

# GAMBLING

## Comparative Guide

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# 1 History of and overall attitudes to gambling

1.1 How prevalent are different types of gambling in your jurisdiction? For example, does the current law reflect: (a) Religious or moral objections to gambling? (b) A permissive approach which also seeks to address the social consequences of gambling? and (c) The promotion of gambling as an 'export' industry?

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(a) Religious or moral objections to gambling?

The Gambling Act does not mention religion or moral aspects of gambling.

(b) A permissive approach which also seeks to address the social consequences of gambling?

Gambling regulations in Austria can be described as strict rather than permissive. Nevertheless:

- Section 20 of the Gambling Act regulates the promotion of the sports industry; and
- the main licence holder, Casinos Austria AG, addresses several social aspects of the gambling industry, such as:
  - player protection;
  - sports promotion; and
  - volunteering.

(c) The promotion of gambling as an 'export' industry?

Gambling in Austria is less of an export industry due to strict domestic legislation. However, the main licence holder, Casinos Austria AG, owns several casinos in other countries (eg, North Macedonia, Denmark, Belgium and Hungary).

## 2 Legal and regulatory framework

### 2.1 Which legislative and regulatory provisions govern gambling in your jurisdiction?

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The Gambling Act is the cornerstone regulation for Austria's gambling industry. The industry is also regulated by specific provisions of:

- the Civil Code;
- the Unfair Competition Act; and
- the E-commerce Act.

The Gambling Act governs most of the issues related to the gambling industry, such as:

- the procedure for obtaining a licence;
- taxation;
- anti-money laundering;
- gambling;
- advertising; and
- administrative penalties.

Several fields of the gambling industry are regulated by local laws at the level of the nine federal states of Austria. For instance, sports betting falls outside the scope of general federal regulation and instead is regulated by the regional laws of each state (eg, Styria has its Betting Act 2018).

Notably, the Supreme Court, in Decision 1Ob176/22x, provided a detailed assessment on the separation of competence between federal and regional gambling legislation in Austria in the context of online sports betting.

## 2.2 Which bodies are responsible for regulating and enforcing the applicable laws and regulations? What powers do they have?

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The federal minister of finance holds the central role in regulating the gambling industry in Austria, driving:

- legislative matters;
- strategic decisions;
- international cooperation; and
- investments in federal concessionaires.

More specifically, the federal minister of finance is empowered, among other things, to:

- define games as games of chance;
- stipulate the design and gambling characteristics of gambling machines; and
- establish the standard for responsible advertising by way of regulation.

Another key competent authority in the gambling sector is the Austrian Tax Office. Pursuant to Section 14 of the Gambling Act, the Austrian Tax Office may transfer the right to operate the draws by granting a licence. Similarly, in accordance with Section 21 of the Gambling Act, the Austrian Tax Office may transfer the right to operate a casino by means of a licence. Moreover, the Austrian Tax Office is entitled to monitor the licensee for compliance with the Gambling Act.

Finally, the federal state authorities in each state are competent in the context of regulating sports betting.

## 2.3 What is the regulators' general approach in regulating the gambling sector?

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The gambling industry in Austria is subject to strict government regulation, which is called a 'gambling monopoly' in legislation and doctrine. The Austrian government has a significant degree of control over the gambling industry. For instance, Casinos Austria AG, the main licence holder for land-based casinos in Austria, is partly controlled by the government via a shareholder structure.

According to the general rule expressed in Section 3 of Gambling Act, the right to operate games of chance is reserved for the federal government (gambling monopoly), with some exceptions.

Games of chances fall outside the scope of the gambling monopoly if they are:

- not in the form of a draw;
- merely for entertainment and of low value; or
- non-recurring for the purpose of disposing of a physical asset.

Regional draws with gambling machines are also not subject to the gambling monopoly of the federal government. Moreover, lucky harbours, joke games and tombola games are not subject to the gambling monopoly, provided that the aggregated gambling capital of such draws does not exceed €4,000 per calendar year.

