

Circular resolution
of the heads of the state and senate chancelleries of the federal states
of 8 September 2020

Gambling

The heads of the state and senate chancelleries of the federal states agree on the following procedure:

1. Stake limit in the sports betting licence

Under Section 10a (3) sentence 2 in conjunction with Section 4 (5) no. 2 sentence 1 of the state Treaty on Gambling (GlüStV), the maximum stake per player may not, in principle, exceed EUR 1,000 per month.

2. Limit increase in the sports betting concession

According to Section 10a (3) sentence 2 in conjunction with Section 4 (5) no. 2 sentence 2 of the GlüStV, a differing amount of the maximum of EUR 1,000 may be set for the monthly stake limit. The following applies in this respect:

- a) Operators may not advertise with the possibility of an increased maximum stake limit.
- b) The prerequisite for setting a limit of over EUR 1,000 to EUR 10,000 is that
 - An individual numbered stake limit is set for this player,
 - An additional individual loss limit of a maximum of 20% of the individually determined additional stake limit is set for this player,
 - the player proves to the sports betting operator in a suitable and verifiable manner an economic capacity corresponding to these limits (e.g. by income

tax assessment notices or other proof of income and bank statements; self-disclosures by players are not sufficient),

- this proof of economic capacity is repeated at least annually,
 - the operator carries out a special monitoring for this player for conspicuous gaming behaviour and submits the – anonymised – results of the monitoring to the supervisory authority semi-annually,
- c) Setting a limit of over EUR 10,000 to EUR 30,000 is not admissible for more than 1% of the players active with the relevant operator, based on the average number of active players with that operator over the previous three months. In addition to the requirements under letter b), the following conditions must be met
- The player is at least 21 years old,
 - A more detailed monitoring by the operator is required and the evaluation of this monitoring is submitted to the supervisory authority on a quarterly basis,
 - The operator immediately reports players for whom the monitoring indicates a risk of gambling addiction or a gambling addiction to the competent authority by stating the corresponding indications, so that the latter can decide on the measures that are to be taken (e.g. exclusion from the use of increased limits or a player ban); in order to set a limit of more than EUR 10,000, the player must, if necessary, give prior consent required under data protection law.
- d) A limit of more than EUR 30,000 may not be set.

3. Assessment of the reliability within the current licensing procedure

The criterion for assessing the reliability of applicants for a sports betting licence is the expected behaviour of the applicant as from the granting of a licence, taking into account appropriately adapted declarations of commitment.

However, misconduct in accordance with the applicable law in the past or in the period up to the granting of the licence regularly leads to stricter additional provisions in the

licence, in particular to an explicit right of revocation in the event of a future breach of the law.

4. Reliability in the transitional period between the granting of licences under the GlüStV and the entry into force of GlüStV 2021

Operators are to be given a transition to the provisions of the GlüStV 2021, provided that they already adapt their business practices to the expected future legal situation and limit their offers accordingly: Operators must guarantee that they comply with the already technically feasible provisions on player protection and combating gambling addiction. As a rule, it is not detrimental to the continued existence of the sports betting licence and the reliability in future licensing procedures if, in addition to permitted games of chance, licence holders exclusively offer virtual slots and online poker within the meaning of the draft GlüStV 2021 and restrict this offer to the legal standard in accordance with the draft GlüStV 2021 and in doing so actually implement today all future requirements for player protection and combating gambling addiction which can already be technically implemented today. In order to enable the technical implementation, a deadline until the 15 October 2020 is granted. As a rule, it is harmless if the sports betting licensee or an affiliated company

- also offers sports betting which, although currently still prohibited under the GlüStV, will be permitted under GlüStV 2021, or
- offers virtual slots and/or online poker and in doing so complies with the relevant provisions of GlüStV 2021 as from 15 October 2020 at the latest, insofar as this is technically possible.

The declarations of commitment made so far in the sports betting concession procedure are to be adjusted accordingly.

However, it is incompatible with those principles if the sports betting licensee or an affiliated company

- after the licence has been granted offers sports betting which is prohibited under both the GlüStV and the GlüStV 2021,
- offers virtual slots and/or online poker after 15 October 2020 without complying with all technically feasible requirements of GlüStV 2021 in this respect, or

- after 15 October 2020, offers online casino games that are subject to the provisions of Section 22c GlüStV 2021 (roulette, black jack, etc.).

The offer of one of the aforementioned games of chance usually leads to the revocation of the sports betting licence and the exclusion of reliability in future licensing procedures.

