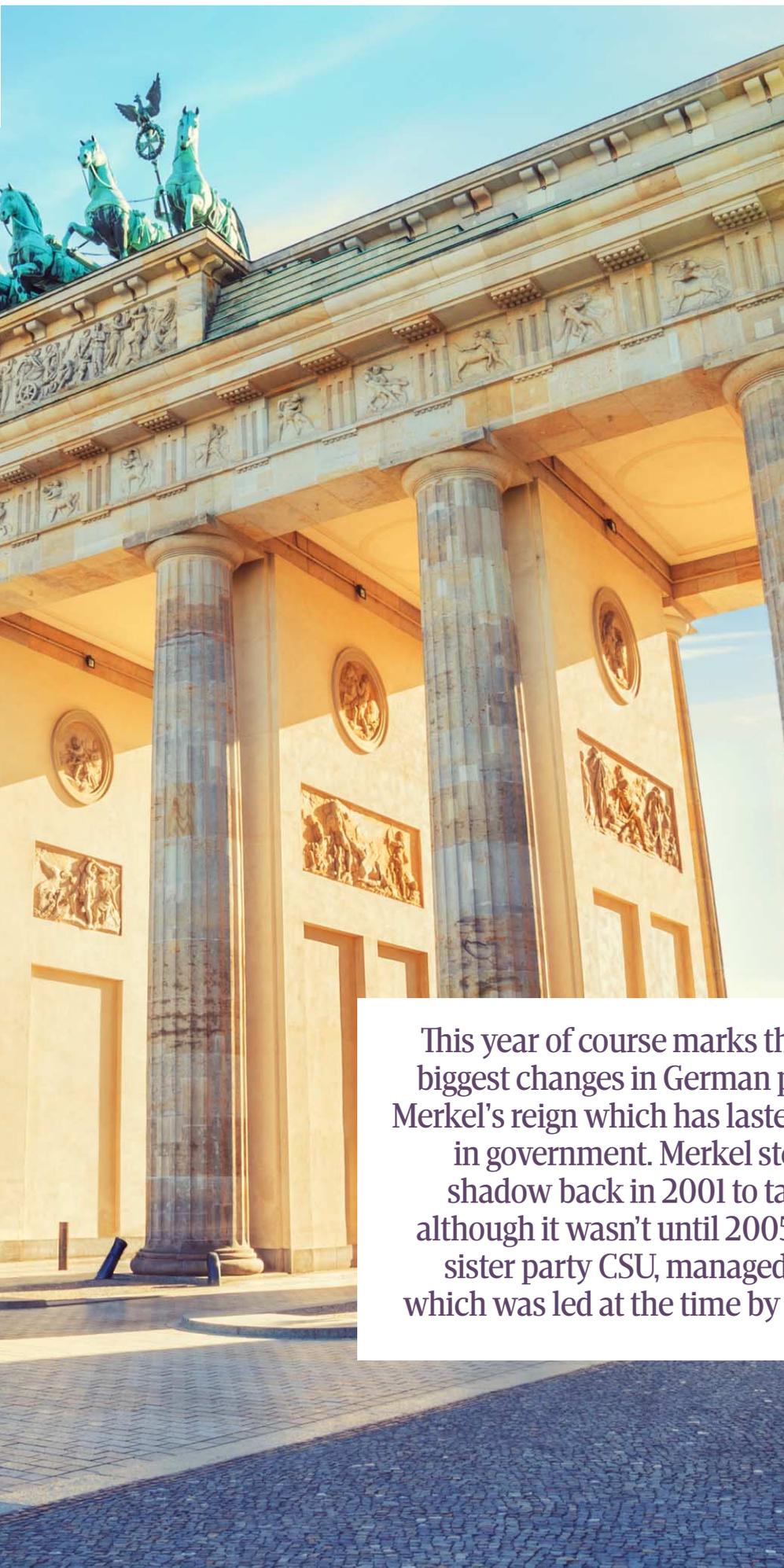


## Fourth Time Lucky?

### Germany

Germany's fourth attempt at creating a regulated and EU compliant gambling regulation comes into force this summer, opening up the online gambling market after years of negotiations and controversy.





It's been a busy year all round in Germany. 2021 is election year, whilst the gambling market has a new treaty about to come into force to open up the online gambling market significantly.

Apparently the German media has classed 2021 as a Superwahljahr (Super Election Year) due to the number of local and state elections. Not only will the 20th Bundestag (Federal Parliament) general election be held in September, but six of Germany's 16 states also head to the polls throughout 2021.

Each of the states elect a new parliament every five years and this year it's the turn of Baden-Württemberg and Rhineland-Palatinate, which held elections in March; Saxony-Anhalt (elections in June), Thuringia, Mecklenburg-Western Pomerania and Berlin (elections in September).

Baden-Württemberg and Rhineland-Palatinate saw Angela Merkel's Christian Democrat party (CDU) show its worst results ever as the Greens won the most seats in this state and the socialists (SDP) won the most seats in Rhineland-Palatinate. Some of this is said to be due to the CDU's recent scandals and mishandling of the Covid-19 vaccine rollout.

This year of course also marks the end of an era and one of the biggest changes in German politics with the end of Angela Merkel's reign which has lasted almost 16 years (four terms) in government.

Merkel stepped out from Helmut Kohl's shadow back in 2001 to take the helm at the CDU party, although it wasn't until 2005 when the CDU and Bavarian sister party CSU, managed to beat the Social Democrats which was led at the time by Chancellor Gerhard Schröder.

Merkel became the first woman, first former East German and first scientist to become chancellor. She was also the youngest person to hold the post.