Finally, games using cards that take the form of a tournament merely for entertainment are not subject to the gambling monopoly of the federal government if:

- the stakes per participant and tournament are not more than €10 in total; and
- no more than 100 players participate.

Such a strict approach raises a question of the compatibility of the Austrian gambling monopoly with EU law. In its judgment in Case B 887/09, the Constitutional Court confirmed the compatibility of the Austrian gambling monopoly with EU law. The court held that the prohibition on the offering of games of chance by an operator established in another EU member state and lawfully operating electronic games of chance there does not contradict the freedom to provide services. This is because the mere fact that a gambling operator holds a concession in another member state and is subject to the legal requirements and controls there cannot be regarded as a sufficient guarantee of the protection of national consumers against the risks of fraud and other criminal offences.

### 3 Definitions and scope of gambling

#### 3.1 How is 'gambling' defined in your jurisdiction?

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There is no unified definition of 'gambling' in the Gambling Act. Nevertheless, one of the fundamental definitions contained in Section 1(1) of the Gambling Act states that a 'game of chance' is a game in which the decision on its outcome is solely or predominantly reliant on chance.

3.2 What different types of activities are defined in the gambling legislation and what specific requirements apply to each? Please consider: (a) Betting (fixed odds/pool and spread)/betting on lotteries; (b) Gaming (house and ring games); (c) Lotteries/scratch cards and (d) The interface with financial products (if relevant).

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##### (a) Betting (fixed odds/pool and spread)/betting on lotteries

Generally, sports betting is regulated by the regional laws of each of the nine Austrian states. Thus, there is no unified definition of 'betting' in legislation. In simple words, betting is the acceptance of a bet on future events (eg, football, volleyball, horse riding) when the outcome depends not primarily on chance but on the player's specific knowledge of a related field. The player's knowledge in this circumstance is the decisive factor.

Meanwhile, Section 7 of the Gambling Act defines 'toto' as a draw in which a promoter accepts and processes bets on the outcome of several sporting events. The total winnings are divided among several prize categories and all prizes from the same category are equal. If the sporting events are cancelled, do not take place at the appointed time or change in their competitive nature, a public draw will take place instead.

##### (b) Gaming (house and ring games)

Not specified.

##### (c) Lotteries/scratch cards

The definitions of specific types of lotteries are outlined in Sections 6–13 of the Gambling Act.

| Type of lottery                                                  | Definitions and requirements                                                                                                                                                                                                                                                                                                                                                                  |
|------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Lotto</b><br>Section 6 of the Gambling Act                    | Lotto is a game in which a promoter accepts and processes bets on the odds of several numbers winning from a specific set of numbers. The winning numbers are identified by public draw. The total winnings are divided among several prize categories and all prizes from the same category are equal.                                                                                       |
| <b>Add-on game</b><br>Section 8 of the Gambling Act              | An add-on game is a draw which may be conducted only in conjunction with other games of chance to which the licensee has the rights. A winning number is identified during a public draw. Players whose betting slip numbers match the winning number in whole or in part win. The total winnings are divided among several prize categories and all prizes from the same category are equal. |
| <b>Instant lotteries</b><br>Section 9 of the Gambling Act        | Instant lotteries are draws in which the gambling participants can determine immediately whether they have won by examining their lottery tickets to see whether a prize has been printed on the ticket.                                                                                                                                                                                      |
| <b>Class lottery</b><br>Section 10 of the Gambling Act           | The class lottery is a draw in which the game shares have chances of winning in several successive sections. The strikes are identified by public drawings of lots.                                                                                                                                                                                                                           |
| <b>Number lotto</b><br>Section 11 of the Gambling Act            | Number lotto is a draw in which a promoter accepts and processes bets on the chances of several numbers or symbols winning from a specific set of numbers or symbols. The winning numbers or symbols are determined by public draw. The individual prize amounts to a pre-determined multiple of the stake.                                                                                   |
| <b>Number lotteries</b><br>Section 12 of the Gambling Act        | Number lotteries are draws in which the game shares are identified by consecutive numbers. The prizes are identified by public draw.                                                                                                                                                                                                                                                          |
| <b>Electronic lotteries</b><br>Section 12(a) of the Gambling Act | Electronic lotteries are draws in which the player participates directly using electronic media and the outcome is decided centrally and provided on electronic media.                                                                                                                                                                                                                        |
| <b>Bingo and keno</b><br>Section 12(b) of the Gambling Act       | Bingo and keno are draws in which a promoter accepts and processes bets on the odds of number combinations winning. Prizes are won by the gambling participants through the number combinations matching the determined winning numbers.                                                                                                                                                      |
| <b>Multiple draws</b><br>Section 13(b) of the Gambling Act       | Multiple draws are games of chance in which the participants may win an additional chance to win as well as a prize.                                                                                                                                                                                                                                                                          |

