

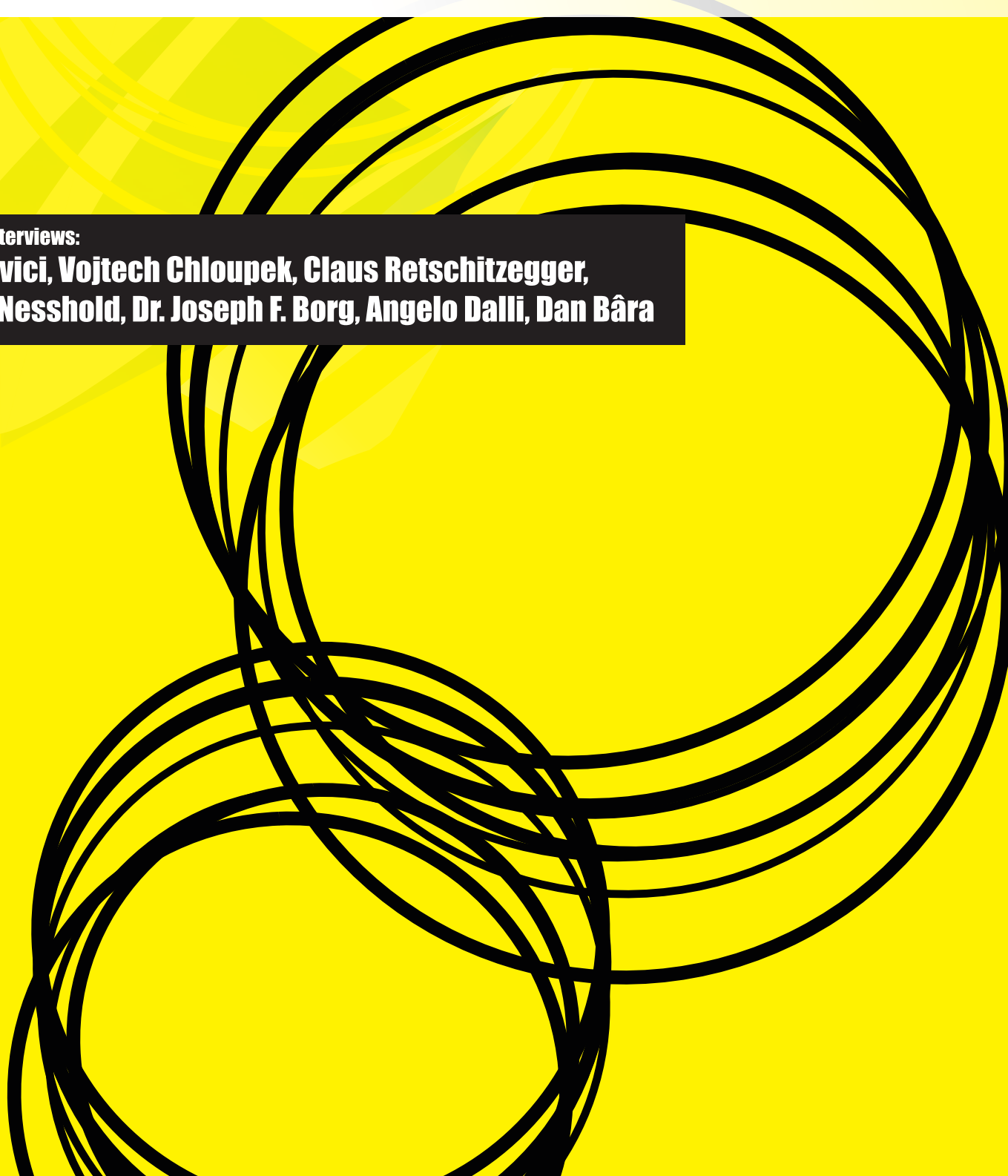
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# Report Magazine

Your no. 1 source of igaming information in Central and Eastern Europe

**Featured Interviews:**

**Dan Iliovici, Vojtech Chloupek, Claus Retschitzegger,  
Roman Nesshold, Dr. Joseph F. Borg, Angelo Dalli, Dan Bâra**



Vojtech Chloupek - Partner in the Czech Bird & Bird office and Head of the Intellectual Property, Tech & Comms and Media groups in Czech Republic and

### Could you give us some details about your background and your expertise?

I am a partner in the Prague office of **Bird & Bird** where I head the Intellectual Property, Tech & Comms and Media groups in the Czech Republic and Slovakia. My expertise covers primarily intellectual property and IT law, data protection as well as gaming and media law. For the past 5 years, I have been advising gaming companies on a broad range of legal issues including provision of online system operations, preparation of contractual documentation, related licensing and regulatory matters as well as enforcement of intellectual property rights. My clients include companies ranging from market leading operators to start-ups. As of 2017 I have become a member of the International Masters of Gaming Law, an association of lawyers specialised in gambling, and I believe I am currently the only member from the Czech Republic.

