



Minimum licensing requirements for sports betting in Germany

July 2019



Overview

We have prepared this document which is an unofficial translation of the “minimum requirements” to qualify for a 2020 sports betting licence in Germany. The annexes to the “minimum requirements” are also included in this translation. The official documents have been published by the competent German sports betting licensing authority of Hesse, the Regional Council Darmstadt (*Regierungspräsidium Darmstadt*).

Please note that only the German version of the documents is binding and that the “minimum requirements” are not exhaustive. The authority reserves the right to request further documents.

More information on the 2020 sports betting licensing procedure in Germany is available on the website of the Regional Council Darmstadt:

<https://rp-darmstadt.hessen.de/sicherheit/gewerberecht/gl%C3%BCcksspiel/sportwetten>

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Licence to organize sports betting remotely¹ and/or land-based²

To process your complete application to organize sports betting remotely and/or land-based, in particular on the basis of the German State Treaty on Gambling (*GlüStV*) of records, declarations and documents are required.

To the extent necessary for the granting of the license, the requirements of the law on the Detection of profits from serious criminal offences (Anti-Money Laundering Act – Geldwäschegesetz – *GwG*) of 23.06.2017 (BGBl. I p. 1822), last amended by Art. 5 (12) of the Act of 21.06.2019 (BGBl. I p. 846) will be taken into account.

The following documents must be submitted:

I. Formalities

1. Records/documents not written in German must be submitted with a translation into German.
2. Official documents which are not written in German must be submitted as a certified translation.
3. One set of application documents must be submitted in paper form.
4. A second set of application documents shall be submitted in digital form. This must be sent by email. If the attachments are too large for an email, it is also possible to provide an upload link for secure data exchange. Please let us know by email if you are interested.
5. Only if the required documents from the country of origin cannot be provided because there is no corresponding legal provision, this may be dispensed with (see II. 5., 6., 9. and 10.).
6. Additional demands for further application documents remain reserved.
7. Where reference is made to application documents, the exact references with page numbers must be indicated.

II. General information on the applicant

The following documents or declarations must be submitted:

1. Information on the applicant (name of the natural/legal person with indication of the address and VAT-ID for companies domiciled abroad and notification of all authorized representatives with name, first name, date of birth, email, telephone number).
2. Appointment of a receiving agent and authorized representative in Germany, if the registered office of the company is not located in Germany (name, address, email, telephone number).

¹ Remotely: This refers to desktop and, if applicable, mobile applications on the Internet.

² Original document: https://rp-darmstadt.hessen.de/sites/rp-darmstadt.hessen.de/files/2019_Infoblatt_Sportwetten_0.pdf.

3. Copy of the business registration in Germany.
4. Copy of the gambling licence of the country in which the applicant has its registered office (if the registered office is abroad).
5. Excerpt from the commercial register or a document corresponding to the excerpt from the commercial register from the country in which the company has its registered office (if the company has its registered office abroad).
6. Clearance certificate from the competent tax office including certificate from the tax office that there are no taxes outstanding (certificate in tax matters, not older than three months), in the case of legal entities also for all authorized representatives (managing directors, board members, directors) or corresponding document if the company has its registered office abroad.
7. Submission of a certificate from the tax office responsible for sports betting tax stating that there are no taxes outstanding with regard to the sports betting tax.
8. Printout from the joint enforcement portal of the Länder (German states) that there is no record in the debtor register exists or corresponding document if the registered office is abroad; in the case of legal entities also for all legal representatives.
9. Excerpt from the Central Register of Trade – originals or certified copies –, in the case of legal entities also for all legal representatives or corresponding document in the case of registered office abroad (not older than three months).
10. Certificate of good conduct according to Sec. 30 (5) of the Federal Central Register Act for submission to authorities (not older than three months), in the case of legal entities for all legal representatives or corresponding document in the case of residence abroad.
11. Certificate of competence in accordance with Sec. 4a (4) sentence 1 no. 1 b GlüStV of the applicant and in the case of legal entities for all authorized representatives (e.g. proof that the commercial qualification required for the execution of the betting business or a at least 2 years of betting activity in the gambling sector exist).
12. Explanation of the complete ownership and participation relationships in accordance with Sec. 4a (4) Sentence 1 No. 1. a) GlüStV and Sec. 4b (2) Sentence 3 No. 1. GlüStV.
13. Declaration of the form in which the security deposit is provided (e.g. bank guarantee, owner savings book, deposit with gambling authority).
14. Declaration that, in the event that the licence is granted, proof of the existence of an insurance to secure the customer's funds in the event of the insolvency of the company will be submitted.
15. Declaration pursuant to Sec. 4b (2) sentence 3 no. 6 GlüStV that the applicant will not – neither by itself nor by affiliated companies – organize or mediate unlicensed gambling in Germany from the time the licence is granted.
16. Declaration that the obligation under the Race Betting and Lottery Act to establish the tax and the basis of its calculation has been or will be complied with.
17. Proof of the own funds required for a long-term business activity by submitting a certificate from an independent certified accountant. The certificate must show that the applicant has received these funds for the proposed business activity, in particular that the funds are free from the rights of third parties. The certificate must not be older than three months (deadline: closing date for entries of applications).