(d) The interface with financial products (if relevant)  
N/A.

### 3.3 What are the main mechanisms and features of the control of gambling in your jurisdiction? What are the consequences of breach of the regulations, both for operators and for players?

The primary mechanism of the control of the gambling industry is the licensing of gambling service providers.

Besides licensing procedures, the Austrian Tax Office is empowered to:

- monitor the licensee for compliance with the Gambling Act;
- inspect the registers and records of the licensee;
- conduct on-the-spot audits and require the licensee to:
  - provide information on transactions; and
  - submit interim financial statements and accounts in a particular form and structure;
- impose fines against entities that violated the Gambling Act; and,
- order the confiscation of:
  - gambling machines;
  - other devices for interaction; and
  - technical aids.

The main consequences of a breach of the gambling regulations are:

- administrative penalties;
- criminal convictions; and
- licence withdrawals.

## 4 Issues of jurisdiction

4.1 What approach do the courts take to the issue of jurisdiction? Where an operator which is physically outside the jurisdiction offers services to individuals within the jurisdiction, is such gambling treated as taking place offshore and outside the control of the authorities? If not, what triggers establish when such gambling is subject to the laws and control of your jurisdiction?

In its landmark Decision 10Ob56/22s, the Supreme Court stated that players (consumers) who are domiciled in Austria could bring damages claims against a Maltese (or any foreign) company (which does not hold an Austrian licence) in the Austrian national courts. The court stated that damage caused by Maltese companies had materialised in Austria because the damage asserted resulted from alleged violations of Austrian gambling law by the Maltese companies and, therefore, from breaches of Austrian public policy rules.

This approach to the international jurisdiction of Austrian national courts regarding tort claims from Austrian citizens against foreign gambling operators that do not hold an Austrian gambling licence was subsequently upheld in Supreme Court Decisions 8Ob172/22k and 6Ob168/23h.

4.2 Can foreign operators provide remote gambling services in your jurisdiction without obtaining a licence? Can licensed domestic operators provide services overseas?

Foreign operators cannot provide remote gambling services for customers in Austria without obtaining a licence. In Decision 8Ob172/22k, the Supreme Court stated:

The defendant's alleged tortious conduct did not consist in offering online gambling per se (which it is authorised to do under its registered office law), but in making this offer accessible and usable for Austrian players within the scope of the licensing requirement. Notably, business relations do not require a licence in the gambling sphere.

## 5 Remote versus non-remote gambling

5.1 Does the gambling regime in your jurisdiction distinguish between remote and non-remote gambling? If so, how are these defined?

The Gambling Act specifically mentions remote gambling in Section 12a. In accordance with this section, electronic lotteries are draws in which:

- the player participates directly using electronic media; and
- the outcome is decided centrally and provided on electronic media.

In the meantime, online betting is regulated on the level of the nine federal states. This means that if online betting operators want to enter the Austrian market, they must comply with the requirements of local betting legislation in the region where they want to operate.