5. Enforcement against illegal gambling in the period up to 30 June 2021

The above principles will also be taken into account when exercising discretion as to which operators of illegal gambling will be taken action against within the limits of the available capacity.

Until 30 June 2021, the enforcement against illegal gambling will therefore be concentrated on those operators that are likely to want to avoid future regulation. As part of such operators must be considered, in relation to sports betting, virtual slots, online poker and online casino games

- all sports betting operators who have not yet applied for a licence,
- all operators who continue to offer virtual slots and/or online poker after 15 October 2020 without complying with all the relevant and not technically yet impossible requirements of GlüStV 2021, and
- all operators still offering online casino games after 15 October 2020 which are subject to the provisions of Section 22c GlüStV 2021 (roulette, black jack, etc.).

The federal states are taking action against these operators of illegal gambling. The Ministry of the Interior and Sport of the State of Saxony is to initiate prohibition proceedings to prohibit those involved in payment transactions for illegal gambling from these operators consistently and quickly (Section 9 (1) sentence 3 number 4 GlüStV). If these are holders of a sports betting licence, this licence will normally be revoked.

It is agreed that enforcement measures (e.g. prohibition orders) issued up to and including 8 September 2020 by the competent authority must not be revoked even if the operator affected by the measure restricts its offer in the above sense by adapting it to the provisions of GlüStV 2021 afterwards.

6. Transitional arrangements Schleswig-Holstein

This resolution does not affect the provisions of Section 29 (7) of the GlüStV 2021.

7. Continued validity of the solution found

It is agreed that the solution found above shall correspondingly be applied during the transitional period after the coming into effect of the GlüStV 2021 until the transfer of responsibility to the Joint Gaming Authority of the federal states pursuant to Section 27p GlüStV 2021, i.e. in particular

- the requirement of reliability in the context of licensing procedures under the GlüStV 2021 is generally negated if the applicant or an affiliated company after 15 October 2020
 - o offered sports betting without having a licence or having submitted an application for a licence
 - o as holder of a sports betting licence, also offered sports betting which will be inadmissible under the GlüStV 2021,
 - o offered virtual slots or online poker without complying with all technically possible requirements of GlüStV 2021 in this respect, or
 - o offered online casino games that are subject to the provisions of Section 22c GlüStV 2021 (Roulette, BlackJack etc.) without having a licence, and
- As a rule, it cannot be held against the reliability in the context of a licensing procedure pursuant to GlüStV 2021 that the applicant or an affiliated company has unlawfully offered sports bets, virtual slots, online poker or online casino games in the period until 14 October 2020, if he has complied with the provisions of GlüStV from 15 October 2020 onwards and, in addition, has in any event
 - o after 15 October 2020 also offered sports betting which, although still prohibited under the GlüStV, will be permitted under the GlüStV 2021, or
 - o offered virtual slots and/or online poker after 15 October 2020 and in doing so complied with the relevant provisions of GlüStV 2021, insofar as this was technically possible.

Protocol declaration of Bremen, Hamburg, Lower Saxony, Rhineland-Palatinate and Saarland:

Bremen, Hamburg, Lower Saxony, Rhineland-Palatinate and Saarland agree to the proposed decision with the following basic understanding:

- Point 2 (c), 3rd indent is understood to mean that the external measure affects operators that cannot hand over their obligation to the public authority.
- Points 3 and 4 are understood to mean that no sports betting licence has yet been granted, so that these requirements also apply during the period of an application for a sports betting licence.
- In point 5, the final sentence is understood to mean that it is at the discretion of the individual federal states how enforcement measures adopted are to be dealt with and that it may in particular be possible in individual cases to (partially) suspend enforcement of the orders or to suspend court proceedings. In the event of infringements of this resolution, the prohibition orders can then be resumed.

The Saarland also issues the following protocol declaration:

The Saarland agrees to the proposed decision with the following basic understanding:

- In view of the fact that not all the requirements for player protection and the fight against gambling addiction provided for in the GlüStv 2021 will be technically feasible by 15 October, points 4 and 5 are understood in the sense that the federal states will continue to jointly pursue the objective of the best possible protection of minors and players and will therefore examine the effects of points 4 and 5 of the present proposed resolution on the protection of minors and players in comparison with the current situation and, if necessary, agree on counter measures in the event of negative developments.
- To this end, the Saarland assumes that the Conference of the heads of state and senate chancelleries will receive regular reports on this subject.
- Furthermore, the proposed decision is understood to mean that the operators guarantee that the technical feasibility of the specifications for player protection and the fight against

gaming addiction will be constantly reviewed and adapted to updated technical feasibility. This is also accompanied by the expectation that the systems for player protection provided by the authorities will be implemented as quickly as possible and that the operators will be connected to these systems.

