembourg stands out among the EU jurisdictions for neither having adopted, to date, a comprehensive legal framework for online gambling, nor established a distinction between online and offline gaming. The Law of 20 April 1977, while prohibiting games of chance in general, makes no express reference to digital formats and does not formally address remote participation via foreign-licensed platforms.

The only functional definition of such services can be found in the Law of 22 May 2009 describing them as “any form of lotteries and sports betting organised by means of information society services and tools” (Article 9).

Besides this, originally the Law of 14 August 2000 on electronic commerce provided that Luxembourg law would apply to gambling activities involving monetary stakes in games of chance, regardless of the establishment of the information society service provider. However, the European Commission later identified this provision as incompatible with the EU rules on the free movement of services under the Treaties.

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Luxembourg's gambling landscape is dominated by the state-backed Loterie Nationale and Casino 2000, with no comprehensive online gambling licensing regime in place.

This led the Luxembourg legislature to amend the law, excluding gambling activities (including lotteries) from its scope and replacing the contested provision with one that affirms the principle of non-restriction regarding the free movement of information society services from other Member States. As a result, online gambling services are provided exclusively through the *Loterie Nationale's* online portal, pursuant to the Law of 22 May 2009.

While various formal and informal policy discussions at government level have been held, no private or foreign operator can currently obtain a licence to offer gambling services via digital platforms under

Luxembourg law. However, despite the absence of a licensing framework, Luxembourg residents retain access to foreign-based online gambling platforms, particularly those licensed in other EU Member States.

**Compatibility with EU Law: A Delicate Balance**

The absence of a dedicated licensing

procedure and competent supervisory authority may, in effect, exclude private operators from accessing the Luxembourg online gambling market, regardless of whether they are established in Luxembourg, elsewhere in the EU, or in third countries. This situation may conflict with Article 56 TFEU, which guarantees the freedom to provide services, including gambling services, across the European Union.

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Luxembourg's lack of an online gambling licensing regime, coupled with tolerance of EU-licensed foreign platforms, raises questions about EU law compliance and consumer protection.

According to the case law of the Court of Justice of the European Union (CJEU)—in particular *Gambelli* (C-243/01, 6 November 2003), *Liga Portuguesa* (C-42/07, 8 September 2009), *Stanleybet* (C-186/11, 24 January 2013), and *Sporting Odds* (C-3/17, 28 February 2018)—restrictions on cross-border gambling services must cumulatively satisfy the following conditions: (i) they must be justified by overriding reasons in the public interest, such as consumer protection or the prevention of gambling addiction; (ii) they must be non-discriminatory; and (iii) they must be proportionate to the objectives pursued.

In this context, the lack of a licensing regime in Luxembourg could raise concerns if the prohibition were actively enforced against foreign service providers. To date, however, and to our knowledge, Luxembourg authorities have not taken any such enforcement measures, such as IP blocking, restrictions on payment services, or advertising bans.

This policy of relative tolerance may reflect a pragmatic respect for EU internal market rules, insofar as foreign online gambling operators comply with the legal requirements of their home Member State, and advertising is limited to what is strictly necessary to channel consumers towards regulated platforms. The relative success of this regulatory posture appears to be confirmed by the fact that, thus far, and to our knowledge, no infringement procedure or Luxembourg-specific CJEU case has directly addressed the issue.

However, as an increasing number of Member States adopt regulated licensing frameworks for online gambling, Luxembourg's regulatory vacuum may become increasingly difficult to defend. This not only on grounds of legal certainty but also considering the practical disconnection with the reality of unrestricted access to foreign digital operators, some of which may fall short of the consumer protection, anti-addiction, or integrity standards inherent in the logics of the Law of 20 April 1977 and similar non-Luxembourg national regulations.

### 3. Other Legislation significant vis-à-vis Gambling Regulation

#### Anti-Money Laundering Obligations in the Gambling Sector

Although Luxembourg maintains a narrow and tightly controlled gambling landscape, the entities authorised to operate – principally Casino 2000 and the *Loterie Nationale* – are subject to stringent AML obligations. These obligations derive primarily from the Law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended (the **Law of 12 November 2004**), which transposes successive EU directives in this field, and the Grand Ducal Regulation of 1 February 2010, which sets out the applicable due diligence measures.

The Law of 12 November 2004 designates gambling service providers as “obliged entities”. As such, Casino 2000 is directly subject to a full suite of AML obligations, including customer due diligence, suspicious transaction reporting to Luxembourg’s *Cellule de renseignement financier* and record-keeping, risk assessment, and internal control requirements.

The *Loterie Nationale*, while formally a gambling operator, functions under public law and is often treated with functional adaptations in its AML risk classification, owing in part to the lower money laundering risks typically associated with lottery ticket sales and limited prize amounts.

Absent a dedicated gambling regulatory authority, in contrast with other EU jurisdictions, AML supervision is embedded within a broader ministerial framework, without a specialised body overseeing gambling-specific compliance. The Ministry of Justice may cooperate with the *Commission de Surveillance du Secteur Financier* (CSSF) in cases where gambling activities intersect with financial services provision (e.g., digital wallets or payment processing platforms).

#### Gambling and Consumer Law Protection

Luxembourg’s domestic framework provides limited but notable protections within its Consumer Code, adding to the CJEU’s recognition of consumer protection as a legitimate justification for restricting the cross-border provision of gambling services.

For instance, Article 122-4 of the Luxembourg Consumer Code classifies as an unfair commercial practice any claim that a product increases the chances of winning games of chance. This provision, though general in scope, serves to limit misleading promotional strategies related to gambling and chance-based contests.

#### Gambling and Unfair Competition

In addition to the Consumer Code, the Law of 30 July 2002 on certain commercial practices and unfair competition contains provisions that intersect with gambling-like activities, particularly in the context of free promotional games such as lotteries, contests, and raffles. The law permits these activities, provided they are conducted exclusively for advertising purposes and comply with specific transparency and fairness requirements.