**This year of course marks the end of an era and one of the biggest changes in German politics with the end of Angela Merkel's reign which has lasted almost 16 years (four terms) in government. Merkel stepped out from Helmut Kohl's shadow back in 2001 to take the helm at the CDU party, although it wasn't until 2005 when the CDU and Bavarian sister party CSU, managed to beat the Social Democrats, which was led at the time by Chancellor Gerhard Schröder.**

German politics are fairly complicated. When demonstrated via party colours it is akin to a Dulux colour chart. With party colours (CDU black, SPD red and Greens – surprisingly green) the coalition make-up per state, when highlighted, shows an interesting picture. The three major camps are the CDU, SPD and Greens followed by the Free Democrats Party (yellow), Left (darker red/purple) and far right Alternative for Germany (blue).

# Reports

GERMANY ONLINE - MARKET REPORT



The last federal elections, held in September 2017, saw the Christian Democratic Union (CDU) win 33 per cent of the votes whilst the Social Democratic Party had 24 per cent which created a coalition.

An election for new Chairman of the CDU saw Armin Laschet beat rival Friedrich Merz for party leadership and he is now a contender for Merkel's position alongside Annalena Baerbock (Greens), Olaf Scholz (SDP) and Christian Lindner (FDP).

Merkel has been an interesting leader and has been both supported and criticised for her open border policy. She has allowed more than a million migrants and refugees, many from Syria, to enter Germany. This caused huge problems in 2016 when a gang of young refugees robbed and assaulted more than 600 women in Germany. A huge political backlash began and many countries sealed off their borders.

As a result 8,000 migrants were trapped in Greece until the EU paid €6bn to Turkey for them to return. It is believed opposition to the refugee project cost Merkel's party the majority in the 2017 election.

Merkel is also renowned for her stability and austerity demands. She pushed through several stimulus efforts and tax cuts during the recession and tough austerity measures such as a sales tax increases and higher taxes for the wealthy.

Germany boasts low unemployment after Merkel's promise in 2005 to lower unemployment from the 11.5 per cent it was at the time. Currently it is around 4.6 per cent (data for January 2021) with just over two million people unemployed (compared to 3.3 per cent in January 2020 data)

Germany is still Europe's top dog in terms of economy. It's the world's fourth largest, and Europe's largest, economy in terms of PPP and is based on exports of high quality manufactured goods particularly cars, health care products, IT and mechanical and plant engineering. Industry accounts for 22 per cent of the German economy.

The Covid pandemic has of course caused the German economy to shrink - by around five per cent last year - with many businesses being shut down during the year.

The drop in GDP was however less than recorded during the global recession in 2009 (5.7 per cent). In 2019 the economy grew by 0.6 per cent.

The country reported a historic slump of 9.7 per cent in GDP in the second quarter of 2020 when the virus hit and lockdowns were instigated. It had managed to recover by the third quarter but recovery was slow again in the fourth quarter thanks to the second wave and another lockdown imposed.

The fourth quarter of 2020 shows GDP was up

by 0.3 per cent on the previous quarter but down by 2.7 per cent on the same quarter in 2019.

Meanwhile the virus is still affecting travel to and from Germany. Travellers into Germany from risk areas must complete a digital entry registration form, be tested for Covid and in some cases self isolate. Individual Länders are responsible for quarantine regulations.

In early March Merkel revealed the government's five step plan to relax lockdown measures and re-open businesses on a regional and state level.

Between November 2020 and March 2021 hotels and other accommodation venues could only offer overnight accommodation to people whose travel was essential. Tourism was not permitted.

In 2020 turnover from tourism (accommodation and food services) was down by 39 per cent compared to 2019 which saw 190.9 million arrivals into the country with €98bn in turnover and 495 million overnight stays.

December 2020 saw 6.7 million overnight stays (a drop of 78 per cent compared to December 2019) whilst turnover (€302.3m) in accommodation and food services fell by over 72 per cent that month in real terms compared to December 2019. Turnover between January and September 2020, declined by 61 per cent compared to the same period the previous year.



The state government introduced the draft law of the State Treaty to the state parliament for their approval in February and it had to be ratified by at least 13 state parliaments before April 30. The current Third State Treaty will expire on June 30 this year and the new treaty (fourth) will now come into force immediately afterwards. This will essentially allow online casinos and new specifications for sports betting.

### NEW GAMBLING LAWS

After years of negotiations and failed attempts, the new German gambling regulation, State Treaty on Gambling 2021 (Glücksspielstaatsvertrag or GlüStV 2021) is due to come into force on July 1 this year, uniting all states in a gambling reform.

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The current Third State Treaty will expire on June 30 this year and the new treaty (fourth) will now come into force immediately afterwards. This will essentially open up the online

gambling market in Germany to allow online casinos and new specifications for sports betting.

DSWV association President Mathias Dahms said: "This is the beginning of a new age of gaming regulation in Germany. After sports betting, the federal states are now rightly regulating further online games of chance in order to finally control what is happening on the market."

So what is the Glücksspielstaatsvertrag and what changes are imminent?

Germany's gambling market is regulated by one main legal framework, the State Treaty on Gambling (Glücksspielstaatsvertrag) which each

of the 16 federal states have implemented into their own state law.

The original version came into force in 2008 but was later replaced in July 2012 by a revision of this treaty and called the First Interstate Treaty on Gambling (IST2012/2020). This was introduced mainly because the previous law concerning the state monopoly on sports betting contravened EU law. Ironically so did subsequent treaties.

The State Treaty was introduced to look at consumer protection, fraud prevention and eliminating illegal operations. The Treaty maintained a state monopoly on the operation of lotteries and stipulated a total ban on online casino operations and other forms of online gambling bar sports betting and horse racing offered by state owned monopolies. It allowed for 20 bookmakers to operate independently of the state monopoly.

