



Institut suisse de droit comparé
Schweizerisches Institut für Rechtsvergleichung
Istituto svizzero di diritto comparato
Swiss Institute of Comparative Law

CZECH REPUBLIC

I. INTRODUCTION

1. General approach to Gambling

The legal system of the Czech Republic takes the form of a civil law state and the Constitution of the Czech Republic proclaims it as a unitary state divided into eight administrative regions.

Act No 202/1990 Coll. on Lotteries and other similar Games regulates in a uniform way the gambling industry. A Lottery or other similar Game is a game, in which any physical person, who paid a deposit (wager), the return of which is not guaranteed to the participant, may take part in on voluntary basis. The win or loss is by the virtue of a random chance or any circumstance or event unknown beforehand, which, however, is specified by the operator in advance in the game terms and conditions (referred to as the "Gambling Scheme" henceforth). It does not matter whether the game is played with the use of mechanical, electromechanical, electronic or other devices.

The circumstances determining the winnings (the outcome of the drawing of lots, sport matches, horse races or other events to be run) may not be known to anyone in advance and they must be of such nature that they cannot be influenced by either the operator or the bettor.

The probability of winnings, with lotteries and with tombolas may not be less than 1 : 200.

Lotteries and other like games of chance that do not meet the conditions specified in the Act No 202/1990 Coll. on Lotteries and other like Games may not be licensed.

2. Definitions

A **lottery** or a similar game of chance shall be deemed a contest, survey and any other activity for prizes, where the operator undertakes to pay the participants, determined by a draw or some other random selection method, prizes in cash, deposit books, securities, insurance etc., and real estate, and in which the participation is conditional upon purchase of specific goods, services, or buying some other product and documenting the purchase to the operator, or entering into a contract relationships with a provider of goods, services or some other product, or participation in a promotion or advertisement events organised by the provider or operator, also indirectly through a third party (hereinafter "consumer lotteries"). Consumer lotteries shall also include contests, surveys and other activities for prizes in which the operator, under the aforementioned conditions, undertakes to provide to the participants performance in kind, services or prizes comprising goods and products, etc., provided the sum total of all in-kind prizes in all games organised by the operator exceeds 200,000.- CZK (approx. 7.150.-) in any calendar year and the value of a single prize exceeds the amount of 20,000.- CZK (approx. 715.-). Contests, surveys and other activities for prizes mentioned above, organised by a single operator, in which the sum total of in-kind prizes in a given calendar year does not exceed the amount of 200,000.- CZK (approx. 7.150.-) and the value of a single prize does not exceed the amount of 20,000.- CZK (approx. 715.-) shall be reported to the financial office of jurisdiction.

The Act No 202/1990 Coll. on Lotteries and other like Games understands under lotteries and other like games mainly:

a) Money lotteries or lotteries for prizes in kind, with which a given number of tickets bearing serial numbers are issued by the operator according to the Gambling Scheme. If the tickets are divided into a number of series, then each series must include the same number of lottery tickets and each ticket must bear the indication of both the serial number and the series. The sale price of the ticket of each series must be the same in every series. All tickets, which have been issued, are included in the drawing.

b) Tombolas are games in which only the tickets that were sold are included in drawing. The tickets are sold and the prizes are given on the day and at the spot of the drawing.

c) Numerical lotteries, with which neither the number of participants nor the amount of game surety is specified beforehand, while the amount of game surety is taken as the multiplication of the issued tickets and the sale price per one ticket. The prize is calculated from the number of winners and the aggregate deposits (wagers) by means of a ratio determined in advance, or alternately, it can be calculated by means of a multiple of the deposit (wager), according to what number of digits were guessed by a participant from the limited number of digits that was drawn according to the Gambling Scheme.

d) Instant lotteries with which a participant learns whether it won or not after it removes the indicated cover of a particular box of the lottery ticket or lot (which is covered by the time of purchase) forthwith after it is purchased.

e) Betting games that are operated by means of electronic or electromechanically controlled gaming machines or other like devices (referred to as the "gaming machines" henceforth).

f) Betting games, with which the prize winning is conditioned by the successful guess of the outcome or scores of sport competitions, races, and the amount of the prize depends on the ratio between the number of winners and the total amount of the deposit (wager) and the prize ratio that is set in advance.

g) Betting games operated with the use of a special type of tokens bearing the combination of fifteen digits in the numerical series from one up to ninety, while neither the number of participants nor the game surety amount is known in advance. The drawing of lots takes place in the public with the use of a mechanical device and it consists in the gradual drawing of lots with digits from one up to ninety. The prize is calculated from the aggregate amount of deposits - accordingly to the type of the winning, and in each round in dependence on the outcome of the drawing of lots. The terms and conditions of game are set forth in detail in the Gambling Scheme.

