



ICLG

The International Comparative Legal Guide to:

Gambling 2019

5th Edition

A practical cross-border insight into gambling law

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Slovakia

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Robert Skalina



1 Relevant Authorities and Legislation

1.1 Which entities regulate what type of gambling and social/skill gaming activity in your jurisdiction?

Relevant Product		Who regulates it in digital form?	Who regulates it in land-based form?
Gaming	Casino gaming (including slots and casino table games such as roulette & blackjack)	a) Ministry of Finance of the Slovak Republic (“Ministry”). b) Financial Directorate of the Slovak Republic (“Financial Directorate”).	a) Ministry. b) Financial Directorate.
	Poker	c) Tax offices. d) Customs offices.	c) Tax offices. d) Customs offices.
	Bingo	e) Municipalities.	e) Municipalities.
Betting	Betting	a) Ministry. b) Financial Directorate. c) Tax offices. d) Customs offices.	a) Ministry. b) Financial Directorate. c) Tax offices. d) Customs offices. e) Municipalities.
	Sports/horse race betting (if regulated separately to other forms of betting)		
	Fantasy betting (payment to back a ‘league’ or ‘portfolio’ selection over a period of time, for example in relation to sport or shares)	Not applicable.	Not applicable.
Lotteries	Lotteries	a) Ministry. b) Financial Directorate. c) Tax offices. d) Customs offices.	a) Ministry. b) Financial Directorate. c) Tax offices. d) Customs offices.

Relevant Product	Who regulates it in digital form?	Who regulates it in land-based form?
Social/Skill arrangements	“Social” gaming with no prize in money or money’s worth Skill games and competitions with no element of chance	Not applicable.

1.2 Specify: (i) the law and regulation that applies to the Relevant Products in your jurisdiction; and (ii) – in broad terms – whether it permits or prohibits the offer of Relevant Products to persons located in your jurisdiction.

Act No. 171/2005 Coll. on gambling games, as amended (“Gambling Act”) contains comprehensive regulation that applies to the Relevant Products. There are various other laws and regulations which also impact upon gambling activity.

The Gaming Products, Betting Products and Lotteries, as defined above, are permitted.

However, there is a state monopoly for the operation of the following gambling games, as a licence for their operation can only be granted to the national lottery company wholly owned by the state:

- numerical lotteries;
- special bingo;
- cash receipt lotteries; and
- Internet Games.

“Internet Games” are defined in the Gambling Act as gambling games in which a gambler participates through a connection via the Internet to the game server of the gambling game operator or an entity authorised by them, on which game systems are placed using software, through which the gambling game is operated, and the gamblers play against this game system or against each other. The Gambling Act also expressly states that the transmission and collection of data and information connected with the operation of gambling games realised via the Internet is not considered to be the Internet Game.

Despite the state monopoly over the operation of the Internet Games and with the Ministry’s consent, fixed-odds betting games are operated via Internet by several private operators who hold individual licences to operate betting games.

Major licensed operators of betting also offer bets on virtual sports/ eSports, including via Internet as a communication channel, under their individual licences to operate bet games.

There is no specific regulation of skill games, social games, fantasy, virtual or eSports in the Gambling Act. That does not mean that they are not permitted or do not constitute gambling games as such. They are considered gambling games and are regulated by the Gambling Act if they involve: (i) payment of a deposit in cash or other asset; (ii) winning; and (iii) a result depending solely or predominantly on luck or a previously unknown circumstance or event.

2 Application for a Licence and Licence Restrictions

2.1 What regulatory licences, permits, authorisations or other official approvals (collectively, "Licences") are required for the lawful offer of the Relevant Products to persons located in your jurisdiction?

A general licence issued by the Ministry, or an individual licence issued by the Ministry or municipality, is required.

2.2 Where Licences are available, please outline the structure of the relevant licensing regime.

There are two types of licences – a general licence and an individual licence.

I. General licence

The following games may only be operated on the basis of a general licence issued by the Ministry:

- a) in-kind draw lotteries;
- b) raffles; and
- c) off-casino card games.

II. Individual licence

The individual licences are:

- a) licence for the operation of lottery games;
- b) licence for the operation of casino gambling games;
- c) licence for the operation of bet games;
- d) licence for the operation of gambling games by means of gambling machines;
- e) licence for the operation of gambling games operated by means of technical equipment operated directly by gamblers or operated by means of telecommunication equipment, and for the operation of video lottery terminals;
- f) licence for the operation of Internet Games;
- g) licence for the operation of state lottery;
- h) licence for the operation of a charity lottery; and
- i) licence for the operation of Other Games.