5.2 Are there any restrictions on the media through which gambling can be provided (eg, internet/mobile telephony)?

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In this regard, the main restriction is the existence of an Austrian licence itself rather than the means of providing gambling services (Internet, telephony). For example, generally, there are no restrictions on providing online lotteries via the Internet. However, in Austria, only the platform win2day.at may provide such services online as the sole licence holder.

## 6 Licensing

6.1 What types of licences are available? Please consider: (a) Operators; (b) Activities (if relevant); (c) Premises; (d) Key individuals (if relevant) and (e) Equipment (if relevant).

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### (a) Operators

There is only a single licence available in Austria for the lottery sector. Currently, the operation of all electronic lotteries via the Internet and via video lottery terminals (VLTs) is covered by one operator, Österreichische Lotterien GmbH, which is de facto a monopoly holder in this specific segment of all lotteries, including online lotteries. Österreichische Lotterien GmbH was granted a licence to conduct lotteries pursuant to Sections 6–12b of the Gambling Act on 10 October 2011 for the period from 1 October 2012 to 30 September 2027.

Meanwhile, the only licence holder in the casino sector is Casinos Austria AG. Currently, there are 12 licences available in the casino sector in Austria, all of which have been granted in favour of Casinos Austria AG. The six licences for casinos are valid until 21 December 2027, while another six licences will expire on 31 December 2030.

The casinos are located in:

- Baden;
- Bregenz;
- Graz;
- Innsbruck;
- Kitzbühel;
- Kleinwalsertal;
- Linz;
- Salzburg;
- Seefeld;
- Velden;
- Vienna; and
- Zell am See.

Notably, Casinos Austria AG is also shareholder of Österreichische Lotterien GmbH and Casinos Austria International, which operates several casinos in other countries around the world.

6.2 Which bodies award and oversee such licences?

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The Austrian Tax Office may delegate the right to operate the draws under Sections 6–12b of the Gambling Act by granting a licence. The Austrian Tax Office also granted a licence in the casino sector. The licence award will be preceded by a public search for interested parties, which must comply with the principles of transparency and non-discrimination.

The search for interested parties must be publicly known. The notice must include:

- the details of the licence to be transferred;
- the documents to be submitted; and
- a reasonable deadline for expressions of interest.

In accordance with Section 19 of the Gambling Act, the Austrian Tax Office has the power to monitor the licensee's compliance with its provisions and any other regulations issued by the federal minister of finance.

### 6.3 What are the key features of such licences (eg, term/renewal/any limit on overall numbers/change of control)?

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A lottery licence must be issued in writing; otherwise, it is null and void.  
In particular, a lottery licence will stipulate:

- the term, which is limited to a maximum of 15 years;
- the value and nature of the security deposit; and
- the maximum number of VLTs that require authorisation.

Casino licences must also be issued in writing and will stipulate:

- the term, which is limited to a maximum of 15 years;
- the value and nature of the security deposit;
- the name and manner of implementation of the games of chance that may be operated in casinos;
- the type of visitor control;
- the playing time in the casinos and the price of entry tickets; and
- an obligation to operate live games.

### 6.4 What are the substantive requirements to obtain a licence (eg, company established in the jurisdiction/physical presence/capitalisation?)

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The requirements to obtain a lottery licence are set out in Section 14 of the Gambling Act, as follows:

- The company must:
  - be a stock corporation with a supervisory board; and
  - have its headquarters in an EU member state or a member state of the European Economic Area.
- The articles of the stock corporation must not contain provisions which pose a risk to security and proper gambling operations.
- The stock corporation must have paid-up initial or share capital of at least €109 million at its disposal.
- Specific requirements for beneficiaries are set out under Section 18 of the Gambling Act.
- Directors should possess certain skills and experience to ensure the proper operation of the gambling business.