# Reports

GERMANY ONLINE - MARKET REPORT



## Revalidated online casino licences can be further extended via the 'Act on the Transitional Regulation for Online Casino Games' until end of 2024 provided the licence is valid on June 30 2021 and the licensee applies for a virtual slot machine licence and/or an online poker licence under the Interstate Treaty by July 1 2022.

It was implemented by 15 of the 16 states. The state of Schleswig-Holstein refrained from signing the Treaty initially, and created its own liberal online gambling which permitted licences for sports bets, poker, games of chance and casino games online. The state went on to issue 23 online casino licences and 25 sports betting licences.

Schleswig-Holstein eventually joined the State Treaty in January 2013 after Germany's newly elected state government came into force and Schleswig-Holstein's Gambling Act was abolished a month later. All was not lost. The government did permit those already issued with licences the option to continue operating for a further six years until their licences expired in 2018.

Basically, those operators who went to the trouble of being licensed under Schleswig-Holstein's Gambling Act have pretty much had the biggest piece of the German online pie, with no other legal gaming sites legalised in the 15 other states for the last seven years. Schleswig-Holstein's 'go it alone' attitude changed gambling in Germany permanently.

Between January 2012 and February 2013

Schleswig-Holstein pursued its own gambling regulation and issued private sports betting and online casino licences. During this time it issued 48 licences in total.

In a bid to maintain a regulated market and avoid the expiry of these licences, the state has managed to deviate from the State Treaty and get the states to agree that once the 2012/2013 licences expired, a transitional arrangement should be introduced.

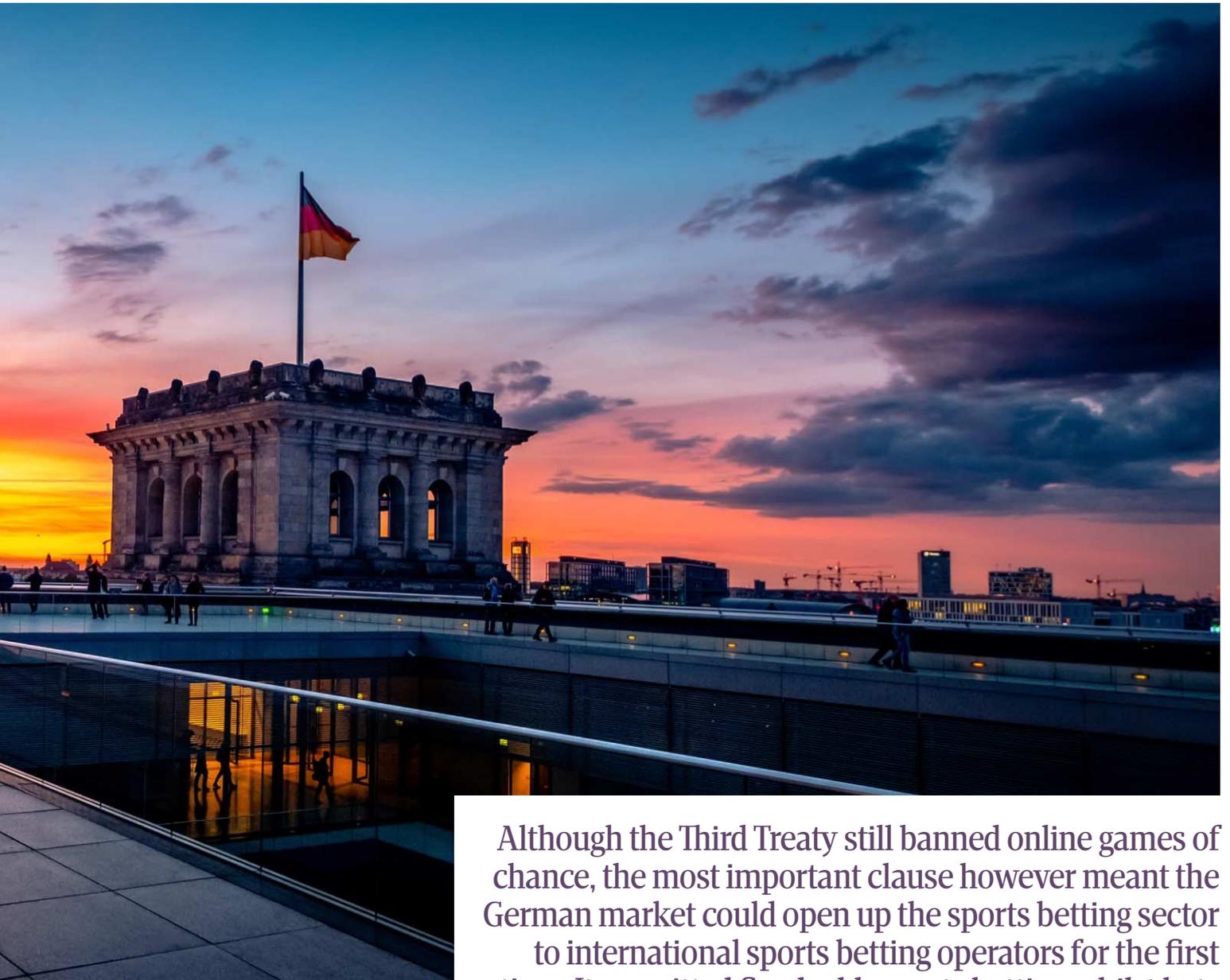
The transitional agreement for sports betting was agreed as from May 2018 and a law, by which formerly granted online casino licences were revalidated, was also introduced as from May 2019.

These licences are valid until end of June 2021 when the Fourth Treaty comes into force.

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Meanwhile, with questionable rules and regulations, a second Treaty was put together at the end of 2017. However this amendment never actually came into force due to resistance from North Rhine Westphalia and Schleswig-Holstein.

