



Audit Report

22/31

State funds related to the competence of state administration bodies in the field of gambling and gambling tax administration

The audit has been included in the audit plan of the Supreme Audit Office (hereinafter the "SAO") for 2022 under number 22/31. The audit has been managed and the audit report drawn-up by a member of the SAO, Mgr. Roman Sklenák.

The **aim of the audit** has been to verify whether the state funds related to the competence of the state administration bodies in the field of gambling are spent economically, efficiently and effectively, whether the objectives in the field of the gambling tax administration are being met efficiently.

Audited entities:

Ministry of Finance (hereinafter the "MF"),
General Financial Directorate, Prague (hereinafter the "GFD"),
General Directorate of Customs, Prague (hereinafter the "GDC"),
Specialised Tax Office, Prague (hereinafter the "STO"),
State Treasury Shared Services Centre, state enterprise, Prague (hereinafter the "STSSC").

The audit has been carried out on the audited entities between February and December 2022.

The **audited period has been** from 2014 to 2022, for factual contexts, the preceding periods were also included.

The **Board of the SAO** at its 8th session, which took place on 22 May 2023, **has approved** by Resolution No 10/VIII/2023 **this Audit Report** with the following wording:

Gambling in the Czech Republic

CZK 180 bil.

Difference between the deposits received (CZK 1.80 tn.) and prizes paid out (CZK 1.62 tn.)

CZK 50.5 bil.

Total gambling tax collection for 2017–2021

CZK 158 mil.

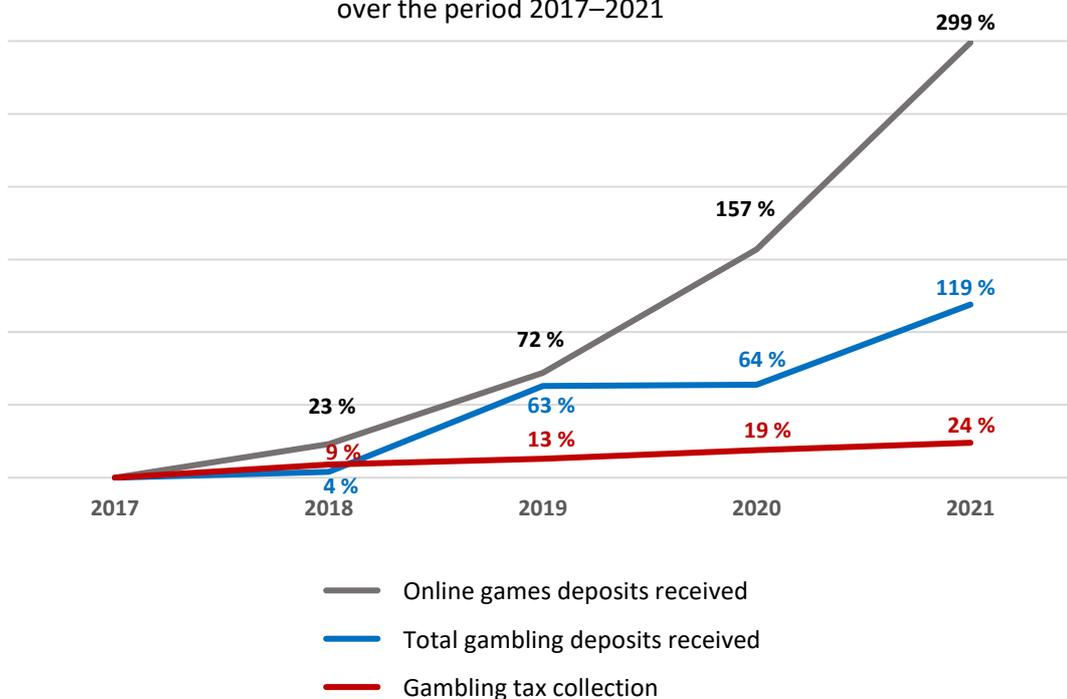
Total expenditure of the Ministry of Finance for the new information system AISG¹

0 of 15

In no case did the data in the AISG match the data in the sample of 15 audited tax returns

The Ministry of Finance did not build the necessary information system with a complete data base for the field of gambling.