The requirements to obtain a casino licence are outlined in Section 21 of the Gambling Act, as follows:

- The company must:
  - be a stock corporation with a supervisory board; and
  - have its headquarters in an EU member state or a member state of the European Economic Area.
- The articles of the stock corporation must not contain provisions which pose a risk to security and proper gambling operations.
- The stock corporation must have paid-up initial or share capital of at least €22 million at its disposal.
- Specific requirements for beneficiaries apply under Section 30 of the Gambling Act.
- Directors should possess certain skills and experience for the proper operation of the gambling business.

## 6.5 What are the formal and documentary requirements to obtain a licence?

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The Austrian Tax Office organised a tender procedure to grant licences. Applicants must:

- submit their application to participate in the tender; and
- provide all required information and documents outlined in:
  - Section 14 of the Gambling Act for a lottery licence; or
  - Section 21 of the Gambling Act for a casino licence.

## 6.6 What is the typical timetable for obtaining a licence?

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No timeline for obtaining a licence is specified in the Gambling Act or in the federal states' betting acts.

## 6.7 What costs are typically incurred in obtaining a licence?

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Pursuant to Section 59a of the Gambling Act, it costs:

- up to €10,000 to apply for a licence under:
  - Section 14 (lottery licence); or
  - Section 21 (casino licence); and
- €100,000 for a licence awarded under the above sections.

# 7 Ongoing compliance

## 7.1 What are the operator's rights and obligations under the licence?

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The holder of a lottery licence must:

- carry out the games of chance to which it has the rights continuously. If the granted licence is surrendered after being put into operation, the licensee must continue to operate the games of chance for a period set by the Austrian Tax Office, which must not exceed one year;
- formulate gambling terms for the games of chance to which it has the rights;
- implement distribution of the lottery and number lotto via the class lottery and lotto agencies;
- conclude distribution contracts, excluding regulations pertaining to ticket allocation, with the class lottery agencies for a term of at least three lotteries;
- pay licence tax for transferring the right to conduct games of chance; and
- facilitate general media support. To obtain such media support, the licensee may conclude agreements under civil law with:
  - public and private media partners; and
  - non-profit organisations.

The holder of a casino licence must:

- submit a training regime to the Austrian Tax Office for persons who are directly involved in gambling operations, in particular croupiers;
- adopt visiting and gambling rules for each casino it operates and make visitors aware of these in an appropriate manner using placards; and
- pay casino tax.

## 7.2 Can licences be transferred? If so, how? What restrictions apply?

In general, licences that have been issued by the Austrian Tax Office are non-transferable.

## 7.3 What requirements and restrictions apply to the different types of gambling facilities in your jurisdiction?

Specific requirements in the context of video lottery terminals (VLTs) are outlined in Section 12a of the Gambling Act:

- In municipalities with more than 500,000 inhabitants, the distance between a VLT outlet with more than 15 VLTs to a casino must be at least 2 kilometres. Otherwise, there must be at least 15 kilometres between a VLT outlet with more than 15 video lottery terminals and a casino.
- If a VLT outlet with more than 15 VLTs is located in a municipality with more than 500,000 inhabitants, but the casino is outside of this municipality, the distance between these in the area of this municipality need not exceed 2 kilometres.
- No other VLT outlet with more than 15 VLTs may be opened within a radius of 300 metres or, in municipalities with more than 10,000 inhabitants, 150 metres of a VLT outlet with more than 15 VLTs.
- A minimum distance of 100 metres must be maintained between other VLT outlets.

# 8 Penalties and sanctions

## 8.1 What penalties and sanctions are available to the authorities for breach of the gambling legislation?

Administrative penalties:

| Breach of the gambling legislation                                                                                                                                                                                                                                                                      | Penalty       |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| Arranging, organising or making commercially accessible participation in illicit draws without a licence or participating in such draws as an entrepreneur.                                                                                                                                             | Up to €60,000 |
| Non-compliance with the conditions of approval for an authorised game of chance.                                                                                                                                                                                                                        | Up to €22,000 |
| Failure to satisfy the provisions of Section 5 of the Gambling Act or conducting a game of chance despite its prohibition or after the gambling licence has been withdrawn.                                                                                                                             |               |
| Breach of the obligation to provide game descriptions or to notify Tax Authority under Section 4(6), or of the submission or cooperation requirement under Section 50(4) of the Gambling Act.                                                                                                           |               |
| Promotion or facilitation of participation in prohibited draws within the meaning of Section 2(4), in particular by organising participation in gambling for others, providing devices for interaction other than gambling machines or implementing hyperlinks on the Internet for commercial purposes. |               |
| Providing, carrying or using technical aids (eg, a suitably appropriate remote control) which are capable of creating an unfair advantage, either personal or for others, or influencing the course of the game.                                                                                        |               |
| Promotion of prohibited draws (Section 2(4)) in Austria, unless authorisation has been granted according to Section 56(2).                                                                                                                                                                              |               |
| Direct acceptance of gratuities during the conduct of draws.                                                                                                                                                                                                                                            |               |

Moreover, breach of the obligations regarding the prevention of money laundering constitutes an administrative offence which is punishable by the imposition of a fine of up to €22,000 by the Austrian Tax Office. If the breach or a combination of such breaches is systematic, the fine may be increased to:

- up to €1 million; or
- up to double the amount of the gain arising from the breach of obligations (where this amount can be determined).

Pursuant to Section 53 of the Gambling Act the authorities can also order the confiscation of gambling machines. Finally, according to Section 168 of the Criminal Code, the organisation and promotion of gambling without a licence are prohibited.

## 9 Advertising and marketing of gambling

9.1 What requirements and restrictions apply to the advertising and marketing of physical and remote gambling in your jurisdiction? Do these vary depending on the type or location of the activity, or the medium through which it is carried out?

Under Section 56 of the Gambling Act, licensees must maintain a responsible standard in their advertising campaigns. However, the Gambling Act does not provide a detailed explanation of a 'responsible standard'. The federal minister of finance has released a non-binding legal opinion on responsible gambling advertising based on scientific research and international comparisons from different jurisdictions.

Section 56 of the Gambling Act further excludes the possibility of initiating proceedings under the Unfair Competition Act against licensees.

## 10 Consumer protection

10.1 What social responsibility obligations apply to land-based and remote gambling operators in your jurisdiction? Do these vary depending on the type or location of the activity, or the medium through which it is carried out?

Given the dangerous nature of gambling and its negative impact on human health, consumer protection remains an essential aspect of the regulation of the gambling industry in Austria. To illustrate, Section 5 of the Gambling Act sets out basic conditions for player protection in the context of regional draws with gambling machines, including:

- the establishment of an access system to ensure that only persons over the age of 18 can visit a gambling machine parlour;
- the presentation of a strategy for:
  - training staff on dealing with addictive gambling; and
  - collaborating with one or more player protection institutions;
- the establishment of an alert system with graded player protection measures, from information to preclusion, depending on the number of visits made by the gambling participant to the gambling machine parlours of an authorisation holder;
- a prohibition on gambling content of an aggressive, violent, criminal or racist nature; and
- the possibility for players to view a German version of the game descriptions of all games played on gambling machines at any time.

Moreover, Sections 14 and 21 of the Gambling Act require that the applicant for a licence and, consequently, a licence holder exercise the licence in the best possible way – in particular, using its experience, infrastructure, development activities and resources, as well as its systems and facilities for preventing addictive gambling, to protect consumers.

Illustratively, Casinos Austria AG has launched a special website, Playsponsible, on responsible gambling, which aims to protect and assist consumers with potential gambling problems and addictions.

10.2 What other general consumer protection requirements are of relevance for gambling operators in your jurisdiction?

Not applicable.

## 11 Financial crime

### 11.1 How does the gambling regime interface with money laundering/terrorist financing/proceeds of crime legislation in your jurisdiction?