So Germany went back to the drawing board and a revision of the First Treaty was undertaken and the Third Treaty amendment came into force in January 2020. This changed the gambling arena. Although it introduced a



total ban on any online games of chance, it paved the way for the regulation of sports betting in the country.

The idea was the Third Treaty would serve as a temporary transitional solution and enable the market to open and prepare their operations, whilst further discussions took place. The Third Treaty is valid until end of June this year. Thereafter the Fourth Treaty will take over.

Although the vast majority of state leaders are steadfastly opposed to legalising online casino games and online poker, finally in spring last year, these two options were legalised under amendments in the Fourth Treaty.

Although the Third Treaty still banned online games of chance, the most important clause however meant the German market could open up the sports betting sector to international sports betting operators for the first time. It permitted fixed odds sports betting whilst bets on non-sporting events are not permitted. Pari-mutuel pool betting is reserved for the state monopoly.

The controversial 20 licence limit was removed under the Third Treaty meaning there is now no

limit to the number of operators which can be licensed.

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Sports betting became regulated in the form of a qualitative permit system via the licensing authority – Darmstadt Regional Council.

#### **THE FOURTH TREATY**

The new Fourth Treaty (GlüStv 2021) will begin in July and basically means online gambling will be legally available in Germany by the summer.

The issues of online gambling not particularly covered in the Third Treaty were re-addressed and the Fourth Treaty was put together to basically re-regulate gambling particularly online gambling.

The current prohibition on online casinos, slot machines and poker (currently only operating out of Schleswig-Holstein) will be lifted whilst it will allow for the registration of an unlimited number of sports betting providers and limited

number of online casino providers. It will permit live bets and certain events betting. The state lottery monopoly will continue.

The 70 page treaty includes strict measures to safeguard players including:

- Player protection of young people ensured by a 'lock file' to protect people with gambling addiction issues.
- Improvement of protection of minors.
- Customer date monitoring.
- Maximum stake for online casinos and sports betting limited to €1,000 per player per month. No possibility of setting a limit for stakes or deposits.
- Maximum wagering limits can be increased to €10,000 or €30,000 subject to certain criteria.

# Reports

GERMANY ONLINE - MARKET REPORT





**In the lead up to the Fourth Treaty, Germany launched a Tolerance Policy where operators could adjust their business to the new market regulations and basically not be prosecuted for offering online casino and poker games before July 2021. So a transitional period, which began on October 15, enables operators to offer such products (online slots and poker) outside of the regulated market so they can continue to operate, provided they comply with the provisions of the gambling law.**

gambling to a licensing procedure with strict rules to protect gamblers.

There is a plan to set up:

- A central, cross game and cross provider blocking system.
- A mandatory establishment of provider related gaming accounts with corresponding identification requirement.
- Obligation of providers to set up systems for early detection of gambling addiction.
- And limitation of deposits via a cross provider deposit limit (controlled with a central limit).
- Measures against unauthorised offers are expanded.

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So a transitional period, which began on October 15, enables operators to offer such products (online slots and poker) outside of the regulated market so they can continue to operate, provided they comply with the provisions of the gambling law (see list above).

So for example table games are still banned and in terms of online slots – these are subject to a €1 per spin stake cap, with multiplay functionality removed and five second intervals between spins.

### **SPORTS BETTING LICENCES**

In October 2020 the first nationwide sports betting permits were issued which opened up the market to legal online sports betting.

Prior to this sports betting was permitted under the State Treaty of 2012 however licensing never took place as the procedure was halted due to the limitation of 20 licences which was incompatible with EU law.

- Players cannot log in via multiple platforms to prevent the maximum amount being exceeded.
- Advertising only permitted in some federal states with clear guidelines and limitations to prevent advertising targeted at minors. There will be a ban on broadcast marketing between 6am and 9pm.
- Individual player accounts have to be verified and this will be the sole responsibility of each provider.
- Virtual slot machines spins will last for a minimum of five seconds and maximum stake for each is capped at €1 per game.
- Operators must implement a reality check every 60 minutes with a mandatory five minute trial period before players can resume play.
- A panic button should be displayed at all times allowing players to self exclude themselves from an online casino when needed.
- Demo games should not be offered.
- Sports betting will allow for outcome of game plus events during the match, so live betting is included.

- Certain forms of online gambling legalised. Live betting is restricted.
- Number of licences for online gambling is unlimited. However the number of licences for online casino games is limited. Those without licences will be prosecuted.
- A joint gaming authority of the federal states is to be created in Halle, Saxony-Anhalt.

The idea behind the law is to tighten up the protection of gamblers, who had no legal recourse under the previous law for online gambling.

It was requested for several reasons. Operators of gaming arcades complained about the unfair competition due to inequality between state casinos and amusement arcades, whilst the German Lotto Association criticised the excessive regulation for the lotteries and therefore disadvantage compared to other types of gambling.

Sports betting and online gaming providers took legal action over restrictive measures via the European Court of Justice. The European Court of Justice suggested improvement measures.

Although there was some success during the previous law (payment prevention), it proved too difficult to stop the range of games on the internet so the idea was to transfer online



**The new licensing system now means that this sector can now operate legally. In October four initial companies – GVC, Gausleemann, Novomatic and Tipico – received their licences under the new regulations. Other operators such as Interwetten, Bet-at-Home and Bet3000, NetXbetting, Oddset and Tipster followed a month later.**

As a result the German regulatory system was declared 'not in conformity with European law' and therefore not applicable. And so a confusing and grey situation for the sports betting market has existed for years in Germany.

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Prior to the Third Treaty Germans were dished up a sports betting monopoly dish courtesy of the Lotto's sports betting brand, Oddset, which was introduced by the State Lottery Administration in Bavaria back in 1999 and went on to provide sports betting in all 16 states a year later.