- The Saarland points out that the basis of this circular resolution is the future ratification of the State Treaty on Gambling. Should this not occur in a sufficient number of the federal states, the basis for the present circular resolution no longer applies.

Joint guidelines of the highest gambling supervisory authorities of the federal states with regard to offers of virtual slot machines¹ and online poker² on the basis of the circular resolution of the heads of state and state chancelleries of 8 September 2020

of 30 September 2020

General considerations

According to Section 4 (4) of the State Treaty on Gambling (GlüStV), the organisation, brokerage or advertising of games of chance on the Internet is prohibited. By way of exception, the self-marketing and brokerage of lotteries as well as the organisation and brokerage of sports and horse betting on the Internet may be permitted (Section 4 (5) GlüStV). In order to achieve the objectives of Section 1 GlüStV, the gambling supervisory authorities must work towards preventing unauthorised gambling in accordance with Section 9 (1) GlüStV. To this end, they can prohibit the organisation, brokerage and advertising of unauthorised gambling pursuant to Section 9 (1) sentence 3 no. 3 GlüStV. Within the scope of this discretionary power, a distinction is already being made today between matters that are taken up and matters that are not initially taken up.

In view of the expected changes in the legal situation as of 1 July 2021, offers which are not yet eligible for licensing – the marketing and operation of virtual slot machines and online poker – are generally not covered by gambling law enforcement if they meet the following requirements which are recognised as technically feasible by the federal states.

1. General requirements

By 15 October 2020, the following general requirements must be implemented:

- a) The operator has a registered office in a member state of the European Union or in a state which is a party to the Agreement on the European Economic Area.
- b) The gambling offer must be presented in German.
- c) The exclusion of minors or blocked players is ensured by identification and authentication. The requirements pursuant to Section 4 (5) nos. 1 and 4 GlüStV must be observed in accordance with the paper “Internet requirements pursuant to Section 4 (5) – Eckpunkte-papier (as of 8 August 2018)” issued by the highest gambling supervisory authorities of the federal states.

¹ Virtual slot machine games are replicas of terrestrial slot machine games offered on the Internet. This does not cover virtual slot machine games which correspond to table games with a banker, in particular roulette, black jack or baccarat, which are traditionally played in casinos.

² Online poker is a variant of poker without a banker, in which different natural persons play against each other at a virtual table.

The exclusion of banned players is to be carried out via a separate, operator-related player blocking system.

- d) Each player must be provided with an operator-related player account. It is not permitted to participate in the game without a player account. In order to set up a player account, a player must register with the operator or broker with details of his first name, surname, maiden name, date of birth, place of birth and residence. The operator and broker with whom the registration is made must check the accuracy of the details. Such verification must be carried out by appropriate and reliable procedures. If there is any doubt as to the accuracy of the above-mentioned details, participation in the game and payment to a payment account is not permitted pursuant to Section 1 (17) of the German Payment Services Supervision Act. The player shall be given the opportunity to close the player account at any time by paying out the remaining credit balance. The player shall be given the opportunity to enter a payment, bank and account connection for payment of the remaining credit balance.
- e) Operators may only offer free entertainment services which, with the exception of a fee that does not have to be paid and no monetary winnings, correspond to a public game of chance organised or arranged by them, or which are modelled on such games of chance, to players for whom they have set up a player account in accordance with no. 1. d).
- f) Payments to or from a player account may only be made from a payment account pursuant to Section 1 (17) of the Payment Services Supervision Act which has been opened in the name of the player with an obliged party pursuant to Section 2 (1) no. 1 or 3 of the German Anti-Money Laundering Act. The amounts shall be shown in euros and cents. Payments made by the player must be credited to the player account immediately after receipt of the payment by the operator or broker. Winnings must be credited to the player account immediately. Withdrawals must be deducted immediately upon request for payment by the player. Upon request by the player, an orderly listing of all transactions in the player account over the past twelve months must be made available immediately and free of charge.
- g) The funds which the players have in their player account must be available in a non-allocated account which is separate from the operator's own funds.
- h) The operator must inform about the cumulative stakes, winnings and losses of the previous 30 days after each identification and authentication and before the start of the game if more than 24 hours have passed since the last information. Participation in the game may only take place after the player has expressly declared that he/she is aware of the information.
- i) When registering, players must be asked to set a domain-related individual monthly deposit limit of a maximum of 1000 EUR. The players are to be allowed time to set up domain-related daily, weekly or monthly usage, deposit and loss limits. If a stake or loss limit is exhausted, further participation in the game may not be made possible. If the deposit limit

is exhausted, no further deposit may be made. The operator shall ensure this by taking appropriate measures.