h) Betting games, with which the prize winning is conditioned by the successful guess of the outcome or scores of sport competitions, races, or the successful guess of the outcome of other events of public concern providing the bets on such event is not in defiance to any ethical principles. The prize is directly proportional to the prize ratio at which the bet was taken and the wager amount.

i) Betting games operated in gambling parlours specifically established for this purpose (casinos) including those operated with the use of mechanical devices (such as a roulette) with which neither the number of participants nor the wagered amounts during any one run of the game is not known beforehand. The prize is calculated from the deposited amounts or according to the terms and conditions that are set forth in the Gambling Scheme.

j) Lotteries and other like games that are run by means of the technical devices operated directly by the bettors or operated via the telephone, while neither the number of participants is determined in advance nor the amount that was wagered is known

beforehand. The prize is calculated from the deposits according to the terms and conditions that are set forth in the Gambling Scheme.

k) Betting games in which a win depends on guessing the order in which racehorses arrive at the goal post and the win depends on the proportion of the winners to the sum total of collected bets and the proportion of wins determined in advance, or the win is proportional to the odds at which the bet was made and the amount of the bet.

3. Taxes

A license is granted if the operation of lotteries or other similar games is in compliance with other laws and provided that it does not disturb the peace and order, and further provided that the proper operation of lotteries or games is secured including the necessary equipment. A portion of the profits, in the percentage rates as set forth in the following Table, ranging from 6 % (minimum) up to 20 % (maximum) of the difference, must be used for social, medical, sport, environmental, cultural or other projects beneficial to the public. Profit, in this context, means the amount by which the operator's income, which is created by all betted amounts of all operated games, and which amounts are included in the account for the given fiscal period, exceeds the prizes disbursed to bettors, the administration fees, the local fees and the costs incurred in connection with state supervision.

Difference in mill. CZK	up to 50 (approx. 1.8 mill.)	50-100 (approx. 1.8-3.6 mill.)	100-500 (approx. 3.6-18 mill.)	500-1000 (approx. 18-36 mill.)	over 1000 (approx. 36 mill.)
Fixed percentage of return	6%	8%	10%	15%	20%

For the purposes of ordinary income tax, profit refers to the income of an operator which is comprised of all wagered amounts from all games operated by such operator in accordance with the Act included in the accounts for the relevant fiscal period, reduced by prizes, the administration fee, the local fee, the costs incurred by state supervision **and the operator's costs directly related to the operation of games**. Games of chance are exempt from the Vat liability.

The operation of lotteries and other similar games is deemed to include the activities aimed at organising and putting such lotteries and other similar games into operation, including the brokerage, organisational, financial, technical and other services related to the management of operation of such games as well as costs resulting from the termination of a specific game or lottery and accounting. Moreover, the operation of lotteries also includes the performance of any and all other activities that are prescribed to the operator by other legal regulations. The tax duty regarding the other taxes and fees is determined in accordance with other respective tax laws. The Czech Republic's corporate tax for the year 2005 is 26%.

II. LISTING**A) LEGISLATION ENACTED****1. Legislation****Act No. 202/1990 of Collect., On Lotteries and other Like Games**

Act No. 61/1996 Coll., on some measures against the legalization of the proceeds of crime and on the amendment and supplementation of connected Acts

Act No. 117/2001 Coll. On public collection

Decree of Ministry of finance on monitoring of casino activities - Vyhlá ka 285/1998 Sb Ministerstva financí ze dne 26. listopadu 1998 o podmínkách monitorování a uchovávání záznamů v kasinu

Decree of Ministry of finance on slot machines - Vyhlá ka č. 223/1993 Sb. ministerstva financí ze dne 28. července 1993 o hracích přístrojích

Decree of Ministry of finance concerning registration of certain types of games - Vyhlá ka č. 315/1999 Sb. Ministerstva financí ze dne 1. prosince 1999 o způsobu oznamování soutě í, anket a jiných akcí o ceny, které nejsou spotřebitelskou loterií

Tax Law Zákon č. 586/1992 Sb. o daních z příjmů

Vat Law Zákon č. 235/2004 Sb. O dani z přidané hodnoty

Act No. 500/2004 Coll. On administrative procedure

Civil Code (No 40 /1964 Coll.)

Penal Code (No.140/1961 Coll.)

B) DRAFT LEGISLATION

No entries (on the basis of information currently available)

C) SELF-REGULATION

No entries (on the basis of information currently available)

D) JURISPRUDENCE

No entries (on the basis of information currently available)

III. BARRIERS

A lottery or a similar game of chance shall be deemed according to the Act No. 202/1990 of Collect., On Lotteries and other Like Games a contest, survey and any other activity for prizes, where the operator undertakes to pay the participants, determined by a draw or some other random selection method, prizes in cash, deposit books, securities, insurance etc., and real estate, and in which participation is conditional upon purchase of specific goods, services, or buying some other product and documenting the purchase to the operator, or entering into a contract relationships with a provider of goods, services or some other product, or participation in a promotion or advertisement events organised by the provider or operator, also indirectly through a third party.