By 2013 Oddset's betting range expanded to

include the PLUS and KOMPAKT betting programs. As a state monopoly it provided around €500m in tax revenue annually for the German government. Oddset Sportwetten became licensed in January 2020 and is currently available in nine of the 16 states.

The Gausleemann Group has been active in the

sports betting business since 2005 as a provider and broker of sports betting in Germany and internationally. Cashpoint Solutions is the betting agent and Cashpoint Malta Ltd the betting provider.

Markus Ettlin, CEO of Merkur Sportwetten, said: "On October 9 2020, the Austrian Gausleemann subsidiary Cashpoint received, as the first company, the licences to organise sports betting throughout Germany for the two brands XTIP and Merkur Sports for both the online and stationary sectors. The company strictly follows the new legal requirements with its sports betting offer.

"In compliance with the requirements defined in the State Treaty on Gambling Merkur Sportwetten was also able to add virtual slot games to its existing sports betting offering with the brand Merkur Spiel in October 2020, thus expanding its online activities. The Gausleemann Group is thus considered a fully integrated provider of stationary and digital gaming.



## ANNUAL DATA 2019 ON GERMAN GAMBLING MARKET

| CATEGORY                             | No. of SITES | No. of operators                                  | Products                              | Gross revenues (land-based) | Gross Revenues (online) |
|--------------------------------------|--------------|---|---------------------------------------|-----------------------------|-------------------------|
| <b>CASINOS</b>                       | 70           | 18  | 8,500 slots                           | <b>€860m</b>                | -                       |
| <b>SLOTS</b>                         |              | 5,000   |                                       | <b>€5.5bn</b>               |                         |
| Gaming halls                         | 9,000        |   | 143,000 slots                         |                             |                         |
| Single sites                         | 40-50,000    |   | 77,000 slots                          |                             |                         |
| <b>LOTTERY</b>                       |              |   |                                       | <b>€3.68bn</b>              | <b>€518m</b>            |
| Lotterien                            | 21,000       | 16 state lottery companies LLG                    | Lotto, Eurojackpot, Keno, 6/49, bingo | €3.62bn                     |                         |
| Sportsbetting pari-mutuel fixed Odds | 19,361       | 13 LLG DLTB                                       | Football/Toto Oddset                  | €59m                        | €516m<br>€1.6m          |
| Klassen                              | 61           | GKL   | NKL/SKL                               | €194m                       | €1.1m                   |
| <b>OTHER LOTTERIES</b>               |              | 5 SocialLot                                       | Telefon, Post, Banken & Sparkassen.   | €521m                       | €139m                   |
|                                      |              | 31 Lotterieträger                                 | Volks, Raiffeisen & Sparda-Banken     | €264m                       | €0.6m                   |
| <b>HORSE RACING</b>                  |              | 45 racing clubs with totalisator<br>38 bookmakers | 44 racetracks approx<br>170 locations | €45m                        | €23m                    |
| <b>TOTAL</b>                         |              |   |                                       | <b>€11.07bn</b>             | <b>€681m</b>            |

# Reports

GERMANY ONLINE - MARKET REPORT



Due to the pandemic, the Germany sports betting market saw a drop in revenues by 20 per cent in 2020 from annual sales of €9.3bn in 2019 to €7.8bn last year. This is a 16 per cent decline caused by lack of sporting events and the closure of betting offices during lockdown procedures.

"In 2021 the focus on Merkur Sportwetten is on the launch of the brand Merkur Sports and the associated significant increase in the quality of the entire product portfolio. With a new omni-channel platform that consistently links all Merkur Sportwetten channels, customers will be able to access the extensive range of sports betting and slot games offered by Merkur Sports and Merkur Spiel via various channels and wherever they are."

Betway became the 27th operator to receive an online sports betting licence and will operate via

betway.de, its German website. Before the licensing approval Betway had already established a foothold in Germany and had entered into a partnership deal with several Bundesliga clubs such as SV Werder Bremen, Hertha BSC Berlin and VfB Stuttgart to increase its presence in the sports market.

Bettson will operate via seven different brands including Bettson, Betsafe, Caisnowinner, Guts, Nordicbet, Rizk Sport and Schnellwetten.

NeoBet (part of Greenvest Betting) was one of



It's not been an easy road. There have been delays and in April last year the Darmstadt Administrative Court had to halt the process of sports licensing after Austrian sportsbook operator Vierklee challenged the process. It was upheld in court and all licences about to be issued were halted. At the time there were some 30 applications received by the Regional Council of Darmstadt in February, plus a further 20 more operators said they intended to apply. This was later discontinued in October, but caused a six month delay

said at the time: "The granting of this new sports betting licence once again confirms the high product quality and competence of the Novomatic AG Group. This is the first time that the regulator has created a legally secure basis for private sports betting providers. It is an important step in order to be able to further expand our range of services, especially in the online and mobile sectors.

"In 2014 20 licences were awarded as part of a two stage audit procedure three years after the German State Treaty on Gaming had been passed. Novo Interactive was one of the few private providers based in Germany to receive one of these licences. Even at the time the procedure was seen to be fraught with legal uncertainty and ultimately failed after several lawsuits were filed by unlicensed providers.

"It was only after the government acquiesced that Novo Interactive decided to enter the German sports betting business with the AdmiralBet brand at the end of 2017. Novo Interactive had also applied for a licence in the licensing procedure following the adoption of the Third Amendment to the State Treaty on Gaming. In October 2020 the company was awarded a licence."

#### **FUTURE OUTLOOK**

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By March 9 2021 there were 28 licences issued.

Due to the pandemic, the Germany sports betting market saw a drop in revenues by 20 per cent in 2020 from annual sales of €9.3bn in 2019 to €7.8bn last year. This is a 16 per cent decline caused by lack of sporting events and the closure of betting offices during lockdown procedures.

the first sports betting providers to receive a German gaming licence. The company has been involved in the betting industry for the last 20 years.