18. Explanation of the origin of the funds required for the organization of public gambling.
19. Declaration by an independent certified accountant on the separation of client funds from other assets of the applicant as well as from the permanent coverage of the entire customer credit balance by liquid funds.

III. Payment processing concept

Minimum requirements for the payment processing concept, taking into account the requirements of Sec. 4 (5) and 4a (4) sentence 1 no. 3 GlüStV:

1. Information as to whether the payments will be processed by the applicant itself or by a third party,
2. Naming of the third-party provider (if any),
3. Proof of the account for the game-related transactions to be set up in Germany or in a credit institution domiciled in a member state of the European Union (Sec. 4a (4) sentence 1 no. 3.e) GlüStV),
4. Information on accounting in Germany (Sec. 4a (4) sentence 1 no. 3.e) GlüStV),
5. Overview of all payment methods offered,
6. Explanation of the pay-out methods,
7. Information on the prohibition of offsetting with regard to winnings and stakes (explanation of how transparent management of all bookings (i.e. deposits, stakes, bonuses, winnings, pay-outs and representation of sports betting tax due on the player's account) and to the player's account is ensured with respect to deposits and withdrawals, especially from credit balances (Sec. 4a (4) sentence 1 no. 3. g) GlüStV),
8. Explanations on the credit ban (Sec. 4 (5) no. 2 sentence 4 GlüStV),
9. Information on payment service providers (if available),
10. Where a payment service provider is active: Proof of compliance with the PCI-DSS standard regarding the payment service provider.

IV. IT security

Minimum requirements for safety concept in accordance with Sec. 4b (2) No. 2 GlüStV:

Remote + land-based

1. Submission of an ISO 27001 (or comparable) certificate together with an audit report (alternatively, submission of proof of compliance with all the standards contained in DIN ISO 27001 by certification of an auditor certified according to an internationally recognized IT security standard together with an audit report),
2. If IV.1. is not yet fulfilled: submission of an IT security concept based on the ISO 27001 standard (or a comparable standard for IT security),
3. Appointment of an IT security officer (name, address, email, telephone number),

4. Appointment of a contact person for information technology issues (name, address, email, telephone number).

Note

Bet-specific IT requirements can be found on the homepage of the Darmstadt Regional Council.³

V. Social concept(s)

Since social concepts for land-based gambling are different from social concepts for remote gambling, the minimum requirements of the respective distribution channels are described separately below following the general requirements:

Remote + land-based

1. Appointment of a social concept officer (name, address, email, telephone number), submission of his qualifications and explanation of his position in the corporate hierarchy,
2. Appointment of a player protection officer (name, address, email, telephone number), submission of his qualifications and explanation of his position in the corporate hierarchy,
3. Addiction prevention:
 - a. Description of how
 - Information on addiction risks and potential risks
 - offers of assistance
 - self-evaluationwill be made available,
 - b. Declaration that the link prohibition from Sec. 4 (5) No. 5 GlüStV will be complied with remotely and in land-based gambling.
4. Dealing with problematic playing behaviour:
 - a. Explanation of measures to prevent gambling addiction or of measures for the early detection of potential addiction-endangered people (observation of gambling behaviour); Internet: Explanation of technical appliances for the evaluation of problematic gambling behaviour,
 - b. Dealing with those affected (if necessary, naming any cooperation with gambling addiction associations as well as provider-independent and German-language counselling institutions).
5. Personnel: Explanation of the procedure for staff training.
6. Declaration that, at the end of the term of the license, it will be reported to the gambling supervisory authority on the success of the measures taken for player protection based on the collected data on the impact of gambling services offered on the development of gambling addiction.

³ See Annex 2.

Remote

Minimum requirements for a social concept that is adapted to the specific conditions of the Internet in accordance with Sec. 6 GlüStV and in conjunction with the appendix “Guidelines for the prevention and control of gambling addiction” in conjunction with Sec. 4 (5) No. 1 to 5 GlüStV:

1. Protection of minors:
 - a. Naming of the technical and other procedures for the exclusion of minors for identification in accordance with the “Internet requirements pursuant to Sec. 4 (5) – Outlines” (as of 8 August 2018),
 - b. Indication of how it is ensured that participation in games is not possible for persons under the age of 18 years (e.g. references to 18+, restrictions on registration).
2. Guarantee of the exclusion of blocked players, possibilities of self- and third-party- block:
 - a. Providers without an existing user contract for OASIS GlüStV: Submission of the application for connection to the OASIS blocking system including submission of the completed form “OASIS GlüStV Contact” and “Reply on security issues” and statement whether the blocking queries will be made via OASIS WEB and/or OASIS WS (further information on the application procedure is available on the [homepage](#) of the Regional Council Darmstadt),
 - b. Providers with existing user contract for OASIS GlüStV: Submission of the completed form “OASIS GlüStV Contact”,
 - c. If remote and land-based service exist: Declaration that the connection of the betting agents to OASIS GlüStV is made in such a way that the queries of the individual betting agent can also be forwarded to OASIS GlüStV via their own site identifier and the queries via remote gambling are made with a separate site identifier.
3. Addiction prevention: Explanation of how special addiction incentives by rapid repetitions are excluded (Sec. 4 (5) No. 3 GlüStV).
4. Description of the temporary game (if available), including explanation whether the player account will be deleted/deactivated if the customer's identification process has not been completed within 30 days.
5. Declaration that the players will be offered to voluntarily limit themselves in accordance with Sec. 4 (5) no. 2 Sentences 5-8 GlüStV.

Land-based

Minimum requirements for a social concept in accordance with Sec. 6 GlüStV and in conjunction with the appendix “Guidelines for the prevention and control of gambling addiction” for land-based gambling:

1. Protection of minors:
 - a. Description of measures to exclude minors,
 - b. Indication of how it is ensured that participation in games is not possible for persons under the age of 18 years.
2. Guarantee of the exclusion of blocked players, possibilities of self- and third-party- block:

Organiser with remote and land-based sports betting:

Declaration that the betting agent(s) will, after granting of the respective licence for the operation of a betting shop, be connected to the player blocking system OASIS GlüStV.

Organiser with only land-based sports betting:

Submission of an application for connection to the OASIS blocking system, including submission of the completed form “OASIS GlüStV location and contact” (for each betting shop to be connected) as well as “Answer to safety questions” and information as to whether the blocking queries are made via OASIS WEB and/or OASIS WS (further information on the application procedure can be found on the [homepage](#) of the Regional Council Darmstadt)

3. Declaration that the staff employed at the betting shops are excluded from the gambling offered there.
4. Declaration that no game machine within the meaning of Sec. 1 and 2 of the Gaming Ordinance is located in a betting shop.
5. Declaration that the sports betting is not offered in a building or building complex in which a gaming hall or casino is located (Sec. 21 (2) GlüStV).

Note

Further requirements for land-based operation due to state regulations are not excluded.

VI. Sales concept

Minimum requirements for a sales concept:

Remote + land-based

1. List of all brands managed by the company itself, differentiated according to distribution channel,
2. Statement that the applicant, during the term of the license, will only place sports bets based on Sec. 21 GlüStV in conjunction with the “Guidelines on enforcement in the field of sports betting during the ongoing concession procedure” (Annex 1),
3. Description of the scope/functionality of the loyalty card (if any or intended).

Remote

4. Statement whether the technical processing is carried out by the company itself or by a service provider,
5. If a service provider is used: name of the service provider (name, address, email, telephone number),
6. Indication of the internet domain(s) and mobile internet application(s) or app/s where sports betting is exclusively offered within the meaning of Sec. 3 GlüStV,
7. Description of the website (in particular: customer hotline, language settings, information on data protection, imprint, help options, dealing with private mode, information about the gambling licence that is valid in Germany).

Land-based

1. Broker:

Organization and operation of the betting shop (description of the betting: directly via the staff or indirectly via betting terminals in the betting shops, information on how the technical processing is carried out, submission of model contract organiser-retailer).

2. Organiser:

Listing of the locations with addresses and description of the organisation and operation (general information such as display of the general terms and conditions, identification as licensed location for the organisation of sports bets, requirements for the staff, description of the betting: directly via the staff or indirectly via betting terminals, specification of how the technical processing is carried out).

VII. Clarification

Explanation,

- a. how the game-relevant information is made available to the players on the website or in the betting shop in accordance with Sec. 7 GlüStV,
- b. information about the addiction risks of the games offered, about the prohibition of participation of minors and of counselling and therapy options.

In particular, information relevant to the game may be considered:

- all costs incurred as a result of participation,
- the amount of all winnings,
- when and where all winnings are published,
- the percentage of pay-outs for winnings from the stake (pay-out percentage),
- information on profit and loss probabilities,
- the closing date for participation,
- the method by which the winner is determined, in particular information about the random mechanism on which the generation of the random game results is based,
- how the winnings are shared between the winners,
- the time limit within which winners must claim their winnings,
- the name of the licence holder and his contact details (address, email, telephone number),
- the commercial register number (if available),
- how the player can file complaints and
- the date of the licence issued.