Such conditions include: (i) the establishment of clear rules governing the contest prior to any publicity, and file these with the competent ministry; (ii) the availability of rules free of charge to any person requesting them; (iii) advertising material must not mislead or confuse recipients, particularly regarding the number, nature, or value of prizes and the conditions of their allocation; (iv) participation in promotional games must be free of charge and not conditional on any purchase obligation; and (v) if an advertisement creates the impression that the consumer won a prize, the advertiser must honour it.

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Luxembourg’s gambling operators face stringent AML obligations and consumer protections, with criminal penalties for unauthorised activities under a tightly controlled regime.

#### Gambling and Criminal Law

Criminal penalties relating to gambling and lotteries are expressly considered in Luxembourg’s Criminal Code (Articles 301-308). Article 305 therein punish in particular unauthorised operators of gambling houses, as well as bankers, administrators, employees, or agents of such houses by imprisonment for eight (8) days to six (6) months and a fine of EUR 251 to 25,000.

# ROMANIA

## GAMBLING LEGAL FRAMEWORK OVERVIEW

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“One of the professionals with the highest degree of understanding (and capacity to explain to others) the specific technical functionalities of a gambling infrastructure”, **Andrei** is a business lawyer with substantial expertise in the regulatory field across practice areas.

His credentials are enhanced by his previous role as a Group Legal Counsel with a high-growth B2B SaaS company.

Substantially involved in the gambling industry from the beginning of the reformation of the Romanian legal framework and well-versed in dealing with all legal aspects related to the operation of gambling activities, Andrei also provides assistance on intricate projects for global iGaming and eSports entertainment operators and services providers, with a strong component of compliance structure design, implementation and monitoring, policies and procedures creation and review, risk and operational advisory.


He also specializes in new technologies, including blockchain, cryptocurrency, AI or fintech. With a strong AML practice, he holds an AML International Advanced Certificate from the International Compliance Association.

Andrei is a member of the Bucharest Bar and of IAGA.


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With an extensive regulatory background, Adela's primary focus is data privacy and regulatory compliance, with an edge in GDPR aspects and anti-money laundering (AML) frameworks.

She helps companies implement robust personal data protection procedures, including managing legal compliance for a diverse portfolio of clients in gaming and gambling, IT, retail, energy, and construction.

Adela coordinated and contributed to the development and implementation of comprehensive policies regarding data privacy and AML. These include intricate audits, risk assessments, and training sessions that helped clients safeguard sensitive information against emerging threats and prevent financial misconduct while ensuring compliance with international and domestic regulations.

She holds an LLM in Judicial Careers, and, complementing her legal studies, Adela has a second university degree in marketing and international economic affairs.

Adela is a member of the Bucharest Bar.

# GAMBLING LEGAL FRAMEWORK OVERVIEW

## Introduction: Evolution of the gambling landscape

Over the past decade, Romania has emerged as one of the most structurally regulated gambling markets in Central and Eastern Europe. Anchored in a licensing framework that has progressively aligned itself with European Union standards, the Romanian gambling regime has developed from a fragmented, transitional structure into a coherent and prescriptive legal ecosystem. Both land-based and online gambling operations are permitted in Romania under a comprehensive licensing regime that distinguishes between Class I licences, granted to business-to-consumer (B2C)

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Romania’s gambling market has evolved into a tightly regulated ecosystem, balancing EU-aligned licensing with stringent player protections and frequent legislative updates.

operators and Class II licences, which apply to business-to-business (B2B) service providers. All licensees are subject to extensive regulatory, technical, operational and fiscal obligations, under the supervision of a centralised regulatory authority: the National Gambling Office (ONJN).

While Romania’s regulatory environment

remains formally liberalised, its evolution has been marked by a gradual shift toward increased state oversight and more prescriptive compliance expectations for operators, alongside a growing institutional focus on the protection of vulnerable players, particularly minors and individuals at risk of gambling addiction, as well as on AML enforcement and social responsibility. This trajectory reflects a broader regional and EU-level trend, wherein member states seek to balance market accessibility and fiscal consistency with safeguards aimed at mitigating gambling-related harm.



## BaciuPartners

At the same time, Romania’s regulatory approach has often been marked by frequent legal amendments and short-term legislative reactions, shaped more by public pressure and political urgency than by a consistent and forward-looking policy strategy.

In recent years, particularly between 2022 and 2024, the regulatory framework has been further recalibrated through targeted amendments introducing new rules on advertising restrictions, geographic limitations for slot-machine venues, self-exclusion systems, operator taxation and mandatory fiscal presence. For example, slot halls are now prohibited in towns with fewer than 15,000 inhabitants, operators must establish a permanent establishment in Romania, and the responsible gambling contribution has increased tenfold. Additional reforms addressed AML compliance, minimum technical requirements, and the creation of a centralised self-exclusion register. As of 2025, Romania continues to refine its legal and institutional structures to meet emerging risks and challenges—such as the proliferation of unlicensed content and technological disruption, both domestically and in alignment with broader European regulatory trends.



## Market Overview

Romania today hosts a diverse gambling market that includes a full spectrum of land-based and online activities. All traditional forms of gambling are generally permitted provided the operator obtains the requisite license and authorization from the National Gambling Office (ONJN) in advance. In the land-based sector, licensed offerings range from casinos and poker clubs to betting shops and slot-machine gaming salons. The country's capital, Bucharest, and major cities host thousands of slot machine halls and betting agencies. Slot machines remain extremely popular, making this the dominant land-based game category. However, recent reforms have tightened market parameters: as of 2024, standalone slot halls are banned in towns below 15,000 population, effectively pushing these venues out of small communities.