NeoBet offers customers a self test on their website where they can answer questions to find out if their gaming behaviour is considered problematic.

The Entain Group operates within the online and landbased sports betting and gaming sectors under a number of brands such as Coral, Bwin,

Crystalbet, Eurobet, Ladbrokes, Casino Club, Gala, Foxy Bingo, PartyCasino.

German sports betting provider Novo Interactive GmbH (formerly Admiral Sportwetten) based in Rellingen, Schleswig-Holstein, also received its sports betting licence in October last year. Novo Interactive is a subsidiary of Löwen Entertainment and offers a modern online sports betting service under the AdmiralBet brand.

Jürgen Irsigler, Managing Director of Admiral

# Reports

GERMANY ONLINE – MARKET REPORT



**“It becomes clear that the strict regulations for virtual slot machine games have channelled the market away almost overnight – unfortunately in the wrong direction. It is unrealistic to believe that German customers will get**

**used to the excessive restrictions of the State Treaty and return to licensed providers.”**

*Mathias Dahms, DSWV*

Sports betting providers currently pay taxes of five per cent on the betting stake in accordance with the Racing Betting and Lottery Act which equalled around €464m in 2019.

Deutscher Sportwettenverband (DSWV) President, Mathias Dahms, commented: “During the current lockdown all 5,000 to 6,000 betting offices nationwide are closed or have been thrown back to the reduced acceptance point operations. The approximately 25,000 employees are mostly on short time work and fear for their jobs. Many cannot hold out much longer also because the federal government denies betting offices the promised Corona November and December aid.

“We need a planning perspective from politicians as soon as possible as to how safe business operations under hygiene conditions will be possible again in the coming months.”

This crisis is exacerbated by the transitional regulation. Since the new licensing procedure came into force in October last year there has been a huge migration to black market operations basically because restrictions under the State Treaty are causing players to look for better options and playing conditions.

The DSWV is calling for improvements to the regulations to introduce a level playing field.

Mr Dahms added: “It becomes clear that the strict regulations for virtual slot machine games have channelled the market away almost overnight – unfortunately in the wrong direction. It is unrealistic to believe that German customers will get used to the excessive restrictions of the State Treaty and return to licensed providers as long as they can play with competitors who offer them much better conditions. We urgently need improvements to the regulations and a functioning enforcement against illegal offers. Otherwise established providers willing to regulate will withdraw from the German gaming market.”

The German gambling market is divided into seven sectors – casino games; gaming machines (for arcades and restaurants); state lotteries and sports betting (organised by DLTB); state class lotteries, social lotteries; saving lotteries and horse betting.



## Essential information and facts about Germany:

|                           |  |
|---------------------------|--|
| <b>Capital</b>            | Berlin   |
| <b>Total Area</b>         | 357,022sq.km   |
| <b>Population</b>         | 83.1 million   |
| <b>Median age</b>         | 47.8 years   |
| <b>Religion</b>           | Roman Catholic (27.7%), Protestant (25%), Muslim (5%)  |
| <b>Ethnic Groups</b>      | German (87%), Turkish, Polish, Syrian, other   |
| <b>Languages</b>          | German (official)  |
| <b>Currency</b>           | Euro   |
| <b>Government type</b>    | Federal Parliamentary Republic   |
| <b>Chief of State</b>     | President Frank Walter Steinmeier (since 2017)   |
| <b>Head of Government</b> | Chancellor Angela Merkel (since 2005)  |
| <b>Elections</b>          | President indirectly elected by Federal Convention. Next election February 2022. Federal parliament elections choose chancellor for renewable four year terms. Last election was held in 2018. |
| <b>Unemployment</b>       | 4.6% (Jan 2021)  |
| <b>Tourism</b>            | 185.1 million )  |

The gambling market is governed throughout Germany by the Ministry of the Interior and Sport in Hesse whilst one of the 16 states is usually assigned the responsibility of the various interstate treaties. So the Ministry of the Interior and Sport in Hamburg is responsible for the GKL and lotteries whilst the Regional Council of Darmstadt is responsible for the sport betting and horse betting and OASIS (Central Player Blocking system).

In 2019 the German gaming market had a GGR of €13.27m, of which the regulated market had an 83 per cent share (€11.07m) and the remainder black market (€2.2m).

Slots have the biggest market share in terms of revenue with €5.5bn in 2019 followed by the state lottery and sports betting with €3.68bn, the lotteries (Klass, social and state class) with €979m and casinos with €860m and horse racing with €45m (see chart on page XX).

There are around 6,000 medium sized companies which make up the gambling industry supplying around 70,000 jobs. There are around 220,000 gaming machines in the market of which 77,000 are located in restaurants and 143,000 are located in around 8,800 gaming halls.

In 2015 there were more than 400 websites

identified where players from Germany could register and play online games showing a huge demand for such offers. It was said the online casino gambling market was worth €1.16bn that year.

The gambling market is governed throughout Germany by the Ministry of the Interior and Sport in Hesse whilst one of the 16 states is usually assigned the responsibility of the various interstate treaties. So the Ministry of the Interior and Sport in Hamburg is responsible for the GKL and lotteries whilst the Regional Council of Darmstadt is responsible for the sport betting and horse betting and OASIS (Central Player Blocking system).

OASIS is a blocking system to protect players, which was introduced under the Gambling Treaty of 2011 and aims to protect players and combat gambling addiction issues. It is a system

available to all operators of games of chance and will be an obligation under the law to use the system on games.

The Darmstadt Regional Council is responsible for the set up and maintenance of the system. It is obligatory for operators of amusement arcades, sports betting, lottery providers (with more than two games a week), casino operators, horse betting online, bookmakers, online casino, poker and slots and gaming machines.