An individual licence is issued by the Ministry or municipality. The municipality issues an individual licence for gambling game operation by means of the gambling machines that are located in its territory. In all other cases, including the licence for the operation of gambling machines in casinos, or if bets are made in foreign currencies, the individual licence is granted by the Ministry.

Any licence may be granted or issued only to a legal person with a registered office in the territory of the Slovak Republic. Such legal person can have foreign ownership only if they have a registered office or permanent residence in another EU Member State or a Member State of the Organisation for Economic Co-operation and Development (OECD).

An individual licence can only be issued and held by a joint-stock company or limited-liability company with an established Supervisory Board.

There is no limitation on the number of licences which can be issued for each type of gambling game.

As stated above, there is a state monopoly for the operation of the following gambling games, as a licence for their operation can only be granted to the national lottery company wholly owned by the state:

- a) numerical lotteries;
- b) special bingo;
- c) cash receipt lotteries; and
- d) Internet Games.

2.3 What is the process of applying for a Licence for a Relevant Product?

I. General licence

In the general licence, the Ministry will determine the conditions for the operation of in-kind draw lotteries, raffles and off-casino card games. The Ministry shall issue the general licence for a number of legal persons not determined beforehand. After meeting the conditions specified in the general licence, an operator may operate the gambling game for which this general licence is issued. Prior to commencement of the operations under a general licence, an operator has to make a written notification of intention to operate the respective gambling game to the locally competent tax office.

II. Individual licence

The Gambling Act contains a list of documents and information which an applicant for an individual licence shall provide in its application irrespective of the type of gambling game it wants to operate. The information which needs to be provided relates to the applicant, its officers, directors and shareholders, its business activities and source of funds; and includes, *inter alia*, proof of good standing and minimum capital as required by the Gambling Act, proof of satisfaction of technical and personal requirements as set out in the Gambling Act, proof of payment of a financial surety as required by the Gambling Act, proof of no debts to the tax authorities, proof of payment of application fee, a game plan which has to be approved by the Ministry, a business plan which shall include expected revenues in the first three years of operations, expected expenses and the extent of liabilities in connection with the operations, and documents on the technical assessment of the equipment and systems which will be used during the operation of gambling games.

The Gambling Act also contains certain additional specific requirements for certain types of games. For example:

- i) In case of the following games:
 - casino gambling games;
 - gambling games by means of gambling machines;
 - gambling games operated by means of technical equipment operated directly by gamblers;
 - video lottery terminals; or
 - Other Games,

an applicant has to provide a written declaration that the operation of such games is not restricted by a generally binding order of the municipality in the territory in which it wants to operate. The applicant must also provide the municipality's opinion on placing in its territory the casino, technical equipment or video lottery terminals, respectively. Such opinion is valid for one year and a new opinion must be supplied to the Ministry upon its expiry each year.

- ii) In case of bet games and bingo, applicants must also provide the consent of the municipality in the territory of which the betting office is to be located or bingo is to be operated.

The individual licence for most types of gambling game shall be granted no later than within 15 business days from the day of submission of a complete application for granting an individual licence. In case of application for granting an individual licence for the operation of casino gambling games, the Ministry shall make a decision on whether or not to grant the licence within 60 days from the day of submission of a complete application.

2.4 Are any restrictions placed upon licensees in your jurisdiction?

During the entire duration of the licence, the licensee has to comply with the Gambling Act and any conditions set out in the licence.

2.5 Please give a summary of the following features of any Licences: (i) duration; (ii) vulnerability to review, suspension or revocation.

A general licence is issued for an indefinite time period.

An individual licence can be granted for a maximum of:

- a) two years for pecuniary draw lotteries, pecuniary-in-kind draw lotteries and instant lotteries;
- b) five years for bet games;
- c) five years for bingo, except for special bingo;
- d) one calendar year for gambling machines, except for the gambling machines operated in casinos, for which an individual licence is granted for a period corresponding to the life-cycle of gambling machines; however, for no longer than the end of the validity of the licence for gambling game operation in casinos;
- e) two years for gambling games operated by means of technical equipment operated directly by gamblers, or for gambling games operated by means of telecommunication equipment, and for the operation of video lottery terminals;
- f) five years for a state lottery;
- g) two years for gambling games in a casino;
- h) five years for a charity lottery; and
- i) two years for any Other Games.

The Ministry or municipality can revoke an individual licence if the gambling game is not operated in compliance with the conditions laid down in the Gambling Act or the conditions specified in the individual licence. The Ministry or municipality will revoke an individual licence if such facts occur or additionally emerge, for which it would not be possible to grant the individual licence; or if it finds out that the data, based on which the individual licence was granted, are not true.