VIII. Miscellaneous

Other documents and declarations relevant to the license:

1. Notification of the expected amount of stakes in Germany for 2020 and 2021:

	Amount of stakes for sports betting
2020	
2021	

2. Description of the internal and external measures taken to prevent manipulation (e.g. participation in an early warning system in accordance with Sec. 21(3) sentence 3 GlüStV)
3. Printout of the general terms and conditions for remote/land-based sports betting
4. Naming a contact person for the betting operation (name, address, email, telephone number)
5. Appointment of a data protection officer (name, address, email, telephone number) in accordance with Sec. 38 of the Federal Data Protection Act (*BDSG*)
6. Declaration that, during the licensing procedure, the Regional Council Darmstadt will be notified
 - without delay of any change in the relevant circumstances;
 - in writing about planned changes in the ownership structure or other influences during the licensing procedure

The relevant circumstances shall be all facts relating to the content of the declarations and supporting documents to be submitted.
7. Declaration that the documents and information submitted with the application are complete.

IX. Information in the event that licence is granted:

1. The amount of the security to be provided after the granting of the licence to secure players' pay-out claims and state payment claims shall be at least 5 million EUR. It can be increased by the licensing authority up to the amount of the expected average turnover of two weeks, to a maximum of 25 million EUR (Sec. 4c (3) GlüStV). An exact determination shall be made during the granting of the license.
2. Reports and communications shall be submitted in digital form.
3. Monitoring data shall be provided in XML format for retrieval via a web service.
4. The licensee shall provide interfaces for checking all game processes in real time (Sec. 4a (4) no. 3 f) GlüStV).

Annex 1: Guidelines on enforcement in the field of sports betting during the ongoing concession procedure⁴

(As of: 28. January 2016)

I. Initial considerations and task of the guidelines

The GlüStV has suspended the state sports betting monopoly and provides for the licensing of private operators. The concession procedure may not be concluded until further notice because of the decisions of the Administrative Court Wiesbaden of 5 May 2016 and of the Constitutional Court Hesse of 16. October 2015. Therefore, the selection decision cannot be used as a basis for further action in enforcement.

In particular in the interest of youth and player protection and in order to prevent risks to the integrity of sporting competition, these guidelines are intended to steer further action against sports betting providers for a limited period of time and provide clarity for all parties concerned. In the supervisory procedures, a distinction is already made in the handling of discretion between matters which are to be addressed and matters which are not initially addressed. The supreme gaming supervisory authorities of the federal states have agreed on the procedure described below.

II. General enforcement principles

The guidelines on enforcement against illegal games of chance on the Internet (as of 14 July 2015) continue to form the basis of enforcement by the gaming supervisory authorities, in particular against the organisation and/or brokerage of online casinos/poker games and secondary lotteries, which, according to the decision of the parties to the State Treaty, is not permitted in the first place.

According to the jurisprudence of the Federal Administrative Court (cf. judgement of 16 May 2013 – 8 C 14.12 – juris marginal no. 54 et seq.), enforcement against illegal sports betting offers depends on the criterion of the obvious ability to obtain a license, which is to be assessed by the interdiction authority. Remaining ambiguities or doubts about the fulfilment of the licensing requirements justify intervention. This imposes a burden of proof on the organisers which cannot be assessed independently of their possible presentation and its official evaluation in the concession procedure. In particular, findings since August 2014 may be decisive for a different evaluation, which can be reviewed on request. In the field of sports betting, therefore, an interdiction of the organiser's activity must normally be reckoned with if legalisation has not been sought (no application for a licence, leaving the concession procedure at stage 1).

⁴ Original document: https://rp-darmstadt.hessen.de/sites/rp-darmstadt.hessen.de/files/160129Leitlinien%20Sportwetten_0.pdf.

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It has proved difficult in the past to base an interdiction of provider activity on a lack of reliability (cf. Higher Administrative Court of Bavaria, decision of 6 May 2015 – 10 CS 14.2669, regarding land-based sports betting). In the case of violations of substantive gambling law, however, according to case law, the principle of proportionality must be taken into account in particular, which does not preclude such a comprehensive prohibition from the outset, for example in the case of violations of core provisions of substantive gambling law (such as Sec. 4 (5) No. 1 GlüStV, cf. Higher Administrative Court of Baden-Wuerttemberg, decision of 8 April 2013 – 6 S 11/13 – juris marginal no. 8 et seq.).

As long as the requirements mentioned under III. below are complied with in their entirety, no risk situations remain under gambling law which, in the current situation of the concession procedure, make interdictions against such an organiser activity appear to have priority. If these requirements are no longer met, these organisers will be vigorously opposed based on a division of labour.

III. Matters that are not addressed initially

In view of the organisers' own statements and any official findings available (see above II.), in particular with regard to the fulfilment of tax obligations, the organisers can be assessed as reliable.

