

worldonline gamblinglawreport

FEATURED ARTICLE
09/08



cecile park publishing

Head Office UK: Cecile Park Publishing Limited, 17 The Timber Yard, Drysdale Street, London N1 6ND
tel +44 (0)20 7012 1380 fax +44 (0)20 7729 6093 info@e-comlaw.com
www.e-comlaw.com

Future gambling regulation: implications

The Czech Ministry of Finance has stopped work on an amendment to its Act on Lotteries and Other Similar Games of Chance which was designed to prohibit online gambling, and has been instructed by the government to draft new legislation specifically targeting online gambling. Eva Adamcová, of Peterka & Partners, examines the progress of the new legislation and the chance of it opening the door to online gambling operators to offer services in the Czech Republic.

After several years discussing the new legislation on lotteries in the Czech Republic, the Ministry of Finance, which is responsible for regulating lotteries and similar games of chance, seems to have taken steps to change this area.

Background

The current Czech legislation on lotteries and similar games of chance does not define any clear rules for internet betting. Act No. 202/1990 Coll., on Lotteries and Other Similar Games of Chance, has not been substantially amended and consequently does not reflect internet betting and betting through video-lottery terminals. Though the Act does not expressly prohibit internet betting, internet rate wagers must be approved by the Ministry of Finance, which approves the game plans of betting shops. According to our information, the Ministry of Finance has not yet approved any plan containing the option of accepting internet wagers. However, approximately ten betting shops operating in the Czech Republic have been granted the relevant licence in their home countries.

So far, the state has acted harshly against internet betting and its promotion. The Ministry of Finance has lodged several reports on the commission of crime concerning the promotion of foreign companies operating internet betting. Nevertheless in major cases, the Czech courts have approved online wager advertising. It is thus obvious that the current legislation on lotteries is outdated and unsatisfactory.

New legislation

As a result of this situation, the Ministry of Finance decided to draft a new act on lotteries. The daily economic newspaper, *E15*, states that the government has

stopped drafting the amendment which was planned to take effect in January 2009 and has assigned work to the Minister of Finance on completely new legislation, which is also to regulate internet betting.

The drafted amendment was designed to prohibit internet betting. The method of regulation in the new legislation is not yet clear. Both discussed options - prohibition and approval of internet betting - remain open.

Government gambling report

The Ministry of Finance should submit to the government the intended substance of the new legislation on lotteries and wagers by the end of 2008. It hired Ernst & Young s.r.o. to prepare a project, the goal of which was to facilitate public discussion on the main topics of the act on lotteries for the purpose of preparing the draft regulation of gambling, based on the opinions of the participants in the public discussion. Ninety percent of the operators of gambling games and approximately 60 firms, associations, authorities, professionals and citizens took part in the discussion. Ernst & Young s.r.o. worked on this project from April to August 2008. Their final report to the Ministry of Finance is the document based on which the intended substance of the act on lotteries is being prepared.

Based on the final report of Ernst & Young s.r.o., the major idea of the new concept is that the structure of the act should be based on the level of gambling carried out and its perceived social danger. In practice, this means defining precisely the parameters of gambling levels, mainly the wager per game, the winnings and losses per game and their frequency. Based on these parameters, individual gambling games may be distributed into

several groups and the requirements for the operation and the operational conditions of the related gambling would be defined per group. The higher level of gambling, the more strict the conditions and requirements for operators.

The final report of Ernst & Young s.r.o. also deals with the regulation of remote games, that is, games using electronic communications (mainly the internet or a mobile phone) in which case the participants in the discussion did not come to an understanding on any compromise resolution. The major arguments - related to the option that remote games should be prohibited by the future legislation - include the mass distribution of gambling, easier access to these games, jeopardy of minors, games in premises which are not clearly defined or controlled, illegality of remote games and non-payment of taxes and other fees by operators residing outside the Czech Republic.

The arguments of proponents of approval for remote games include:

- respecting the principles of technological neutrality;
- that an increase in non-substance addiction is unproven;
- alleged options of effective control and simple verification of all procedures (records of players, records of games, prevention of money laundering, and so on);
- alleged sufficient control of the game surroundings - including the option of effective prevention of minors from participating in games; and
- the claim that if remote games

The Czech act on lotteries is discriminatory, as it limits the operators of lotteries based on their nationality

are prohibited, it is not technically possible to prevent the law being circumvented by operating remote games from abroad.

Foreign operators

The final report of Ernst & Young s.r.o. also deals with another important issue, which is the participation of foreign entities in the gambling business in the Czech Republic. The current act on lotteries includes a problematic 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 if it is granted the permission to operate lotteries and other similar games of chance by the authorised authority. Under a related provision, the permission to operate lotteries and other similar games of chance may be granted only to a legal person having its seat in the Czech Republic and may not be granted to a local legal entity with a foreign ownership interest, or a legal entity in which this foreign company has an ownership interest. With respect to European law, the basic provisions of the Czech act on lotteries is discriminatory, as it limits the operators of lotteries based on their nationality. The final report of Ernst & Young s.r.o. concludes that new legislation on games of chance should comply with EU law, which is binding on the Czech Republic.

Conclusion

The current legislation on lotteries has also been criticised by Damila Stehlíková, the Minister for Minorities and Human Rights,

who thinks municipalities should have a larger say in the regulation of gambling locations. Stehlíková would also like to enforce the prohibition of gambling locations in sensitive locations - for example close to schools and social establishments - and would like to prohibit internet and telephone gambling.