2.6 By Relevant Product, what are the key limits on providing services to customers? Please include in this answer any material promotion and advertising restrictions.

It is prohibited to accept stakes, accept bets, pay out winnings, draw lots, and perform other acts leading to the determination of the result of a gambling game, as well as to perform other acts which are during the operation of a gambling game performed publicly, or during which communication between the player and the operator takes place, except for the publishing of results of gambling games,

and except for the operation of the numerical lottery Eurojackpot including its supplementary game, on the following days:

- a) Good Friday;
- c) 24th and 25th December;
- d) national days of mourning; and
- e) outside of opening hours.

Municipalities may, by a generally binding order, prohibit the existence of 'gambling houses' in their territory and thus also the existence of gambling machines and video lottery terminals (among others) in their territory.

2.7 What are the tax and other compulsory levies?

In addition to the general income tax, which amounts to 21% of the taxable profits, gambling game operators shall pay a gambling levy, as follows:

- a) 15% of the game principal to the state budget in the case of draw lotteries and raffles;
- b) 20% of the game principal to the state budget in the case of numerical lotteries;
- c) 20% of the amount calculated as the difference between the game principal and the winnings paid out to the state budget in the case of instant lotteries;
- d) 6% of the game principal in the case of charity lotteries and bet games (except for race bets), of which in the case of rate bets, 5.5% of the game principal shall be paid to the state budget and 0.5% of the game principal to the budget of the municipality in which the establishment is situated;
- e) 4.5% of the game principal in the case of bingo, of which 4% of the game principal shall be paid to the state budget and 0.5% of the game principal to the budget of the municipality in which the bingo room is situated;
- f) 4% of the game principal to the state budget in the case of special bingo;
- g) 1% of the game principal to the state budget in the case of race bets;
- h) 30% of the game principal in the case of casino gambling games including board games and gambling games operated through technical equipment operated directly by gamblers, out of which 27% of the game principal shall be paid to the state budget and 3% of the game principal to the budget of the municipality in which the casino is situated;
- i) EUR 2,600 per calendar year and per gambling machine to the state budget, in the case of gambling games operated through gambling machines on the basis of an individual licence granted by the municipality, regardless of the period of operation during the calendar year. In the case of gambling machines operated on the basis of an individual licence for the operation of gambling games in casinos, EUR 4,700 per calendar year to the state budget for each such gambling machine regardless of the period of operation during the calendar year, and EUR 2.20 per each such gambling machine per day (subject to a minimum of EUR 800 per machine, per calendar year) to the budget of the municipality;
- j) EUR 3,900 per calendar year per technical device, regardless of the period of operation during the calendar year, to the state budget, in the case of gambling games operated through technical equipment operated directly by gamblers, and EUR 2.50 for each such technical device per day (subject to the minimum of EUR 900 per device per calendar year) to the budget of the municipality;
- k) EUR 4,700 per calendar year to the state budget, per video lottery terminal, including the terminals operated on the basis of an individual licence for gambling game operations

in casinos regardless of the period of operation during the calendar year, and EUR 2.20 for each such terminal per day (subject to the minimum of EUR 800 for each terminal per calendar year) to the budget of the municipality;

- l) EUR 200 per table per calendar month or EUR 1,500 per table per calendar year to the state budget in the case of off-casino card games;
- m) 10% of the game principal to the state budget in the case of gambling games operated through telecommunication devices;
- n) 27% of the difference between the stakes received and the winnings paid out in the case of Internet Games, to the state budget; and
- o) in the case of Other Games, the Ministry shall specify the amount of the levy, taking into consideration the amount of the levy referred to in letters a) – n) in respect of a gambling game, the nature of which is the most similar to the relevant Other Game.

2.8 What are the broad social responsibility requirements?

Minors cannot participate in gambling games and the operators are obliged to take measures to prevent them from participating in gambling games.

As of 1 January 2019, any natural persons included in the register of the natural persons excluded from gambling (“register of excluded persons”) will not be allowed to participate in most types of gambling games, and operators will be obliged to take measures to prevent such persons from participating in such games. Persons included in the register of excluded persons will also be prohibited from entering any ‘gambling house’ and operators will be obliged to ensure compliance with this prohibition.

Operators must keep a game plan of the gambling game which they operate in a visible place in all rooms used for the operation of gambling games which the gamblers can access.