In order to facilitate the handling, the following priorities are set to the betting program:

Bets may only be placed on the outcome of sporting events or sections of sporting events where people are competing against each other. Bets on virtual events are not allowed. Sporting events are defined as each individual sports event, but also as the totality of several interconnected individual events of the same or different sports for a specific competition. The term “section” shall be defined in sport terms according to the relevant rules of sport, i.e. as a part formed according to the rules of the respective sporting competition. Live bets are possible on the final result and its components.

Sec. 21 (1) GlüStV uses the concept of “outcome” as a permissible reference point for sports bets. This must be distinguished from the “process” as the reference point of an unlawful event bet in Sec. 21 (4) GlüStV.

The exclusion of unlawful event bets is therefore already regulated by Sec. 21 (1) GlüStV, namely by distinguishing between outcome bets and process bets or the result from the (mere) event.

Bets on the outcome refer to the outcome of the sporting event and to events that are directly reflected in the outcome, derived from it or relate to other performance-related features of the outcome of the sporting event. The decisive criterion for the differentiation from the mere process (event) is therefore a result connection, a result relatedness. A process, i.e. an event which is not reflected in the result, cannot be derived from it and also has no performance-relevant relation to the result, is excluded as a permissible reference point of a sports bet for reasons of the protection of sporting integrity.

Bets on yellow cards, throw-ins, fouls, next penalty kicks and send offs would therefore not be admissible bet objects, as these processes lack the result relation or the result connection.

The “outcome” of sporting events would therefore include the following:

- The result of the sports event;

- Processes, that are directly reflected in the result or can be derived from it or refer to other performance-relevant characteristics of the result of the sporting event.

Bets on sporting events in which exclusively or predominantly amateurs participate are not permitted, unless they are major sporting events of international importance, such as Olympic summer or winter games, World or European Athletics Championships, Biathlon World Championships, FA Cup or DFB Cup. Bets on sporting events, in which exclusively or predominantly minors participate are not permitted.

The organisers comply with the requirements of Sec. 4 (5) No. 1 and 2 GlüStV. The guarantee of exclusion of minors or suspended players (Sec. 4 (5) No. 1 GlüStV) is carried out after the Internet Outlines⁵ including the provisional game or at least after the provisions of the AML Act (GwG). Reference is made to the relevant interpretation and application notes of the Federal Ministry of Finance and the supreme gambling supervisory authorities of the federal states of 11 June 2014 (cf. point VI. No. 3 on exemption under AML law from the requirement to send a copy of an identity document if the identity requirements under gambling law [Internet Outlines] are complied with).

The organisers will adhere to the maximum stake of 1000 EUR per player per month; they allow the player to choose a limit which is above the standard limit, provided that the player verifiably proves to the organiser that he has sufficient financial means to do so and that a limit of 1000 EUR per month has been set for the player's monthly losses.

If an activity on the Internet has not been applied for, the participation prohibition of minors (Sec. 4 (3) sentence 2 and 3 GlüStV) will be complied with.

The organisers shall comply with the clarification requirements of Sec. 7 GlüStV.

The organisers use an early warning system, Sec. 21 (3) sentence 3 GlüStV.

In order to ensure that the participation ban of blocked players is enforced, the organisers are prepared to cross-check with the central blocking system OASIS (Sec. 21 (5) GlüStV) and will join it as soon as this is legally possible.

In the case of advertising, the material advertising restrictions according to the GlüStV are complied with by the organisers; in particular, advertising according to Sec. 5 (2) sentence 1 GlüStV may not be directed at minors or similarly endangered target groups (no advertising on jerseys of children's or youth teams, no perimeter advertising at sports competitions of minors); advertising for sports betting on television immediately before or during the live broadcast of sports events to this sports event is not permitted (Sec. 5 (3) sentence 3 GlüStV); it is not allowed to advertise illegal gambling at the same time (Sec. 5 (5) GlüStV).

The organisers comply with the requirements of the GwG applicable to gambling on the Internet in accordance with the interpretation and application guidelines.

The organisers ensure compliance with these requirements within the scope of their legal possibilities also in their distribution network and cooperate with the gaming supervisory authorities of the federal states to this end.

⁵ Annex 4.

Annex 2: Bet-specific IT requirements⁶

In addition to the requirements for IT security, the following measures are expected to be implemented to ensure data security in terms of confidentiality, integrity and player protection:

- Use of TLS (Transport Layer Security) for registration and communication after player login (minimum requirement: TLS v1.2)
- Request of the following personal data of the player during the registration process:
 - First name
 - Surname
 - Address (Street/Number/Postcode/City)
 - Date of birth
 - Place of birth
 - Citizenship
 - Self-chosen password for later authentication
- Logging of the player's IP address according to the "Internet requirements according to Sec. 4 (5) – outlines" (dated 08.08.2018)
- During the registration process the player must be asked to provide a password or to determine other authentication methods (e.g. biological characteristics (biometrics) or ownership (e.g. Smartcard)) for subsequent authentication. If entry of user name and password is chosen as the authentication method the minimum requirements for the password to be assigned are: upper- and lower-case letters, at least one number + at least one special character + minimum length 8 characters.
- Blocking of the customer account after five unsuccessful login attempts at the latest (minimum requirement: automatic unblocking after 30 minutes at the earliest or by contact with the sports betting provider)
- The measures taken or planned to ensure the security of the website shall be described. ([OWASP: Top 10](#)).