In the online sector, Romania has embraced a regulated model since 2015-2016, licensing dozens of international and domestic operators under its Class 1 regime. All major categories of online gambling are allowed under law, with appropriate licensing. Online sports betting is fully legal, covering fixed-odds betting as well as pari-mutuel and betting exchange products. Online casino gaming is permitted; notably, a single online casino license authorizes the full suite of casino-style games, including slots, roulette and table games, as well as peer-to-peer games like online poker. In contrast, online lottery remains off-limits to private firms due to the state lottery monopoly.

Overall, the regulated online market in Romania is still thriving, with both domestic and international operators active under local licenses. Nevertheless, a parallel ecosystem of unlicensed foreign websites continues to offer access to Romanian users without meeting the national licensing and compliance requirements. In response, ONJN has intensified its enforcement efforts by maintaining an official blacklist of unauthorised domains and collaborating with internet service providers to block access at the network level.

## Regulatory framework and licensing conditions

Gambling activities in Romania are tightly regulated under a coherent legal framework initiated by the 2015–2016 reforms. The cornerstone is Government Emergency Ordinance No. 77/2009 on the Organization and Operation of Games of Chance (GEO 77/2009), a primary act that has been amended multiple times (most substantially in 2023). Detailed implementation rules are set out in Government Decision No. 111/2016 (GD 111/2016). Together, these instruments define what activities are deemed gambling, specify licensing categories, and impose operational requirements on licensees. GEO 77/2009 includes the fundamental definition of a gambling (a participation fee, random outcome, prize, and public offering) and distinguishes land-based games from remote games based on whether they are conducted via communication networks.

Romania's gambling framework also interlocks with other legislation, particularly in the area of anti-money laundering. Law No. 129/2019 on preventing and combating money laundering and terrorism financing, which implemented the EU's 4th and 5th AML Directives, applies to gambling operators as "obliged entities." This means all B2C licensees must conduct, among others, customer due diligence (KYC checks), monitor transactions, and report suspicious activity in line with national AML regulations. To assist the industry, in late 2021 ONJN issued sector-specific AML guidelines for the industry.



Romania's thriving gambling market, tightly regulated by GEO 77/2009, balances diverse land-based and online offerings with stringent licensing and AML compliance.

The licensing system is two-tiered. Class 1 licenses are required for any business-to-consumer (B2C) gambling operator offering games directly to players in Romania (whether land-based or online).

Each Class 1 operator must also obtain specific authorizations for the particular games they offer (for example, a betting authorization or casino game authorization) in addition to the general license. In addition to obtaining a ten-year license, operators must also secure an annual authorization for each gambling product they offer, which is subject to renewal and is conditional upon compliance with tax, reporting, and operational requirements.

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Romania's rigorous two-tiered gambling licensing demands local presence, hefty financial guarantees, and strict technical compliance for B2C and B2B operators.

Separately, Class 2 licenses apply to business-to-business (B2B) providers of gambling-related products and services, such as software developers, platform suppliers, payment processors, marketing affiliates or auditing and certification labs. The Class 2 regime ensures that all key service providers who partner

with Romanian operators are vetted and approved by the ONJN. Licensed B2B providers are prohibited from offering their services to operators that do not hold a valid Romanian gambling licence, but which unlawfully allow access to their platforms for the Romanian market.

One cornerstone B2C licensing condition is the requirement of local establishment. To maintain a license, an operator must now have a significant presence in Romania. In late 2023 the government tightened this rule: gambling may only be operated “through a locally established company” in Romania, or through a company based elsewhere in the EU/EEA or Switzerland that has registered a permanent establishment for tax purposes in Romania. In practice, this means that foreign operators must either incorporate a Romanian subsidiary or open a Romanian branch (and register for Romanian tax) in order to hold a Class 1 license.

Alongside the corporate presence, the regulator imposes technical infrastructure obligations: online operators whose primary servers are located abroad must install “mirror and safe servers” on Romanian soil to mirror all gaming data for the ONJN's access. These servers enable real-time monitoring of transactions, ensuring that Romanian authorities can independently verify wagers, payouts, and revenue. Additionally, all online gaming platforms and random number generator (RNG) systems must be tested and certified by an accredited lab (holding a Class 2 license) before going live, to guarantee fairness and compliance with technical standards.

Applicants for a gambling license are subject to a thorough vetting process. They must demonstrate transparency of ownership, solid financial standing, and an absence of relevant criminal or regulatory offenses. The licensing rules also mandate substantial financial guarantees and insurance to cover potential tax debts. Notably, the 2023 amendments radically increased the required guarantee amounts: starting 1 January 2025, online operators must post a guarantee of €2 million (or €5 million for online casino platforms), and land-based operators generally €1 million (with casinos at €3 million).

Overall, Romania's licensing conditions reflect a highly prescriptive approach. The ONJN expects licensees to maintain a permanent and transparent footprint in the country, comply with detailed technical specs, and continually update the regulator about any changes in their operations or corporate structure.



## Trend and developments

**Protecting players and vulnerable persons** has become an increasing focus of Romanian gambling law, especially following legislative developments since 2022. All licensed operators are required to implement robust consumer protection measures and promote responsible gambling practices as a condition of maintaining their license. Access to gambling is strictly limited to individuals aged 18 or older, and operators must verify player identity and age through official documentation. These obligations aim to prevent underage access and block self-excluded individuals from gambling.

The most significant reform introduced in recent years to enhance player protection has been the obligation of the regulator to create a centralized national self-exclusion register. Under the current law, each licensed operator maintains its own exclusion list which may inherently lead to inconsistent enforcement and enabled self-excluded players to simply migrate to a different platform. GEO 82/2023 amended the primary legal framework (GEO 77/2009) and mandated the establishment of a single, national Register of Self-Excluded Persons, to be managed by ONJN.