- j) A 24-hour lock ("panic button") related to the domain must be set up. The panic button must be permanently displayed wherever participation in the game is possible. After pressing the panic button, it is not permitted to ask the player for confirmation of the 24-hour suspension.
- k) Players may not be granted loans by the operator or by third parties commissioned by the operator; loans may not be advertised on the operator's internet domain or otherwise referred to or linked to it (ban on loans).
- l) So-called "reality checks" after every hour of the game on the Internet are to be implemented.
- m) Operators must provide gambling-relevant information in German prior to participation in the game and inform the players about the addiction risks of the games of chance they offer, the prohibition of participation by minors and possibilities of counselling and therapy. In particular, information relevant to gambling may be considered:
 - 1. all costs incurred in connection with participation,
 - 2. the percentage of payouts for winnings from wagers (payout percentage),
 - 3. Information on profit and loss probabilities,
 - 4. the method by which the winner is determined, in particular the information on the random mechanism underlying the generation of the random game results,
 - 5. the cut-off date by which winners must claim their prize,
 - 6. the name of the operator and his contact details (address, e-mail, telephone),
 - 7. the commercial register number (if available),
 - 8. how the player can bring forward complaints.
- n) Different forms of gambling may only be offered via the same Internet domain if an independent and graphically separate area is set up for each form of gambling. After participation in a game of chance in one area, participation in another area of the same operator is permitted after one minute at the earliest.
- o) An automated early detection system for gambling addiction must be set up.
- p) Players are to be informed directly about the risks and possible negative social consequences of gambling when they participate in the game. Information on gambling addiction must be made available. Direct access to the Internet domains of independent consulting institutions is to be made possible.

- q) Any random number generators used must function properly.
- r) The advertising ban on unauthorised gambling, including virtual slot machine games and online poker, pursuant to Section 5 (5) GlüStV is complied with.

2. Special requirements

The following additional requirements must be implemented by 15 October 2020:

a) Virtual slot machine games

- (1) The rules of the game and the winning plan must be easily accessible and described in a way that is easy for the player to understand.
- (2) A virtual slot machine game may only begin after the player has made a corresponding declaration. The explanation may only be given after the previous game has ended. In particular, programme sequences that allow a further game to start independently after the previous game has ended and declarations by a player to participate in several games in succession are not permitted. A win must consist of a multiple of the stake determined before the start of the game. Stakes, winnings or parts of stakes or winnings may not be accumulated for the purpose of creating prizes for future games.
- (3) The simultaneous playing of several virtual slot machine games on one domain is prohibited. This also applies to playing the same game. Operators must ensure this by means of suitable technical measures. Players may only be shown one game at the same time.
- (4) The use of the terms "casino" or "casino games" is not permitted in connection with the organisation and the self-distribution of virtual slot machine games.
- (5) Further participation in the virtual slot machine game is only permitted five minutes after confirmation of the reality check according to clause 1. I).
- (6) The chances of winning must be random and open up equal chances for each player.
- (7) The probability of winning the maximum prize as well as the average payout rate for each euro wagered shall be clearly indicated to the player.

By 15 December 2020, the following additional requirements must also be implemented:

- (1) A game must last at least five seconds. A game starts with the above-mentioned explanation and ends when the result is displayed.
- (2) A stake may not exceed 1 EUR per game.

b) Online poker games

- (1) In online poker games, the assignment of a player to one of several virtual tables with the same game offer must be random. Simultaneous playing may take place at a maximum of four virtual tables.
- (2) Only variants of the poker game without a banker, in which different natural persons play against each other at a virtual table, are permitted; e.g. Texas Hold'em, Omaha, Stud, Razz, 5 Card Draw, HORSE and 8-Game Mix. Furthermore, the player is not allowed to select the table.

Final remark

If the aforementioned requirements are met, an operator will not normally be denied reliability due to its own distribution or the organisation of virtual slot machine games and online poker in a subsequent licensing procedure. However, no claim to the granting of a licence or a prejudice to a later licensing procedure will be justified by this exercise of the discretionary power of enforcement, even with regard to the further requirements of applicable law.