⁶ Original document: https://rp-darmstadt.hessen.de/sites/rp-darmstadt.hessen.de/files/2019_IT-Anforderungen_0.pdf.

Annex 3: Information on dealing with sports betting terminals in restaurants⁷

Restaurant

In restaurants (pubs and/or restaurants within the meaning of the Hessian Restaurant Act), the distribution of food and beverages is characteristic of the business. A building permit for use as a restaurant must exist.

Betting shop

Betting shops are usually business premises in which sports bets are brokered as the main business⁸. A building permit for use as a betting shop/entertainment site must exist.

The brokerage of sports bets in other venues than betting shops is generally not permitted, Sec. 10 (5) sentence 1 Gambling Act of Hesse (*HGlüG*).

If betting terminals are set up in a restaurant, permission can only be granted if the requirements of Sec. 10 HGlüG are fulfilled and if the betting shop is physically separated from the restaurant and for this part use as a betting shop under building law is permitted, since according to Sec. 10 (8) no. 1 HGlüG permission to operate a betting shop may only be granted if the location, condition, equipment and separation do not conflict with the objectives of Sec. 1 GlüStV.

Consequently, the installation of sports betting terminals in the restaurant is not permitted for substantive reasons⁹.

The competent district authority is responsible for the prohibition of an unauthorised betting shop which is not materially able to be authorised.

Due to the precedence of the administrative procedure, the previous case-law in comparable cases and indications of the court, a fine proceeding will only be initiated if an interdiction has already been executed. In such cases, the Regional Council Darmstadt must be informed as the competent fine authority.

⁷ Original document: https://rp-darmstadt.hessen.de/sites/rp-darmstadt.hessen.de/files/Infoblatt_Terminals_Gaststaetten_0.pdf

⁸ Note: In lottery acceptance offices – and only there – sports bets may be brokered as a side business (Sec. 10 (5) sentence 2 HGlüG).

⁹ Requirement of Sec. 10 (8) No. 1 HGlüG is not fulfilled. Note: The prohibition is **not** based on the absence of licence as in Ince (ECJ, judgement of 4.02.2016 – C-336/14).

Annex 4: Internet requirements according to Sec. 4 (5) GlüStV – Outlines¹⁰

(As of: 8 August 2018)

Sec. 4 (5) No. 1 GlüStV	
“The exclusion of underage or suspended players is guaranteed by identification and authentication.”	
<p>Official explanation</p> <p>The – special – requirements for the Internet gambling licence according to Para. 5 No. 1 to 5 are based in detail on the transitional provision of Sec. 25 (6) GlüStV, which has been confirmed by the Federal Constitutional Court (cf. BVerfG, decision of 14 October 2008 – 1 BvR 928/08) and has essentially proven its worth. As there (Sec. 25 (6)), identification and authentication (no. 1) is indispensable in order to guarantee the continuous exclusion of underage or blocked players from lotteries and sports betting on the Internet; the “Commission for the Protection of Minors in the Media” (KJM)’s guidelines for the protection of minors from harmful media will have to be observed, without excluding equivalent solutions in terms of their protective effect. Secure identification and authentication is also essential to prevent illegal financial transactions. In all other respects, the cross-check with the blocking system prescribed in Sec. 20 (2)</p>	<p>Outlines for interpretation</p> <p>In the version of the GlüStV, the obligation to adhere without exception to the guidelines of the KJM on closed user groups no longer applies in the text; on the other hand, identification and authentication are used to transcribe the core elements of the KJM procedure for ensuring a closed user group in accordance with Sec. 4 (2) sentence 2 “State Treaty on the Protection of Minors in the Media” (JMStV) in the GlüStV. According to the explanation, the guidelines of the KJM will have to be observed without excluding equivalent solutions in the protective effect. The objectives of the provision are the protection of minors, the protection of vulnerable players and the prevention of illegal financial transactions.</p> <p>The KJM requires a personal identification of natural persons with verification of their age. This can also take place in a video conference with trained employees due to a multi-level identification procedure (cf. decision-making practice of the KJM and also circular letter 3/2017 of the “Federal Financial Supervisory Authority” (BaFin)). For identification purposes, face-to-face checks that have already been performed can also be used if a hit rate of 100% is achieved for at least the first name, surname and date of birth. In this case, either delivery of the login details to the identified person (by registered mail or similarly qualified alternatives such as DE-Mail or E-Post-Letter with m-Tan-procedure) or transmission of a unique activation code for the purpose of a “1 cent transfer” to a bank account reliably assigned to the player by means of an account number check is required. According to the guidelines of the KJM, authentication can be guaranteed either by a hardware component (without additional financial risk) or by a user</p>