The operators of:

- a) casino gambling games;
- b) gambling games operated by means of gambling machines;
- c) gambling games operated by means of technical equipment directly by gamblers or operated by means of telecommunication equipment; and
- d) video lottery terminals,

shall be obliged to place, in a visible place on the technical equipment operated by them and intended for the operation of the gambling game, the telephone number of a specialised healthcare institution operating in the area of prevention, diagnostics and treatment of substance and non-substance addictions, which will be published on the Ministry’s website.

Operators of a gambling game who use the Internet for data transmission and collection and operators of Internet Games shall, *inter alia*, provide players, in a visible place during the entire game, with information on health risks resulting from excessive gambling, warning that gambling games represent a risk of high financial loss, and information on the time spent playing the game.

2.9 How do any AML, financial services regulations or payment restrictions restrict or impact on entities supplying gambling? Does your jurisdiction permit virtual currencies to be used for gambling and are they separately regulated?

Customers can make their stakes in cash or cashless (via bank account transfer, bank cards or other payment systems permitted under Slovak laws).

Neither the Gambling Act nor any other piece of legislation regulates virtual currencies. Their use in gambling games is thus not regulated either.

Gambling operators are obliged to identify players and comply with all other relevant obligations under the AML Act.

3 Online/Mobile/Digital/Electronic Media

3.1 How does local law/regulation affect the provision of the Relevant Products in online/mobile/digital/electronic form, both from: (i) operators located inside your jurisdiction; and (ii) operators located outside your jurisdiction?

Internet Games constitute a ‘state lottery’ and a licence for the operation of a state lottery can only be granted to a national lottery company wholly owned by the state.

Despite the state monopoly over the operation of Internet Games and with the Ministry’s consent, betting games are operated via the Internet by several private operators who hold individual land-based betting licences.

3.2 What other restrictions have an impact on Relevant Products supplied via online/mobile/digital/electronic means?

The Financial Directorate compiles and publishes on its website, on a weekly basis, a list of websites through which legal persons or natural persons provide or promote unlicensed gambling games via the Internet (“Blacklist”).

The Financial Directorate can request a local court to issue an order addressed to Internet service providers instructing them to prevent access to the website through which an unlicensed operator offers gambling games via the Internet (“Site Blocking Order”) and/or an order addressed to payment service providers instructing them to prevent the execution of a payment operation or other payment service in favour of a bank account used by an unlicensed operator offering gambling games via the Internet (“Account Blocking Order”).

A Site Blocking Order or an Account Blocking Order must be issued within seven days from the filing of the request by the Financial Directorate. The Gambling Act states that no remedy is admissible against the Site Blocking Order or the Account Blocking Order.

If the reasons for the issuance of a Site Blocking Order or an Account Blocking Order cease to exist, the Financial Directorate shall ask the respective court to cancel it.

3.3 What terminal/machine-based gaming is permitted and where?

The following types of terminal/machine games are permitted under the Gambling Act:

- i) gambling games operated by means of gambling machines;
- ii) gambling games operated by means of technical equipment operated directly by gamblers; and
- iii) video lottery terminals.

It is only possible to operate all of these machines in a ‘gambling house’, which means a room or a set of rooms connected to each other, purpose-fitted and set up for the operation of such games. A ‘gambling house’ must be situated in an isolated area with a separately lockable entrance and must be part of a building construction with walls. A ‘gambling house’ can only be located in:

- a) hotels, motels, and lodging houses;

- b) buildings used for trade and services;
- c) buildings used for culture and public entertainment; and
- d) apartment dwelling houses, if a majority of the owners of the units in such houses provide their written consent.

The minimum number of such machines/terminals in any given 'gambling house' is 12.

4 Enforcement and Liability

4.1 Who is liable under local law/regulation?

Liability primarily lies with the operators and persons who promote the gambling games.

However, in addition, persons who, based on a contractual or similar relationship, perform activities connected with the operation or promotion of gambling games, are liable under the Gambling Act. This is a broad and catch-all category which can potentially even include other entities in the supply chain.

Internet service providers and payment service providers are also liable and face sanctions in the case that they do not comply with the Site Blocking Orders and Account Blocking Orders.

4.2 What form does enforcement action take in your jurisdiction?

Unlicensed land-based offers can be targeted based on the Gambling Act in administrative proceedings, as well as based on the Criminal Code in criminal proceedings.

Unlicensed online offers are targeted by the Financial Directorate. It has the powers to include such offers on the Blacklist and request the local court to issue Site Blocking Orders and Account Blocking Orders. A penalty of up to EUR 500,000 may also be issued to unlicensed operators.

The Financial Directorate compiles and issues the Blacklist on a weekly basis. The Blacklist is available at: <https://www.financnasprava.sk/sk/info servis/priklady-hazardne-hry>.