### The Czech Republic's online gambling sector has been subject to debate for quite some time now. What are the recent developments? Especially since the new legislation came into force on 1 January 2017.

The adoption of the new Gambling Act (No. 186/2016 Coll.) was eagerly awaited by most of the gambling operators and perhaps even general public. The previous law (known as Lotteries Act) was rather outdated (being adopted in 1990) and even though there had been multiple attempts to improve it, none of the amendments were able to properly react to the change the Internet had on the gambling industry.

One of the most controversial topics in the new Gambling Act has been the power of the Czech Ministry of Finance to place gambling operators on a so-called black list and especially whether such power is not in violation of the constitutional law.

In short, the Ministry can now initiate proceedings with gambling operators who provide their services in the Czech Republic without the respective Czech gambling licence and put them on a list of unauthorized gambling operators.

Subsequently, Internet service providers are required to deny access to Czech residents trying to connect to such black-listed gambling operators' servers and payment service providers are required not to carry out any payments in benefit or to the account of bank accounts of such gambling operators. It is perhaps worth noting in this respect that the wording of the Gambling Act suggests that an "operation" of gambling does not consist only of typical gambling activities but also of other activities that are organisational, financial and technical in nature and that are closely related to operating a game – for instance, domain hosting might be considered as a gambling operation and thus its provider may also be placed on the black list.

This concept was challenged at the Constitutional Court by a complaint of certain Senators of the Czech Parliament who sought to repeal the respective parts of the Gambling Act requiring the Internet service providers to deny connection to the unauthorized gambling operators' servers. According to the complaint, such practice would amount to "unconstitutional censorship" and would place unreasonable burden on



persons who are not actually breaching the law. The Constitutional Court did not find any violation with constitutional law and dismissed the action, suggesting however that the Ministry must take care that the constitutional rules are fully respected when implementing and enforcing the Gambling Act.

Besides this topic, there have been also several interpretation issues with respect to certain sections of the Gambling Act as well as relating legislation, such as anti-money laundering, advertising, tax, etc. These will need to be cleared out soon.

### As we all know, there are different regulatory models in every jurisdiction, which makes operators look twice before entering legalized markets. Is this the case of the Czech Republic? There hasn't been a huge interest shown by the large international operators with this new regulation, do you feel that there will be new changes which are going to pave the way for a much successful market in terms of tax revenues?

As far as I know, a number of major online gambling operators have applied for the Czech gambling licence and are willing to comply with the new rules, or are at least considering it.

**Pokerstars**, for example, obtained a Czech gambling licence earlier this year. I would therefore actually say that online gambling operators have generally been interested in the Czech market but it is also fair to say, on the other hand, that some of the requirements of the new law are rather restrictive and so is the Ministry in licence proceedings.

With respect to land-based gambling, even though the Czech licensing procedure and overall gambling legislation is not as strict as it may be in the case of some other European countries (no state run monopoly or any total

limit on the number of issued gambling licences), it is hard to expect any boom in land-based gambling in the Czech Republic any time soon.

The traditional Czech gambling land-based operators have strong market positions and, given the fact that not only the online casinos' revenues are starting to catch up with those of the land-based casinos but also the amount of funds required to open and run a new gambling venue is lower, it is not surprising that the willingness of foreign operators to invest in the brick and mortar gambling might just not be there anymore.

Another factor that might be making the foreign operators hesitant as to whether to enter the Czech market might also be the fact that the regulator published certain secondary legislation a bit too late and some is not publically known even now (e.g. decree setting out the technical requirements on remote access to gambling and financial data). This Ministry's failure to establish clear rules and guidelines certainly does not allow the gambling operators to fully assess the operational costs of their business prior to entering the Czech market.

Let's see whether this situation changes in future when the dust settles on the new Gambling Act, all the applicable legislation is final and all major interpretation issues are resolved.

**What are the key sectors in the Czech gambling market based on niches? Sports betting, casino, poker?**

In my opinion the key sector, when considering the impacts of the Gambling Act, is online gaming. This may not be supported by any statistical evidence at this point. There are, however, hard numbers for traditional gambling published by the Ministry of Finance (for types of gambling as regulated by the old Lotteries Act), where the key sectors ranked by gross revenue for the year 2015 were: technical games with € 670m revenue, odds betting with € 208m revenue (of which € 154m came from online and € 54m from land-based), and lotteries with € 200m revenue.

Official revenue numbers for poker are hard to obtain, since cash games revenue numbers are accounted for in another gambling category. However, according to the Ministry's official numbers, gambling operators' revenues from tournaments in casinos for 2015 totalled over € 3m and internet card tournaments and games grossed close to € 1.5m which is considerably lower than traditional types of gambling.

All gambling types combined in the year 2015 grossed over € 1.1 billion in the Czech Republic.