¹⁰ Original document: https://rp-darmstadt.hessen.de/sites/rp-darmstadt.hessen.de/files/Internetanforderungen_%C2%A7_4_Abs_5_-_Eckpunkte_Stand_08082018_final_0.pdf

sentence 2, Sec. 21 (5) sentence 2 and Sec. 22 (2) sentence 2 shall be maintained. The parties required to cross-check with the blocking system do not have access to the blocking database; the transmission of personal data required for the cross-check is carried out on a case-by-case basis.

name/password solution with considerable, above all, financial risk. The KJM publishes an overview of positively evaluated concepts and the “AVS-RASTER” on its evaluation criteria.

The requirements are therefore regularly fulfilled by procedures conforming to the guidelines of the KJM. Applicants who submit methods that have not been tested by the KJM shall bear the burden of demonstrating that the solution is equivalent in protective effect; this is only the case if the procedure serves to achieve the objectives of youth and player protection as well as the prevention of illegal financial transactions in the same way. Equivalence is decided in the licensing or concession procedure; an assessment by the KJM may be obtained through administrative assistance.

The electronic proof of identity according to Sec. 18 Identity Card Act (Personalausweisgesetz) and Sec. 78 (5) Residence Act (Aufenthaltsgesetz) is an equivalent solution for identification. For authentication during each subsequent use, it shall be sufficient for the holder of the identity card or residence permit to enter the correct secret number (PIN) and transmit only the service- and card-specific identification number from the data listed in Sec. 18 (3) sentence 2 Identity Card Act.

Equivalent procedures can be considered to be those which allow a temporary game up to a maximum limit of 150 EUR until delivery of the login details, if winnings are only paid out after full completion of identification and authentication, which must be pointed out before admission to the game. The IP address of the player must be logged. If the identification is based on face-to-face checks that have already been carried out, a hit rate of 85% is sufficient for the first and last name, if a match of 100% is achieved with regard to the date of birth and the account number. The final activation of the player account after delivery of the login details to the identified person must take place within 30 days. In the case of lotteries and betting, it is not a question of already preventing knowledge of the content of the offer, but of effectively limiting participation in gambling; the provisional admission to the game prevents the migration of correctly identified/correctly identifiable adult players to illegal offers, while the postponement of the pay-out of winnings and the announced delivery of login details, together with the further precautions taken, prevent identity abuse (see recommendation of the EU Commission on online gaming 2014/478/EU, Point IV.9, V.21 and 22).

	<p>If face-to-face checks already carried out are used for identification, a procedure can be recognized as equivalent which ensures a hit rate of 85% for surname and first name if at the same time 100% is achieved on the date of birth and the login details are delivered or transmitted in accordance with the requirements of the KJM (see above).</p> <p>Procedures, in which the age of majority of the player is determined by Schufa Identitätscheck Jugendschutz or a comparable procedure and the participation fee is debited from the account of the person whose age of majority was previously determined before participation in the game, are recognized as equivalent in their protective effect, if at least seven days elapse between the ticket order on the Internet and the participation of the ticket in the lottery (continuous lottery).</p> <p>A relativization of the protection of minors depending on the potential danger of gambling is not permissible. The same applies to the protection of suspended players. The organisers of lotteries that save the prizes are exempt from the obligation to carry out the cross-check with the central blocking system.</p> <p><u>Note on the Anti-Money Laundering Act (GwG):</u></p> <p>If identification and authentication are carried out in accordance with Sec. 4 (5) No. 1 GlüStV and these outlines, the transmission of the copy of the identity document for remote identification in accordance with Sec. 16 (7) GwG as required in Sec. 9b (2) Sentence 1 GwG may be waived (Information from the Federal Ministry of Finance and the competent supervisory authorities of the federal states on how to deal with the special regulations on Internet gambling according to Sec. 9a, Sec. 9b and Sec. 9c GwG as well as the requests for exemption pursuant to Sec. 16 (7) GwG, Point VI.6, p. 50). The exemption can also be granted for the temporary game (see above); the risk of money laundering is low at this stage of the procedure, as profits may only be disbursed once identification and authentication have been completed in full.</p>
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Sec. 4 (5) No. 2 GlüStV

“The maximum stake per player may not exceed 1000 EUR per month. A different amount may be specified in the permit in order to achieve the objectives of Sec. 1. Winnings may not be set off against player stakes. Compliance with the credit ban is ensured. When registering, players must be asked to set an individual daily, weekly or monthly deposit or loss limit (self-limitation). In addition, players shall at all times be given the opportunity to redefine daily, weekly or monthly deposit and loss limits. If a player wishes to increase the deposit or loss limit, the increase will only take effect after a seven-day protection period. When deposit or loss limits are reduced, new wagering limits take effect immediately.”

