

# worldonline gamblinglawreport

**FEATURED ARTICLE**  
**02/09**



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# Government licenses existing operators to offer online bets

The Czech Republic's Ministry of Finance recently granted online betting licences to five existing Czech betting companies. Eva Adamcova, a Trainee Solicitor at Peterka & Partners examines why the licenses were granted, plus comments on why the granting of licenses to Czech operators does not necessarily mean that the government is considering licensing foreign operators.

On 17 December 2008, the Czech Ministry of Finance, for the first time, granted licences to run online betting in the Czech Republic. The licences were granted to five Czech betting companies - Sazka, Tipsport, Fortuna, Synot Tip and Chance. The licences were granted for ten years. Under the terms of the licences, these companies started to run online betting on 5 January.

The current Czech Act<sup>1</sup> ('Act') on lotteries and other similar games - which regulates gaming, gambling, betting, lotteries, and so on - does not regulate online betting. This was one of the Ministry of Finance's main arguments against granting licences to run online betting.

Now, the Ministry has granted permission under section 50 of the current Act. Under this section, the Ministry is entitled to permit lotteries and other similar games which are not regulated by the Act. The Ministry reasoned that it was responding to the current untenable situation, where foreign entities are already running online betting, but Czech entities do not have a licence.

The Ministry of Finance's permission to grant five Czech betting companies licences to run online betting does not solve the problematic question of how to

allow foreign entities to do the same. The current Act on lotteries includes a provision under which an operator of a lottery or other similar game of chance may only be a legal entity with its registered seat in the Czech Republic and which has been granted permission to operate lotteries and other similar games of chance by the authorities. There is also a related provision under which permission to operate lotteries and other similar games of chance may be granted only to a legal person with its seat in the Czech Republic, and not to a local legal entity with a foreign ownership interest or a legal entity in which this company has an ownership interest. Consequently, it is likely that no foreign company will receive permission to run online betting from the Czech Ministry of Finance. It is also clear that foreign companies already operating in the Czech market will continue to operate on the basis of licences granted in foreign countries.

The Ministry of Finance decided to grant these five licences before the planned adoption of the new Act regulating gaming, that should finally settle whether online betting will be prohibited. For the purposes of this new act, the Ministry hired Ernst & Young to prepare a report to facilitate public discussion on the main topics of gaming, including compliance with EU law. The Ministry has not yet presented a draft of the new act. Nevertheless, since the licences to run online betting for five Czech betting offices were granted for ten years, it seems impossible that online betting will be totally prohibited by the new Act.

In the meantime, the Senate has prepared a separate amendment to the current Act which expressly prohibits online betting. This amendment is now in the legislative process in Parliament.

Under the licences granted to the five Czech betting offices, anybody who wants to bet online must register at a branch. However, foreign betting offices do not have branches in the Czech Republic. According to information from *iHNed.cz*, foreign betting offices are now considering filing an action against the Czech Republic at the European Court of Justice, on the grounds that the requirement to register at a branch is discriminatory.

In addition, after the granting of these five licences to run online betting to Czech betting companies, the Happy Day casino requested permission to run online gambling, also under section 50 of the current Act. The Ministry of Finance, however, refused the request, arguing that the permission only concerns online betting. As it seems that this decision is discriminatory, it remains to be seen what the Ministry's position on the requirements to run online gambling will be in the future.

The Ministry of Finance hopes the new act on gaming will be effective from 2010.

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1. No. 202/1990 Coll.



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