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Gambling operators should strictly comply with the Austrian anti-money laundering legislation, primarily with the Capital Markets Anti-money Laundering Act. Meanwhile, Section 31c of the Gambling Act requires gambling operators:

- to apply their duty of care regarding the identification of visitors who visit the casino in order to ascertain the identities of all visitors;
- to have systems in place that enable them to respond fully and speedily to enquiries from the Austrian Financial Intelligence Unit;
- if suspicion arises or there are reasonable grounds to believe that a visitor to the casino is not acting on their own account, to require the visitor to disclose their identity. If this request is not complied with or if the evidence provided is insufficient, the visit to the casino must be denied and the Austrian Financial Intelligence Unit must be notified; and
- to apply other measures pursuant to the Capital Markets Anti-money Laundering Act.

## 12 Non-gambling activities/social gambling

### 12.1 What specific activities, if any, are exempted from the gambling regime in your jurisdiction (eg, prize contests/sweepstakes/free prize draws/e-sports)?

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There is no express regulation of prize contests/sweepstakes/free prize draws/e-sports under the Gambling Act. These activities fall outside the scope of the Austrian gambling monopoly.

### 12.2 How is 'social gambling' defined in your jurisdiction and how is it regulated (if at all)?

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There is no legal definition of so-called 'social gambling' under Austrian law.

## 13 Disputes and legal enforceability

### 13.1 Are gambling contracts enforceable as a matter of law?

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According to Supreme Court Decision 6Ob118/12i, any civil contracts relating to games of chance, as described in Section 168 of the Criminal Code and Section 1 of the Gambling Act:

- are prohibited within the meaning of Section 1174(2) of the Civil Code; and
- are thus void within the meaning of Section 879(1) of the Civil Code.

Any payment made on the basis of an unlawful and therefore invalid contract of game of chance is reclaimable. Prohibited games do not give rise to a natural obligation.

### 13.2 In which forums are gambling disputes typically heard in your jurisdiction? What issues do such disputes typically involve?

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Sanctions and decisions rendered by the regional administrative authorities under the Gambling Act may be appealed to the state administrative courts. In proceedings under Sections 14 and 21 of the Gambling Act, the Federal Administrative Court's decision will be issued by the Appellate Division.

### 13.3 Have there been any recent cases of note?

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In Decision 8Ob21/24g, the Supreme Court stated that the gambling monopoly aims not only to prevent financial losses for the player but also to remove the incentive to participate in prohibited games. As the prohibition provisions in question are not protective provisions that exist exclusively for the benefit of one contractual partner, not only this party but any contractual partner can invoke the illegality and nullity of the contract. Thus, foreign gambling providers that allow for participation in games of chance without a licence in Austria can reclaim the winnings paid out to Austrian citizens and such a claim will not constitute an abuse of law.

## 14 Trends and predictions

14.1 How would you describe the current gambling landscape and prevailing trends in your jurisdiction? Are any new developments anticipated in the next 12 months, including any proposed legislative reforms?

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After the national elections in September 2024, Austria underwent a nearly five-month-long negotiation process to establish a coalition government. The Stocker administration officially took office as Austria's government on 3 March 2025. As yet, there have been no official statements from the new government about the potential reform and liberalisation of strict regulations in the Austrian gambling sector.

However, in March 2025, several local newspapers stated that the coalition – formed by the People's Party, the Social Democrats and the Liberal Party – will remain a strict gambling monopoly as a concept but will try to establish an independent gambling authority during the current legislative term.

## 15 Tips and traps

15.1 What are your top tips for gambling operators in your jurisdiction and what potential sticking points would you highlight?

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Foreign gambling operators should consider the strict Austrian regulation in the gambling sector, which de facto constitutes a gambling monopoly. Gambling operators (especially online operators) should bear in mind:

- the general licence requirement; and
- the prohibition against providing gambling services without such a licence.

Additionally, foreign gambling operators should bear in mind the evolving case law of the Supreme Court in this sector, especially regarding reimbursement of damages claims to Austrian citizens.

*The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.*

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