Oasis Version 5.8 went live at the end of January 2021 and from March 6 a preliminary version of the Oasis Release 6.0 will be available which have been adapted to the new law.

When the GlüStV 2021 comes into force a 24 hour block for sports betting, online casino games, online poker and virtual slot machines will be introduced whilst the 'retrieve reasons

### GERMAN SPORTS BETTING MARKET

| YEAR | TURNOVER | TAXES | DIFFERENCE |
|------|----------|-------|------------|
| 2014 | €4.52bn  | €226m | +19%       |
| 2015 | €4.8bn   | €240m | +6%        |
| 2016 | €6.14bn  | €307m | +27%       |
| 2017 | €7.52bn  | €376m | +22%       |
| 2018 | €7.68bn  | €384m | +2%        |
| 2019 | €9.28bn  | €464m | +21%       |
| 2020 | €7.79bn  | €389m | -16%       |

for ban termination catalog' function will be removed with version 6.0.

It is said that countries such as Denmark and the UK see gambling activity of their players on regulated websites at over 90 per cent. In comparison Germany sees less than two per cent of their players on licensed sites.

Gambling revenue is expected to reach around €3.3bn by 2024 and for Germany to keep the majority of that within its borders is going to be tough.

Jürgen Irsigler, Managing Director of Admiral said: "By legalising online gaming the regulator wants to channel large parts of the existing illegal market into the future legal market. It remains to be seen whether this ambition can be realised in view of the restrictive regulation for legal offerings from July 1 2021. Ultimately it will be the consumers who decide."

Markus Ettlin, CEO of Merkur Sportwetten, said: "The channelling rate will largely depend on how attractive the future legal market will be. Due to the content related restrictions of the State Treaty on Gambling, this attractiveness of the legal offer is already slowed down. In connection with the planned gaming tax for virtual slot machines and online poker, the legal market will become even less attractive. In our view it will therefore be difficult to achieve a sufficiently large channelling rate – even with the use of all restrictive measures provided for in the State Treaty against illegal providers."

The regulations, although a huge plus in terms of unifying the German states with a treaty to cover online gambling, come with certain restrictive measures.

For instance there is regional inconsistency for table games offered online. Each of the states are free to prohibit table games or impose limitations on play which could create an un-level playing field.

Mr Ettlin added: "We as companies, and the industry associations criticised many of the content related regulations of the State Treaty. In particular, interventions in the gaming process

itself are to be strongly criticised, as these lead to the respective forms of gaming being made unattractive in comparison to the international offer. This will have a strong negative impact on channelling into the legal market.

"Namely, these are, for example in the case of sports betting, the limitation of the betting programme and in the case of virtual slot games, the minimum duration of the spin and the maximum stake.

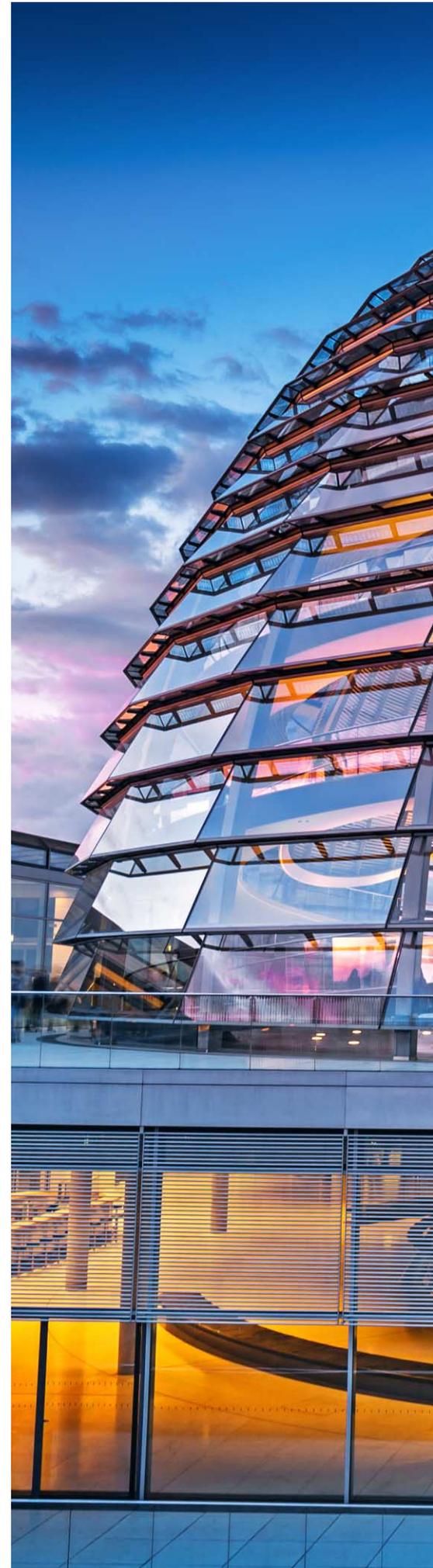
"In addition we have also criticised the creation

**"Due to the content related restrictions of the State Treaty on Gambling, this attractiveness of the legal offer is already slowed down. In connection with the planned gaming tax for virtual slot machines and online poker, the legal market will become even less attractive."**

*Markus Ettlin, Merkur Sportwetten*

of various databases. For example a central database for the prevention of parallel gaming is to be set up at great expense. This is a problem that does not exist in practice. It would therefore be dispensable.

"We are also critical of the design of the limit database. Limit systems are basically suitable for reflecting gambling behaviours, but the variant chosen in Germany ignores the available scientific findings on limit systems in gambling. Such systems should not provide for general limits, but rather allow consumers to set them individually."





“By legalising online gaming the regulator wants to channel large parts of the existing illegal market into the future legal market. It remains to be seen whether this ambition can be realised in view of the restrictive regulation for legal offerings from July 1 2021. Ultimately it will be the consumers who decide.”