Official explanation

No. 2 gives the player the opportunity to set an individual daily, weekly or monthly deposit or loss limit (self-limitation). In principle, a maximum limit of 1000 EUR per month must be observed, unless otherwise specified in the licence to achieve the objectives of Sec. 1. For objective reasons, a higher or lower limit may be set in the license, as well as the possibility of allowing the player to choose a limit above the standard limit, provided that the player can prove to the organiser or retailer that he has the appropriate economic capacity in an appropriate and verifiable manner. In addition, winnings may not be offset against stakes. This is intended to create greater transparency for the player with regard to his playing behaviour.

Outlines for interpretation

The individual stake or loss limit to be determined in accordance with No. 2 shall only apply to Internet gambling and shall be binding solely on the respective licensee.

Deviations from the statutory limit may be justified if individual players are provided with proof of their creditworthiness; the specific requirements are specified in the license. The burden of proof lies with the applicant. Deviations from the standard limit should take regulatory account of the special circumstances of the relevant gaming sectors, in particular with regard to channelling to a limited range of gambling services, and should be based on the broadest possible assessment base. In addition, it is possible, for example, to allow a higher bet limit that deviates from the statutory limit if a lottery runs for a period longer than one month and players make a one-time deposit of more than 1000 EUR.

In the case of lottery pools, the sum of the individual limits shall be set in accordance with the number of identified and authenticated members.

Sec. 4 (5) No. 3 GlüStV

“Special incentives for addiction through rapid repetition are excluded.”

Official explanation

According to No. 3, special incentives for addiction through rapid repetition must be excluded. This directs the design of lottery and betting offers on the Internet, which must not be allowed to encourage people to continue playing through a high event frequency; scratch and instant lotteries will then be inadmissible, as will lottery and betting offers offered to players in short succession.

Outlines for interpretation

Since the previous legal specification for the existence of a “fast repetition” in lotteries with more than two winning decisions per week has been dropped due to the extension of the scope of application to betting, a new definition is necessary. Decisive criteria are the fast frequency and the immediate decision to win. The introduction of forms of gambling comparable to online casino games is to be excluded (for scratch and instant lotteries, see the official explanation, which does not, however, include the mere ordering of scratch tickets on the Internet).

Betting offers do not refer to the number of bets that may have to be placed at short intervals, e.g. on a variety of different sporting events, but to the possibility of reacting immediately to a winning decision with the next bet. The scope of what is permissible is substantiated by Sec. 21 (4) of the GlüStV and the content of the licenses, so that the prohibition of rapid repetition in the field of betting, in particular in addition to the prohibition of live betting (without final result bets) pursuant to Sec. 21 (4) sentence 3 GlüStV, will probably only have a narrow scope of application.

Sec. 4 (5) No. 4 GlüStV

“A social concept adapted to the special conditions of the Internet in accordance with Sec. 6 shall be developed and implemented; its effectiveness shall be scientifically evaluated.”

Official explanation

According to No. 4, organisers and retailers shall develop and implement a social concept in accordance with § 6, adapted to the special conditions of the Internet, the effectiveness of which shall be scientifically evaluated at the organiser's expense. The scientific evaluations can be carried out in cooperation with several licence holders.

Outlines for interpretation

The obligation to scientifically evaluate the Internet social concept applies to the licensee and must be distinguished from the obligation of the gaming supervisory authorities to evaluate the effects of the State Treaty as provided for in Sec. 32.

Conditionality should be included in the licenses so that minimum requirements for the Internet social concept can also be given at a later date.

Sec. 4 (5) No. 5 GlüStV

“Bets and lotteries are neither offered via the same internet domain nor are there any links or references to other gambling.”

Official explanation

No. 5 establishes the principle of the separation of the various gambling offers on the Internet; this takes account of the indication from the structured hearing on the future of gambling that the Internet poses specific risks for players at risk of addiction, also because of the simple switching between different types of gambling on a single platform.

Outlines for interpretation

A lottery organiser or agent may offer various lotteries on its homepage and refer to them or link them to each other; however, references and links to sports betting offers (and vice versa) are not permitted.

The provision is addressed to the licence holders (organisers and brokers) as addressees. References and links from third parties (e.g. media partners such as Spiegel-Online, BILD etc.) are not covered by the regulation, even if they enable a game. Such references and links may be regarded as advertising. However, it is inadmissible if the licensee intentionally cooperates with a third party in order to circumvent the prohibition of Sec. 4 (5) No. 5 in this way. The type of linking can be used as an indication. The linking to the homepage of an external internet offer is generally permitted (e.g. by so-called “surface link”); however, a link will be inadmissible which leads the user directly to a specific gambling offer without opening the homepage beforehand (e.g. by a so-called “inline link” or “deep link”).

The term “other gambling” refers primarily to online casino games (online poker, online roulette, etc.).

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