To avoid any misunderstandings, I should note that I have been using the terminology of the Gambling Act, even though the Ministry's analysis operates with the old terminology of the Lotteries Act and thus the Ministry's findings had to be redistributed in accordance with the new categories. The above stated figures do not account for the revenues from all of the online games revenues, since the Lotteries Act did not allow the gambling operators to carry out most of the games online. Also, revenues of the gambling operators who operated in the Czech Republic despite not having a Czech licence were obviously not published and are not part of the above figures.

The revenues of Czech licensed odds betting operators, as stated above, might therefore represent just a fraction of the whole market's revenue.

**Who are the key operators at the moment and how is the taxing done in percentages?**

I hope I will not omit anyone when I say that for technical games (VLTs, slot machines, etc.) the key operators are **SLOT Group, SYNOT TIP, BONVER WIN** and **ADMIRAL CASINOS**, whereas for odds betting and lotteries, the big players are **SAZKA, FORTUNA GAME, TIPSPORT, CHANCE** and **SYNOT TIP**.

The gambling tax rate is set at 23 %, except for technical games where it is 35 %. Land-based technical games operators have to account for a "minimum tax" for each licensed technical game device that is €340.

The tax base is the difference between accepted bets/wagers and paid out prizes, while each game (odds betting, live game etc.) is calculated separately.

**What advice would you give to potential new entrants considering the Czech Republic (operators, affiliates, suppliers etc.)?**

There is probably no one-size-fits-all advice for all the potential new entrants other than that their decision to enter the Czech market will obviously need to be based on a sound business (including tax) and legal analysis. Surely it may be necessary to jump over several legal and other regulatory hurdles but if there is a strong business case for the entry then it may pay off in the long term.

That said, I would certainly advise operators against providing gambling activities without the respective Czech licence. Although website and payment blocking of the blacklisted operators have not yet been put to hard practice test, it is clear that the approach of the Czech regulator will be much stricter than before 2017.

**Do you think that a common regulatory model that can be adopted on EU level would be a good practice? Economically speaking EU countries differ a lot, thus having an all governing law in every country regarding the online gambling sector could prove to be a major setback for many less developed countries in Eastern Europe. This is of course my opinion, what is your expert opinion on such a topic?**

**“...I would certainly advise operators against providing gambling activities without the respective Czech licence. Although website and payment blocking of the blacklisted operators have not yet been put to hard practice test, it is clear that the approach of the Czech regulator will be much stricter than before 2017...”**



## MARKET UPDATE: CZECH REPUBLIC

Gambling has traditionally been the domain of national regulation and so introducing a single unified regulation at the EU level might be rather difficult to achieve from political perspective. And yes, you are correct to say that EU countries differ a lot in terms of economy and perhaps also general attitude of both regulators and customers to gambling. On the other hand, there is a clear overall tendency to regulate many areas on EU level and a lot of these areas will, more or less, affect also gambling operators.

For example, I can think of data protection, AML, payment services, consumer protection and other areas of law that are and will become even more regulated on EU level. I can therefore certainly imagine that many aspects of online gambling will fall under one EU regulation (especially with respect to consumer protection) and it may perhaps be especially desirable for new things, such as e-sports, newly emerging games or games using virtual currencies, where even the less developed countries could benefit from unified approach and level playing field.

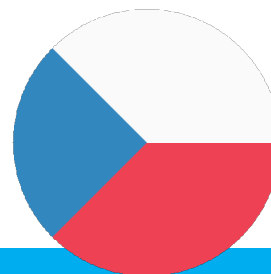
**Online gambling has always brought along online payment processors. What is the current situation in the Czech Republic regarding such activity? Is there a second tier license for such services?**

There is no gambling specific second tier licence for payment processors. There are, however, quite a few new obligations that the payment processors have to comply with and should be therefore aware of. These relate for example to the above mentioned black list where the payment processors will be requested to block payments to unauthorized gambling operators. There are also certain anti-money laundering procedures to be complied with.

**Looking further afield, where are the major emerging opportunities in Eastern Europe for operators at this moment?**

I believe the Czech market is not yet accustomed to the broad scope of online gambling offerings. While many consumers used to play at unlicensed operators in the past, the number of Czechs gambling online is likely to increase and may eventually surpass the traditional land-based gambling figures, partly also due to the introduction and promotion of new online games (e.g. fantasy leagues). This may be true also for other Eastern European countries where gambling markets gradually open up and where online gaming, in its broadest sense, picks up.

Well-run land-based casinos can be expected to thrive because they will still provide players with real life gambling experience that is hard to achieve on a PC or mobile phone. On the other hand, the number of gambling rooms (arcades) and revenues from land-based technical games may slightly decrease in the long run, assuming that the shift to online together with developments in mobile gambling technology will provide an appealing substitute to small gambling facilities with VLTs and slot machines who face increasing regulation from local authorities anyway.



### Quick must remember facts about the Czech Market:

The key operators are: **SLOT Group, SYNOT TIP, BONVER WIN and ADMIRAL CASINOS**

For odds betting and lotteries, the big players are **SAZKA, FORTUNA GAME, TIPSPORT, CHANCE and SYNOT TIP.**

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