While the legislation initially imposed a deadline of 31 March 2024 for the implementation of the exclusion system, the platform was not fully functional by that date (and continues to be unfunctional at the beginning of May 2025). However, ONJN implemented provisional measures during the transition period, including the distribution of exclusion lists via mail channels and requiring manual enforcement by operators.

In May 2025, ONJN clarified that the current centralized self-exclusion database does not apply to online operators, but only to retail locations and that the legislation will change so online operators are also included in the spectrum of this restriction. In the meantime, ONJN has already taken operational steps to ensure functionality during the transition. A provisional version of the national self-exclusion register is expected to become active by mid-May 2025, enabling land-based licensed operators to implement centralized self-exclusions. This interim system will provide real-time verification capabilities and support the ongoing enforcement of exclusion requests. According to the authority's implementation calendar, the temporary system will remain in place throughout 2025, while a public procurement process is launched for the development of a permanent, fully integrated IT solution.

Full deployment of the national exclusion infrastructure is expected by the second quarter of 2026. Until then, the interim arrangements will remain operational, ensuring continuous enforcement of self-exclusion and uninterrupted protection for vulnerable players.



Romania strengthens player protection with a national self-exclusion register and tight advertising rules, targeting vulnerable groups amid ongoing regulatory refinements.

## Advertising

Gambling advertising in Romania is subject to detailed restrictions intended to curb excessive promotion and protect minors and other vulnerable groups from inducement. The ONJN, together with other bodies like the National Audiovisual Council, oversees compliance with advertising rules. By law, all gambling advertising must respect general standards for responsible content it cannot target minors, encourage irresponsible gambling, or mislead about chances of winning. Advertisements must include responsible gambling messages and avoid depicting gambling as a solution to financial or personal problems.

Restrictions apply both to the substance of advertising and to the channels through which it may be disseminated. Gambling promotions are strictly prohibited inside or the fences of schools, kindergartens, churches etc. Outdoor advertising is further constrained by a 2023 emergency ordinance that limits the maximum surface area of gambling-related billboards to 35 square meters, a rule introduced to eliminate oversized displays on building facades and other large urban structures.

Television advertising is also regulated through a “watershed” rule: gambling commercials are permitted only after 11:00 PM, to

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limit exposure during hours when children and teenagers are more likely to be watching. One narrowly defined exception applies to sports betting messages that are still permitted during live sports events, including before the 11:00 PM threshold.

In addition, legislative proposals currently under parliamentary review seek

Romania’s gambling advertising faces stringent limits, from billboard size caps to late-night TV slots, reflecting a push for stronger player protection.

to prohibit gambling advertisements featuring celebrities or public figures whose influence may affect vulnerable audiences.

Taken together, these measures reflect a steadily tightening regulatory climate, in which gambling advertising remains legal but is subject to increasing scrutiny. While several restrictions are already enforceable, others are still under legislative consideration. The overall trajectory suggests a shift toward more protective advertising standards and growing political momentum to address the social risks associated with aggressive marketing in the gambling sector.

In summary, while Romania has built one of the most tightly regulated gambling frameworks in the region, the system remains a work in progress. Its long-term effectiveness will ultimately depend not only on enforcement capacity, but also on political will, social pressure, and the broader policy climate. As reforms continue to unfold, the challenge will be to maintain regulatory coherence while adapting to new risks and rising expectations for player protection.



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# SWEDEN

THE INTERNATIONAL GAMBLING LAWS & REGULATIONS REVIEW 2025/26

– SWEDEN

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# THE INTERNATIONAL GAMBLING LAWS & REGULATIONS REVIEW 2025/26

## – SWEDEN



### Continued struggles to direct players to licensed operators

Since the reregulation of the Swedish gambling market in 2019, the issue of how to entice customers to licensed operators and block unlicensed operators from targeting the Swedish gambling market has remained the most topical issue both in the industry and on the legislator's agenda. While opinions in the Swedish gambling community differ on what is currently the level of channelisation to licensed operators, it seems to be common ground that the market currently fails to meet the target line of 90 percent set prior to the reregulation. For 2023, the SGA estimated that approximately 86

percent of gambling on the competitively exposed part of the Swedish market took place on platforms covered by Swedish licenses, although that number seems to be lower for commercial online gambling. However, both Swedish license holders as well as interbranch associations have questioned the 86 percent estimate and argue that this number is



Sweden's gambling market struggles to hit the 90% channelisation target, prompting a review to tighten regulations and curb unlicensed operators.

in fact considerably lower.

### Possible change of the scope of the Swedish license regime

Considering the failure to reach the 90 percent target line and that the additional legal remedies mandated to the SGA in the last couple of years have proved insufficient to counter the illegal gambling services, the Swedish government recently appointed a commission which has been instructed to examine a possible widening and clarifying of the scope of the Swedish Gambling Act. Technically, this could be achieved by changing, clarifying or even fully abandoning the so-called "direction criterion" which the Commission has been specifically instructed to examine.

Currently, the Swedish license requirement only encompasses the provision of online gambling services that are provided in Sweden, and which are directed at the Swedish market. In short, the direction criterion essentially requires that the design or functions of the gambling platform manifests an intent to target the Swedish market, e.g. Swedish language, use of Swedish currency for deposits and/or withdrawals, or Swedish customer support, whereas the mere accessibility for Swedish customers to gamble on a foreign online gambling platform does not suffice. While the direction criterion has been subject to extensive regulatory litigation in the past years, many issues remain to be settled by authoritative case law.

Aside from the parts of the Swedish market that remain covered by the state monopoly, e.g. lottery scratch tickets and gambling machines, the current direction criterion gives rise to a tripartite, competitively exposed Swedish gambling market in the following segments:

- Licensed operators,
- Unlicensed, legal operators (not targeting the Swedish market), and
- Unlicensed, illegal operators (actively targeting the Swedish market).