The Site Blocking Orders and Account Blocking Orders are issued by the regional Court in Banska Bystrica and are available at: <https://www.financnasprava.sk/sk/elektronicke-sluzby/verejne-sluzby/zoznamy/priказы-sudu-k-zakazanym-ponuk>.

4.3 Do other non-national laws impact upon liability and enforcement?

Yes. The Slovak Republic is a Member State of the EU. EU laws are therefore applicable.

In particular:

- the freedoms guaranteed by the Treaty on the Functioning of the European Union;
- case law of the European Court of Justice; and
- obligations under Directive 98/34/EC and Directive (EU) 2015/1535,

impact upon enforcement by the Slovak authorities of the Gambling Act *vis-à-vis* operators based in other EU Member States.

4.4 Are gambling debts enforceable in your jurisdiction?

The Civil Code states that winnings from bets and games are not enforceable. It also states that it is not possible to enforce loans

made knowingly in connection with a bet or a game. Nevertheless, this does not apply to gambling games under the Gambling Act. As such, the winnings from the gambling games and loans made in connection with the gambling games regulated by the Gambling Act are enforceable.

5 Anticipated Reforms

5.1 What (if any) intended changes to the gambling law/regulations are being discussed currently?

In September 2018 the Slovak government approved a draft of a new gambling act prepared by the Ministry. It also has to be approved by the Slovak Parliament. The proposed effective date of the new act is 1 March 2019, except for some provisions which will be effective as of 1 June 2019. The main changes which are relevant for operators (primarily online operators) are:

- i) The creation of a new gambling regulator, called the Office for Regulation of Gambling ("Office"). Currently the regulator is the Ministry. It is foreseen that the Office will be financed by contributions in the amount of 0.7% of turnover in the case of operators of certain lottery games, and 0.7% of gross gaming revenue ("GGR") in the case of operators of other games.
- ii) Opening the Slovak market for foreign operators – even operators with a registered office outside of Slovakia will be able to obtain a licence. However, foreign operators will be required to have a representative in Slovakia who will need to register with the Office and communicate with the Office on behalf of the operators.
- iii) Allowing private operators to obtain an online licence for most types of games. Currently, only the state monopoly holds the online licence. Under the new regime, the state monopoly will only apply to numerical lotteries, special bingo and receipt lotteries.
- iv) A tax on online games is proposed at 22% of GGR. A tax on land-based games will in some cases be based on turnover (e.g. betting will be subject to 6% tax of the turnover), in some cases on GGR (e.g. some of the casino games will be subject to tax rate of 30% of GGR) and will in some other cases be set at a fixed amount (e.g. for gambling machines in gambling premises).
- v) A licence application fee for each of the Internet casino games and Internet betting games set at EUR 3 million. If operators apply for licences for both online casino games and online betting, the combined application fee will be EUR 5 million.
- vi) Online betting licences and online casino licences are to be issued for a maximum period of 10 years. In the case of a combined licence for land-based and online casinos, the maximum licence period is five years with an option for an additional five years (which can be exercised by the operator). The same 5 + 5-year period applies to a combined licence for land-based and online betting.
- vii) Licences for online casinos are to be issued with effect as of 1 July 2019 and applications for them are to be filed only on or after 1 March 2019. Licences for online betting are to be issued with effect from 1 July 2020 and applications for them are to be filed only on or after 1 July 2019.
- viii) Blacklist, Site Blocking Orders or Account Blocking Orders issued under the old Gambling Act are to stay in place as if issued under the new regime. A licence can be issued only to applicants provided that neither they nor any member of the same group of companies were included on the Blacklist for a period of 12 months prior to the date of their licence application.

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Robert Skalina is a senior advisor to WH Partners. He focuses on the Czech and Slovak markets. Robert regularly advises clients in the gaming/gambling industries on transactional as well as regulatory aspects of their operations. In addition to this, Robert focuses on mergers and acquisitions, private equity and complex cross-border transactions. He is a member of the International Masters of Gaming Law ("IMGL") and a regular speaker at gambling conferences. Robert graduated with an LL.M. *cum laude* from the London School of Economics and holds a Master of Laws degree from Charles University in Prague. He provides advice in English, Czech and Slovak.

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WH Partners is a Malta-based leading law firm, with consulting rooms in London, Prague, Livorno and Warsaw. The firm has a well-established, internationally recognised practice advising clients on regulation and licensing of gaming & gambling, blockchain applications and financial services, tax, private client, M&A, banking and finance matters, intellectual property, data protection, real estate and employment law.

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