Only a legal entity, which has its registered address in the territory of the Czech Republic, and which was granted the license to operate a lottery or other like game by the competent authority, may run a lottery or other like game.

Lotteries and other like games may be operated only on the grounds of the license issued by the competent authority. If a lottery or other like game is operated by the government, the Ministry or a state agency thereby appointed shall act on its behalf.

The license is granted if the operation of lotteries or other like games is in compliance with other laws and provided that it does not disturb the peace and order, and provided that a proper operation of lottery or game is secured including the necessary equipment and if for social, medical, sport, environmental, cultural or other projects beneficial to the public it is used a portion of the profit, at the percentage rate ranging from 6 % (minimum) up to 20 % (maximum) of the difference, by which the operator's income, which is created by all betted amounts of all operated, and which are subject to accounting in the given fiscal period, exceeds the prizes disbursed to bettors, the administration fees, the local fees and the costs incurred by the state supervision.

A lottery or other like game may be operated by the state (the Ministry or other governmental entity charged by the former), **a joint stock company with registered address in the territory of the Czech Republic**, all shares of which are registered shares (on name) and has been established for the operation of lotteries and other like games. The registered capital of such company is at least CZK 100,000,000.- (approx. 3.571.430.-) and it may not be reduced below the minimum amount in the course of the time of the validity of the license.

Betting games operated with the use of a special type of tokens may be operated by a joint stock company with registered address in the territory of the Czech Republic, all shares of which are registered shares (on name), and which has been established for the operation of lotteries and other like games. The registered capital of such company is at least CZK 30,000,000.- (approx. 1.071.430.-) and it may not be reduced below the minimum amount in the course of the time of the validity of the license.

Betting games with which the prize winning is conditioned by the successful guess of the outcome or may be operated by a joint stock company, all shares of which are registered shares (on name), and which has been established for the operation of such games, and the registered capital of which is at least CZK 10,000,000.- (approx. 357.142.-) and CZK 30,000,000.- (approx. 1.071.430.-) for casinos. The registered capital may not be reduced below the respective minimum amount in the course of the time of the validity of the license.

The operation of foreign lotteries including the sale of foreign lottery tickets, participation in betting abroad, with which the wagers are paid abroad, and the collection of wagers for betting games operated abroad or the mediation of wagers for betting games operated abroad, are prohibited. The operation of the Czech lotteries and other like games, with which the wagers are paid abroad, is prohibited. The Ministry may grant an exemption from this ban in order to ensure mutuality.

b) Table

A) LEGISLATION ENACTED

Applicable Laws and specifically relevant provisions	Barriers to the Free Movement of Gambling Services	Justifications for Continuation of Barriers
Act No. 202/1990 of Collect., On Lotteries and other Like Games	§ 1/6 Only a legal entity, which has its registered address in the territory of the Czech Republic, and which was granted the license to operate a lottery or other like game by the competent authority, may run a lottery or other like game.	The information that is currently available to us about Czech law affecting gambling activities does not provide any indications of one or more justifications having been advanced in support of the maintenance of this barrier to a free internal market for gambling services.
Act No. 202/1990 of Collect., On Lotteries and other Like Games	§ 4/5 The licence to operate lotteries and other like games may only be issued to a legal entity that has its registered address in the territory of the Czech Republic. The license may be issued to neither a Czech legal entity in which a foreign party holds ownership interest nor a legal entity in which such company has ownership interest. The provisions of the second sentence shall not apply to casinos. The Ministry may grant exemptions concerning casinos to local legal entities with foreign capital participation or legal entities in which such companies have a stake.	Refer above, this point
Act No. 202/1990 of Collect., On Lotteries and other Like Games	§ 4/11 The operation of foreign lotteries including the sale of foreign lottery tickets, participation in betting abroad, with which the	Refer above, this point

	<p>wagers are paid abroad, and the collection of wagers for betting games operated abroad or the mediation of wagers for betting games operated abroad, are prohibited. The operation of the Czech lotteries and other like games, with which the wagers are paid abroad, is prohibited. The Ministry may grant an exemption from this ban in order to ensure mutuality.</p>	
<p>Act No. 202/1990 of Collect., On Lotteries and other Like Games</p>	<p>§ 46a/1 The official language in procedures before the licensing body and the government supervision body is Czech. Any written communications are presented in Czech and any documents which are not drawn up in Czech shall be presented together with the official translation. The licensing body and the state supervision body may admit a court registered interpreter to participate in the proceedings provided that the presence of such interpreter is secured by the party dealing with such bodies at its own costs.</p>	<p>Refer above, this point</p>

B) DRAFT LEGISLATION

No entries (on the basis of information currently available)

C) SELF-REGULATION

No entries (on the basis of information currently available)

D) JURISPRUDENCE

No entries (on the basis of information currently available)