In a recently published report by the SGA, the regulator estimated that two thirds of the gambling on unlicensed platforms in Sweden is legal, i.e. conducted on platforms which are not directing their services towards Sweden. While the third, illegal category thus seems comparatively small, the tripartite market is in the SGA's view nonetheless problematic and can be exploited by operators who do not want to shoulder the regulatory burden that the Swedish Gambling Act presents.<sup>1</sup> Further, the SGA, which has struggled to successfully push the boundaries of the direction criterion through the court system, is also skeptical of the arguably unclear scope of the Gambling Act that the direction criterion creates and argues that a two-part market would allow it to work more effectively to re-direct customers to licensed operators. Obviously, a full abandonment of the direction criterion would eliminate the second category listed above as any provision of gambling services to Swedish customers would then be encompassed by the license requirement. In practice, such a regime would presumably require unlicensed operators to effectively block customers on the Swedish market at the risk of otherwise providing illegal gambling services. Notably, this was initially suggested by the commission that initially examined the reregulation of the Swedish gambling market back in 2017, before being dismissed by the Swedish Government Office.

The agenda of the current commission has been applauded by the industry, which seemingly has set its hopes high for a second chance to implement such a regime. While speculation of the conclusions of the commission and the possible subsequent proposed amendments to the Swedish Gambling Act might be premature at this stage, one may question that the currently legal, second category is targeted to indirectly and possibly get at the third, illegal group. Further, a potential abandonment of the direction criterion raises several highly complex legal issues which must be addressed and remitted to relevant instances before becoming reality. The commission will present its conclusions by 17 September 2025 at the latest.

### Sanctions against B2B operators

In parallel to the focus on targeting illegal B2C operators, the SGA has also rendered its first sanctions against B2B operators following the implementation of B2B licenses in the summer of 2022. In the handful of supervisory cases initiated to this date, the sole litigated issue has concerned the alleged illegal provision of gambling software to unlicensed operators that have, according to the SGA, directed their services towards the Swedish market.

Notably, the first judgment from the Administrative Court on this issue was rendered in April 2025. The case concerned a B2B license holder which through a group company provided gambling software to two unlicensed B2C operators which had been blacklisted and

injunctioned by the SGA from directing gambling services towards the Swedish market. However, the gambling software provided to the operators was geo-blocked and the games were thus not available for the Swedish market. Moreover, the B2B operator had included provisions in the license agreements with the B2C operators to the effect

that the gambling software provided must not be made available on markets where the B2C operators did not hold a necessary license.



Sweden's SGA pushes for a clearer Gambling Act by targeting unlicensed operators and sanctioning B2B providers, aiming to boost channelisation to licensed platforms.

1. The SGA's situation report – online gambling outside the licensed market, published in April 2025.



The Court dismissed both arguments with reference to the wording of the prohibition in the Gambling Act, i.e. that it is illegal to provide gambling software to unlicensed operators directing their services to Sweden – full stop. Unsurprisingly, the judgment has sparked intense debate within the Swedish gambling community where the commercial impracticability of the Court’s position has been questioned. In summary, the criticism mainly relates to the fact that the B2B operator had in fact taken reasonable measures by geo-blocking the Swedish market to effectively prevent the games from becoming available in Sweden which arguably forms the rationale of the relevant statute. Further, the B2B operator had included a



Sweden’s SGA faces pushback as courts challenge its broad sanctions on B2B operators and payment providers, sparking debate over compliance burdens.

clause in its agreement with the B2C operator that the games must not be provided to markets where it did not hold the required license rights. In retrospect, one may ask which further measures that the B2B operator should have taken to ascertain compliance. While the Court’s interpretation of the statute can possibly be claimed to be supported

by its wording, the criticism against the judgment is fair as the consequential, virtually uncontrollable compliance risk arguably goes beyond what the legislator had intended for.

Fortunately, the judgement has been appealed by the B2B operator and further guidance from the Administrative Court of Appeal, which is expected to grant leave to appeal, should thus be provided in 2026.

### Actions against payment service providers

In addition to targeting B2B operators, the SGA has also targeted several payment service providers in its quest to get at the illegal operators. The legal basis of the supervisory actions was that the provision of the relevant payment services, which makes use of the Swedish identification application BankID, to unlicensed operators formed an aiding and abetting of illegal gambling services.

However, in the pilot case adjudicated by the Administrative Court of Appeal, the injunction issued by the SGA was found to be too general in its wording, as it covered all unlicensed operators, i.e. also legal B2C provider which do not direct their services to Sweden. The Appellate Court thus rejected the action in its entirety for this reason already, and before it got the chance to elaborate on the fundamental issue whether implementing BankID in the payment services entailed that the services are directed to Sweden. In sweeping fashion, the Court merely stated that there was no evidence of illegal gambling, nor any furtherance of such operations. Considering the Court’s view on the fundamental failure to draft a proper injunction, it is understandable that the case was not appealed by the SGA.

While the judgment indeed indicates that the use of BankID is generally not sufficient to consider that the services are targeting the Swedish market, the Court’s reasoning is explicitly referencing the evidence in the case and not the legal issue as such which leaves some room for uncertainty. Obviously, it is very unfortunate that the case turned on the SGA’s fundamental mistake with the wording of the injunction considering the limited appellate court case law on the direction criterion.



## Responsible Gambling – Dual battlegrounds

### Upcoming precedent on liability for net losses

A civil case between a former customer and an online gambling provider currently pending before the Swedish Supreme Court concerning responsible gambling issues currently has the Swedish gambling community on its toes as it could form an important precedent in terms of liability for the net losses of customers with gambling problems. The case is the first of its kind in Sweden and could potentially set off a litigious trend similar to those witnessed in e.g. Germany and Austria if ruled in favour of the claimant.