*Jürgen Irsigler, Admiral*

# A silver bullet

**The New State Treaty has been criticised by the President of State Constitutional Court for being rather than a political compromise a bullet proof legally compliant solution.**

Gambling legislation in Germany falls within the competence of the federal states. That is why all 16 German federal states have agreed on an Interstate Treaty on Gambling to establish a homogeneous Gambling regulation. The current Interstate Treaty entered into force in 2012 and will cease to be in force by the end of June this year. One of the central provisions in the current treaty is the internet ban of §4 paragraph 4 GlüStV, which is equally disputed in the industry and between legal experts.

Whilst the federal states opted for an experimentation clause in 2012, which would enable online operators to obtain a licence for online sportsbetting in Germany, other online offers like slots or online poker remained strictly prohibited. This will change with the ISTG 21, coming into force July 1, 2021. From this date, operators will be able to participate in a formal application process for Online Gambling Licences. The federal states concede that the current regulation has proven unsuitable to steer the urge to play in an orderly direction. However, new operators will be forced to adhere to strict requirements that are equally challenging from a technical and from a legal standpoint.

The new Interstate Treaty differentiates between three newly regulated forms of gambling: virtual slots, online-poker and online casino table games (like Roulette, Blackjack). Whilst the first two forms will be subject to a new nationwide licensing procedure, online casino table games will be subject to the regulation of the individual federal states. Since October 15, 2020, operators have already had a first taste of the new regulation of the ISTG 21 through the so-called Interim Regime for virtual slots and online poker.

The current Interim Regime comprises of two relevant documents: "The Resolution by written circular procedure of the heads of the State and Senate Chancelleries of the Federal States" and "The Common guidelines of the supreme gambling supervisory authorities of the German Federal States with regard to the offers of virtual slot machines and online poker on the basis of the resolution by written circular procedure". These administrative agreements contain several requirements whose fulfilment – as long as their implementation is technically feasible – shall prevent operators from being the target of any public enforcement measures and from being considered to be unreliable in a subsequent licensing procedure. Effectively this means an administrative de facto toleration of online gambling services meeting the requirements until July 2021.

Substantively the Interim Regime pre-empts most of the regulations set forth in the new ISTG 21. The following list contains the most relevant requirements that operators have to adhere to:



**Dr Wulf Hambach,**  
Founding Partner, Hambach & Hambach

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"Whilst it is welcome that the federal states recognises the need to give providers their rightful place in the legal market, the legislator has only partially succeeded in implementing the appropriate regulatory framework for this."

*Dr Wulf Hambach*

## General requirements

- The gambling provider must have its registered place of business in a Member State of the European Union or the European Economic Area.
- Exclusion of minors and blocked players via identification and authentication (comprehensive KYC) is ensured. During the transition regime, exclusion of blocked players must be ensured via an own, provider-specific blocking system.
- Only one account per player is allowed.
- Providers must ensure that Payments into or from a player account may be made exclusively from a (banking) payment account which has been opened in the name of the player.
- Separation of player-operations funds and organiser funds is obligatory.



- Exhaustive information on stakes, winnings, losses of the previous 30 days, pay-out ratio, probability of winning and losing, contact data and how to submit a complaint must be provided.
- Definition of a domain-specific individualised monthly deposit limit (which constitutes a key change to the current Interstate Treaty) of no more than €1,000 with option to set domain-specific daily, weekly or monthly stake, deposit and loss limits.
- Gambling providers must implement a 24-hour blocking option (so called "panic-button").
- Granting loans or playing on credit is prohibited.

## Specific requirements for Virtual Slot machines:

- Prohibition of auto-play and simultaneous playing.



- Minimum five second spin duration per game.
- Maximum stake of €1 per spin.

**The entry into force of the ISTG 21 will impose further restrictions on licensed providers:**

- In particular, the deposit limit of €1,000 per month, which is still operator-specific under the interim regime, will then be replaced by a cross-provider deposit limit and monitored by the limit-file.
- Introduction of a central player blocking system (OASIS, currently in place only for sportsbook operators).
- Introduction of a central activity file.
- Introduction of a safe server and interface for access of information by authorities

Connection to these systems will be mandatory for licensed online-operators. According to official announcements, these systems should

be operational by July 1 2021. In the light of these new central files, concerns have already been raised in relation to data protection and secure technical realisation.

Furthermore, all operators applying for an online gambling licence must provide a security of €5m. However, this stipulation is regarded to be unconstitutional as it may be disproportionate for smaller operators.

The new Interstate Treaty on Gambling will also replace the provisions of the current guidelines on advertising for games of chance. As a result, there will be no separate advertising licensing from July 2021, but any permission to advertise will form part of the new gambling licence.

Lastly, the new Interstate treaty establishes a new Joint Gambling Authority. However, this authority will be “built from scratch”. The Authority will be responsible for supervision and granting of licences (especially online poker, virtual slot machines, online sport bets) as well as the central systems such as the

blocking system. Until the commencement of operation in January 2023, the new licensing procedures for virtual slots and online poker will be administered by the State Administration Department of Saxony-Anhalt, with online sporting betting continuing to be licensed by the Regional Council Darmstadt (Hesse).

**Summary and outlook**

Whilst it is welcome that the federal states recognises the need to give providers their rightful place in the legal market, the legislator has only partially succeeded in implementing the appropriate regulatory framework for this.

According to Professor Dr. Christoph Brüning, President of the Schleswig-Holstein State Constitutional Court, the new ISTG 21 raises significant legal questions that need to be clarified by national and European courts and that the new ISTG 21 will not be the last change in the German gaming system (NVwZ 2021, page II, “Das Online-Glücksspiel nach dem, Glücksspiel-Staatsvertrag 2021”).