Nevertheless, as the osnoviny.cz internet server states, revenues from lotteries and other games of chance are used to connect the gambling industry with politics, and this affects the legislation and political surroundings in favour of companies already engaged in gambling. Therefore, the final new legislation on lotteries will be a tough nut to crack.

Eva Adamcová Trainee Lawyer
 Peterka & Partners, Prague
office@peterkapartners.cz

SIGN UP FOR FREE E-LAW ALERTS

World Online Gambling Law Report provides a free alert service. We send out updates on breaking news, forthcoming events and each month on the day of publication we send out the headlines and a precis of all of the articles in the issue.

To receive these free e-law alerts, register on www.e-comlaw.com/updates.asp or email kavitha.kasilingam@e-comlaw.com



cecile park publishing

Head Office UK Cecile Park Publishing Limited, 17 The Timber Yard, Drysdale Street, London N1 6ND
tel +44 (0)20 7012 1380 fax +44 (0)20 7729 6093 info@e-comlaw.com
www.e-comlaw.com

Registered number 2676976 Registered address 141 Wardour Street, London W1F 0UT VAT registration 577806103

e-commerce law & policy

Many leading companies, including Amazon, BT, eBay, FSA, Orange, Vodafone, Standard Life, and Microsoft have subscribed to ECLP to aid them in solving the business and legal issues they face online.

ECLP, was nominated in 2000 and again in 2004 for the British & Irish Association of Law Librarian's Legal Publication of the Year.

A twelve month subscription is £420 (overseas £440) for twelve issues and includes single user access to our online database.

e-commerce law reports

You can now find in one place all the key cases, with analysis and comment, that affect online, mobile and interactive business. ECLR tracks cases and regulatory adjudications from around the world.

Leading organisations, including Clifford Chance, Herbert Smith, Baker & McKenzie, Hammonds, Coudert Brothers, Orange and Royal Mail are subscribers.

A twelve month subscription is £420 (overseas £440) for six issues and includes single user access to our online database.

data protection law & policy

You can now find in one place the most practical analysis, and advice, on how to address the many problems - and some opportunities - thrown up by data protection and freedom of information legislation.

DPLP's monthly reports update an online archive, which is an invaluable research tool for all those who are involved in data protection. Data acquisition, SMS marketing, subject access, Freedom of Information, data retention, use of CCTV, data sharing and data transfer abroad are all subjects that have featured recently. Leading organisations, including the Office of the Information Commissioner, Allen & Overy, Hammonds, Lovells, BT, Orange, West Berkshire Council, McCann Fitzgerald, Devon County Council and Experian are subscribers.

A twelve month subscription is £390 (public sector £285, overseas £410) for twelve issues and includes single user access to our online database.

world online gambling law report

You can now find in one place analysis of the key legal, financial and regulatory issues facing all those involved in online gambling and practical advice on how to address them. The monthly reports update an online archive, which is an invaluable research tool for all those involved in online gambling.

Poker, payment systems, white labelling, jurisdiction, betting exchanges, regulation, testing, interactive TV and mobile gaming are all subjects that have featured in WOGLR recently.

Leading organisations, including Ladbrokes, William Hill, Coral, Sportingbet, BskyB, DCMS, PMU, Orange and Clifford Chance are subscribers.

A twelve month subscription is £520 (overseas £540) for twelve issues and includes single user access to our online database.

world sports law report

WSLR tracks the latest developments from insolvency rules in football, to EU Competition policy on the sale of media rights, to doping and probity. The monthly reports update an online archive, which is an invaluable research tool for all involved in sport.

Database rights, sponsorship, guerilla marketing, the Court of Arbitration in Sport, sports agents, image rights, jurisdiction, domain names, ticketing and privacy are subjects that have featured in WSLR recently.

Leading organisations, including the England & Wales Cricket Board, the British Horse Board, Hammonds, Fladgate Fielder, Clarke Willmott and Skadden Arps Meagre & Flom are subscribers.

A twelve month subscription is £520 (overseas £540) for twelve issues and includes single user access to our online database.

- Please enrol me as a subscriber to **e-commerce law & policy** at £420 (overseas £440)
- Please enrol me as a subscriber to **e-commerce law reports** at £320 (overseas £440)
- Please enrol me as a subscriber to **data protection law & policy** at £390 (public sector £285, overseas £410)
- Please enrol me as a subscriber to **world online gambling law report** at £520 (overseas £540)
- Please enrol me as a subscriber to **world sports law report** at £520 (overseas £540)

All subscriptions last for one year. You will be contacted at the end of that period to renew your subscription.

Name	<input type="text"/>		
Job Title	<input type="text"/>		
Department	<input type="text"/>	Company	<input type="text"/>
Address	<input type="text"/>		
Address	<input type="text"/>		
City	<input type="text"/>	State	<input type="text"/>
Country	<input type="text"/>	Postcode	<input type="text"/>
Telephone	<input type="text"/>	Fax	<input type="text"/>
Email	<input type="text"/>		

1 Please **invoice me** Purchase order number
Signature Date

2 I enclose a **cheque** for the amount of
made payable to 'Cecile Park Publishing Limited'

3 Please debit my **credit card** VISA MASTERCARD
Card No. Expiry Date
Signature Date
VAT No. (if ordering from an EC country)

Periodically we may allow companies, whose products or services might be of interest, to send you information. Please tick here if you would like to hear from other companies about products or services that may add value to your subscription.

priority order form

FAX +44 (0)20 7729 6093

CALL +44 (0)20 7012 1380

EMAIL dan.towse@e-comlaw.com

ONLINE www.e-comlaw.com

POST Cecile Park Publishing 17 The Timber Yard, Drysdale Street, London N1 6ND