In short, the case concerns liability for the net losses of a former customer who allegedly was targeted with excessive bonus offerings and personalised marketing, despite showing signs of gambling abuse. In a landmark judgment from the Swedish Patent and Market Court of Appeal, the operator was ordered to reimburse the former customer for his net-losses (approx. EUR 530,000) attributable to a certain period where he had been given a VIP status.

While the case concerns the time prior to the subsequent reregulation of the Swedish gambling monopoly in 2019, when there were no statutory RG requirements in Sweden, it cannot be excluded that the Supreme Court's forthcoming judgment, which should be expected later this year, will include precedential points that will have authoritative effect also for customer relations post 2019. As a testament to that potential effect, parallel civil proceedings pending before the appellate Court of Appeal that concerns RG liability related to gambling after the reregulation has been stayed pending the outcome of the Supreme Court proceedings. Considering the substantial regulatory RG burden put on operators under the current license system, the outlook in the latter case arguably favours the former customer.

### Regulatory proceedings on RG issues

In parallel to the civil proceedings, the SGA has been actively enforcing the regulatory RG requirements, where considerable sanction fees have been issued against several operators due to shortcomings in relation to the duty of care. In summary, the alleged RG violations mainly concern insufficient detection of excessive gambling patterns, and nonexistent, late, or ineffective preventive RG measures in relation to such gambling patterns or risk indicative behaviour.

To this date, the administrative courts have in essence almost exclusively upheld the findings of the SGA, even though some of the sanction fees have been lowered. However, there is still no authoritative case law that provides useful guidance on when, how, and to what extent RG measures should be taken. The SGA has indicated that the supervision of RG issues will remain one of its focus areas and more supervisory actions are thus likely to follow.



Sweden's gambling industry braces for a landmark Supreme Court ruling on operator liability for problem gambling losses, alongside intensified SGA enforcement of responsible gambling rules.



## End of land-based casinos in Sweden

In April 2025, the Swedish government adopted a change to the Gambling Act which entails the end of (legal) land-based casino business in Sweden by the end of 2025. The decision followed the closing of three of the four casinos in recent years for lack of profitability. The first closing took place in 2020, and the subsequent two came into effect in early 2024. It appears that the Covid19 pandemic hit the business rather hard as the visitor numbers in 2022 and 2023 had fallen to almost 50 percent in comparison with 2019. It is difficult to conclude whether the pandemic indeed formed the true

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Sweden's land-based casinos will close by 2025, ending a state-run era amid declining profits and doubts about curbing illegal gambling.

death blow to the Swedish land-based casino regime but presumably, the global recession and inflation have added to that effect. The rationale for the liquidation of the land-based casino regime in Sweden is that it arguably no longer fulfils its main purposes i.e. to create income for the government and effectively prevent illegal land-based casino

gambling. As to the latter point, a study in 2006, i.e. six years after the opening of the four initial casinos, indicates that the effect on the illegal land-based casinos was marginal. Further, the possibility of playing legal land-based casino games at certain licensed restaurants is maintained, which to some extent might counter the growth of illegal land-based casino games in the absence of the casinos.

The proposal and subsequent decision not to allow private operators to step in and run land-based casinos instead unsurprisingly met critique from the private sector, which aside from the risk of increased opportunities for illegal operators has pointed to the upside of creating jobs and strengthening Sweden's status as a tourist nation that it would have if the land-based casinos would be kept open and run by private operators. The Swedish Government dismissed these points in short fashion by in essence stating that it found no reason to reassess its previous conclusions that land-based casinos should not be run by private operators.

As regards the closing of the state-owned casinos, it appears sensible that the Government should not be running casinos, especially not with negative profitability when the effect on preventing illegal land-based gambling is seemingly small. However, considering the nature of land-based gambling services, which arguably offers increased possibilities to take appropriate RG measures in relation to customers which are encountered in person, it seems somewhat counter intuitive not to at least examine the opportunity of allowing private operators to run such casinos further. The future will tell whether the closing will attract illegal casinos in this void, but it seems unlikely that Sweden will open the possibilities for land-based casinos in the foreseeable future in any form.

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# SWITZERLAND

THE INTERNATIONAL GAMBLING LAWS & REGULATIONS REVIEW 2025/26

# MME



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## Overview

Since 1 January 2019, casino games, lotteries, sports betting and skill games have been regulated by the Money Gaming Act (“MGA”) and the Ordinance on Money Games (“MGO”). These laws generally regulate money games in which there is the chance to win a prize or other monetary advantage in return for a stake/monetary transaction to enter the game. The MGA distinguishes between casino games, lotteries, sports betting and skill games. Lotteries, sports betting and skill games can be categorised into large-scale (executed automatically, intercantonal or online) and small-scale

games (neither automated, intercantonal nor online) (Art. 2 MGA).

Licensed land-based casinos can apply for an extension of their licence to offer online gaming. Licences for (online) betting and lotteries will only be given to Swisslos and Loterie Romande. Foreign providers cannot apply for a licence and their websites are blocked



Switzerland’s Money Gaming Act tightly regulates gambling, limiting online licenses to Swisslos, Loterie Romande, and land-based casinos while blocking foreign providers.

(DNS-blocking) by the Swiss authorities if the provider does not block the access to the games from Switzerland itself.

## 2. Application for a Licence and Licence Restrictions

### 2.1. Types

Swiss law distinguishes between terrestrial casino licences and the extension of the terrestrial licences for online gaming, lottery and betting licences and licences for small games (not executed automatically, online or intercantonal).

#### a) Casino licence

A-type casino: no limits in stakes and the number of offered games and slot machines, connected jackpots and maximum winnings possible. Only casinos with a licence “A” qualify as Grand Casino (Art. 6 MGA).

B-type casino: usually for spa or resort casinos, with a limited number of table games (three) and slot machines, limited stakes and no connected jackpots. The limit per stake for automated games in B-type casinos is CHF 25/game.

The number of licences is determined by the Swiss Federal Council (“SFC”), whereby the locations are distributed evenly among interested regions (Art. 7 MGA). A licence is usually granted for a period of 20 years and can be renewed (Art. 12 MGA). The licence can be extended for the offering of online games (Art. 9 MGA).

The concession is not transferable (Art. 14 MGA).

#### b) Large-scale games (lotteries, sports betting and skill games that are executed automatically, intercantonal or online)

In order to be able to offer large-scale matches, an organiser’s licence and a gaming licence are required. These are issued by the Swiss Gambling Supervisory Authority (“Gespa”), with the cantons deciding on the maximum number of lottery and sports betting operators (Art. 23 MGA). Only Swisslos and Loterie Romande receive licences for large-scale games. The licence is not transferable to third parties (Art. 30 MGA).

#### c) Small game licence (lotteries, sports betting and skill games that are executed neither automatically, online nor intercantonal)

Small-scale games operators can apply for a cantonal licence with the competent cantonal authority. There are separate regulations concerning small lotteries and sports betting in the cantons.

## 2.2 Licence Process

The SFC decides on the maximum number of the terrestrial casino licences that may be granted, and also defines the geographical locations of such casinos.

The written application for the casino licence must be submitted to the Swiss Federal Gaming Board (“SFGB”). SFGB reviews the application and submits a proposal to the SFC. The SFC decides whether or not to grant a licence. Casinos holding a Swiss casino licence can apply for an extension of their licence to offer online games. The process of the application is the same as for a terrestrial casino licence.

Applicants of large-scale games must submit their application to Gespa (only Swisslos and Loterie Romande can receive a licence) and operators of small games must submit theirs to the cantonal authority.

## 2.3 Details of the Licence

### 2.3.1. Duration

A casino licence is usually granted for a period of 20 years (Art. 12 MGA). After the 20-year period has elapsed, the licence can be extended or renewed. In certain circumstances, the licence may be revoked, restricted or suspended. A revocation of the licence is possible if any of the following apply (Art. 15 MGA):

- The requirements for issuing the licence are no longer fulfilled.
- The licensee has obtained the licence based on incomplete or false information.
- The licensee has not started operations within the set time limit by SFGB.
- The licensee leaves the business inoperative.
- The licence is used for any unlawful or improper purposes.

The licence for large-scale or small games is not subject to a fixed term but can be limited in time and be renewed. In addition, the licences can be subject to conditions and obligations (Art. 29 MGA). If the legal requirements for the licence are no longer given, Gespa (or in cases of small games, the cantonal authority) can withdraw the licence. The licence may also be suspended, restricted or subject to additional conditions and obligations (Art. 31 MGA).

### 2.3.2. Limits

Casino games: the limits on the types of games, stakes and the maximum number of slot machines depend on the type of the licence (A licence or B licence, see question 2.1 above).

Large-scale lotteries: may only be offered by Swisslos or Loterie Romande.

Small lotteries (cantonal licence): the maximum stake for a single bet is CHF 10, with a maximum of CHF 100'000 for total stakes (Art. 37 MGO, total stakes of CHF 500'000 if the goal of the lottery is to finance an event of supra-regional importance). The value of the prizes must be at least 50% of the maximum total stakes.

Small local sports bets (cantonal licence): maximum stake of CHF 200 per bet, with a maximum of CHF 200'000 for total stakes on one competition day (Art. 38 MGO).

Small poker tournament (cantonal licence): maximum entry fee of CHF 200 and CHF 20'000 total entry fees. There are additional restrictions regarding the number of tournaments, number of participants, duration of tournaments, etc. (Art. 39 MGO).

Tombola: maximum total stake of CHF 50'000 (Art. 40 MGO).

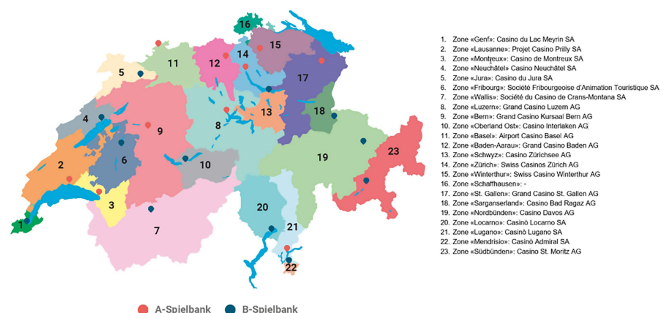


Switzerland's casino licenses, granted for 20 years, allow online extensions, while lotteries and small games face strict stake limits and cantonal oversight.

## 2.4 Key Development

On November 29, 2023, the SFC awarded casino concessions for the years 2025 to 2044 in 22 out of 23 zones. The SFC followed the proposal of SFGB and accepted 22 applications, divided into ten Type A and twelve Type B licenses. Existing casino operators in the zones Baden-Aarau, Basel, Bern, Berner Oberland Ost, Geneva, Fribourg, Jura, Lucerne, Lugano, Locarno, Mendrisio, Montreux, Neuchâtel, Nordbünden, Südbünden, Sarganserland, Schwyz, St. Gallen, Valais and Zurich will be allowed to continue operating their existing casinos beyond 2024. In the newly created zone Winterthur, the SFC accepted the application submitted by Swiss Casinos Winterthur AG. In the likewise new zone Lausanne, the SFC granted a concession to Project Casino Prilly AG.

The casino landscape from 2025 onwards looks as follows:



The SFC also approved the extension of concessions for online casino games to twelve applicants. The supply of and competition for online casino games is therefore increasing.

Finally, the SFC has commissioned SFGB to draw up a report on the casino landscape. On the basis of this report, the SFC will reassess the overall situation in 2028 and decide how to proceed, including with regard to the concession in the zone Schaffhausen; the SFC has not granted a concession for the zone Schaffhausen.

The reallocation of casino concessions is final and the SFC's decision cannot be appealed.

In addition, Casino St. Moritz AG has ceased operations as its main shareholder will no longer provide funding. As the legal requirements for a licence are no longer met, SFGB has initiated revocation proceedings, granting the casino a right to be heard. The future of casino operations in the zone Südbünden is under review, with recommendations to follow.

## 3. Cooperation with foreign online gambling or betting operators

Foreign online gambling or betting operators may not apply for a licence and enter the Swiss market independently. Though, foreign online gambling or betting providers may get access to the Swiss market by entering into a partnership with a local terrestrial licence holder (art. 46 MGA, art. 31 MGO).

### 3.1. Gambling

According to art. 8 MGO, foreign online gambling operators only qualify as cooperations partners, if they did not actively target the Swiss market for five years prior to the application and are or were not blacklisted by SFGB and Gespa ("good reputation").

### 3.2. B2B Provider

Suppliers of money games or online gambling platforms (B2B supply only) can fulfil the requirement of the good reputation even if they deliver or have delivered games to operators that do not have a good reputation (art. 8 para. 4 MGO).

### 3.3. Betting & Lotteries

According to art. 31 MGO, Gespa can allow the cooperation of an operator of lotteries and sports bets (i.e. Swisslos or Loterie Romande) with a foreign operator, if:

- the foreign operator has the necessary licence to conduct the games/bets in its country of origin or in other countries,
- the foreign operator has a good reputation,
- the games/bets cannot be offered by the licence holder alone with comparable attractiveness for the players,
- the game has a strategic and economic importance for the further development of the game offer,
- online participation by Swiss players is only possible via their player account with the Swiss licence holder,
- the licence holder has concluded an agreement with the foreign partner to ensure that the games can be played in a safe and transparent manner,
- the foreign operator blocks online access to money games for Swiss players.

### 3.4. Poker

Poker tournaments may only be offered by the licensed casinos. However, art. 18 MGO allows Swiss casinos to cooperate with foreign operators for the organisation of online poker games. The requirements for the foreign poker operator are different from the requirements for other cooperation partners (for sports betting or online casino games). In particular, the foreign poker operator does not have to enjoy a good reputation according to art. 8 MGO but must only provide its foreign licences and proof for its reliability and professional suitability (art. 18 para. 1 lit. a, b MGO). In addition, the foreign poker operator must close the access of Swiss players to its unlicensed additional offer (sports betting and casino games, art. 18 para. 1 lit. e MGO).

## 4. Social Responsibility

One of the main objections to the deregulation of the casino market is the assumption that deregulation would result in an increase in gambling addiction. Therefore, applicants must present a social concept, including measures to prevent gambling addiction and strict security policies (Art. 76 MGA).

The social concept of casinos and providers of online games must include the following measures:

- information for players about the risks of games, possibilities for self-control, bans, etc.;
- early identification of at-risk players;
- implementation of bans;
- education of personnel; and
- data collection on the effectiveness of the measures.

To access online games, a gaming account with the operator is required. To be able to open an account, a player must be over 18 years old, Swiss-resident and not be banned from gaming. The provider of online games must identify the players. Winnings from licensed gambling can only be transferred to accounts in the name of the player (Art. 45 et seq. MGO).

## 5. Enforcement and Liability

### 5.1. Liability

The following parties are liable for breaches of the relevant legislation:

- the casino licensee;
- the customer;
- the large-scale/small game licensee; and
- the gaming service operator and supporting third parties.

### 5.2. Enforcement Actions

The licence may be withdrawn from domestic casinos or large-scale operators. In addition, prison sentences and high fines of up to CHF 500'000 can be imposed (Art. 131 MGA).

Websites of foreign gaming providers can be blocked, and the provider will be listed on a public blacklist (Art. 86 MGA).

### 5.3. Enforceable Debts

In general, under Swiss law, gambling and betting debts do not give rise to a claim (non-actionable claim; Art. 513 of the Swiss Code of Obligations).



Switzerland's strict gambling regulations enforce social responsibility through mandatory player protections and allow limited foreign cooperation for lotteries and poker.

A claim may arise if the claim arose during a licensed lottery game or during a game in a casino licensed by the competent authority (Art. 515 of the Swiss Code of Obligations).

#### 5.4. Key Development

In a decision of the Federal Supreme Court in May 2022, the Federal Supreme Court decided that the blocking measures (DNS-blocking) issued by SFGB/Gespa and implemented by the telecommunications service providers as well as the blacklisting of the respective domains were conducted in compliance with the MGA and the



Switzerland's Federal Supreme Court upholds strict DNS-blocking and blacklisting of foreign gambling sites, requiring active measures to bar Swiss players.

Swiss Constitution. On the other hand, however, there was no instruction to foreign gambling operators to implement its own technically adequate blocking measures.

Substantive legal aspects in connection with the services of foreign gambling operators, such as the question of whether foreign gambling operators are operating

an unauthorised gambling platform in Switzerland or are violating Swiss law, were not subject to the decision. Moreover, the decision of the Federal Supreme Court did not deal with the question of whether Swiss criminal law is applicable to the offer of foreign gambling operators according to the principle of territoriality. The Federal Supreme Court's decision only dealt with the legal conformity of the issued measures (blacklisting and blocking measures) by the authorities.

In a decision of the Federal Supreme Court in January 2023, the Federal Supreme Court dealt with the question whether a pure IP blocking is sufficient in order to be removed from the blacklist. This legal question was disputed until this decision. The Federal Supreme Court decided that the foreign online gambling or betting operator must actively ensure that no player with residency in Switzerland can register on the website in order to be removed from the blacklist. Thus, the mere IP blocking is not sufficient in order to be removed from the blacklist.

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