Percentage increase in online games deposits received, total gambling deposits and gambling tax collections over the period 2017–2021



¹ AISG – information system for gambling operations.

I. Summary and Evaluation

By the audit, the SAO has verified whether the state funds related to the competence of the state administration bodies in the field of gambling are spent economically, efficiently and effectively. The supplies and services selected for the audit related to the construction, operation, development and use of information systems in the field of gambling. The SAO has also audited whether the objectives in the field of the gambling tax administration are being met efficiently. In particular, it has focused on the issue of the tax authority's audit of tax claims of gambling operators (hereinafter "operators") and the security of tax payment.

Despite the new legislation and the launch of part of the new AISG information system, the problems in the field of gambling, which the SAO had pointed out in 2014 in its audit 13/35², persist. The SAO has found out, that even nine years after the end of the previous audit, the Ministry of Finance did not ensure information support for the efficient performance of the activities entrusted to it in the field of gambling and gambling tax administration, performed by the Specialised Tax Office. Problems also persist in the field of supervision of compliance with the obligations of gambling operators.

State funds for the construction, operation, development and use of AISG and SSBL gambling information systems³ were spent in part uneconomically and ineffectively. In particular, the termination of the project of the newly built AISG by the Ministry of Finance in a state where the system was not fully operational, had a negative impact. Therefore, the Ministry of Finance, the Specialised Tax Office and the bodies of Customs Administration of the Czech Republic (hereinafter the "CA CR") use, for the performance of activities in the field of gambling, the original inadequate SSBL information system, which was to be replaced by the new AISG. The State Treasury Shared Services Centre, state enterprise, did not proceed in accordance with Act No 134/2016 Coll., on Public Procurement (hereinafter the "PPA") in the implementation of the AISG project.

The Specialised Tax Office did not have information support providing a reliable data base for auditing operators' tax returns. The tax administration objectives were thus met with reduced efficiency.

The performance of the supervision of the Ministry of Finance over gambling as provided for by Act No 186/2016 Coll., on Gambling (hereinafter the "GA"), was administratively and time-consuming when making entries on the list of unauthorised online games. This difficulty was significantly influenced by the ambiguous legal regulation of the legal characteristic of illegally operated online gambling⁴.

The SAO has also found out cases where the Ministry of Finance and the Specialised Tax Office did not act in accordance with the Gambling Act and Act No 280/2009 Coll., the Tax Code (hereinafter the "TC").

The overall evaluation is based in particular on the following audit findings:

² Audit No 13/35 – *State budget revenues related to the operation of lotteries and other similar games*. In 2013, the SAO had stated in Audit No 13/35 that: "*The MF did not create a functional system of state supervision and did not provide the financial administration authorities with the conditions necessary for the correct, complete and timely detection and assessment of levies. Fundamental shortcomings of the information system affect the performance of the administration and audit of this entire market segment.*" (See para. 4.96.)

³ SSBL IS – information system of *the State Supervision over Betting and Lotteries*.

⁴ Provisions of Section 2(2) of Act No 186/2016 Coll., on Gambling.

1.1 The Ministry of Finance did not ensure the full functionality of the new information system to support the performance of the activities in the field of gambling.

- The MF was preparing a new information system for gambling supervision, starting from 2014. Contracts with suppliers were concluded by the Ministry of Finance in 2018 and 2019, respectively. According to them, the AISG was to be fully operational starting from May 2020. The MF concluded amendments to the contracts, which changed the price, narrowed the scope and extended the delivery date. In August 2020, the MF terminated the development of the AISG, in a state where only two of its three modules were fully operational, while funds had been spent on building all of them. Thus, the MF spent part of the funds for the implementation of the AISG in an ineffective and uneconomical manner, as these funds did not ensure an optimal level of performance of the set tasks (see para. 4.4 to 4.16).
- As a result of the non-completion of the AISG, the MF maintains in operation the inadequate SSBL information system, which had been created for the needs of activities under Act No 202/1990 Coll., on Lotteries and Other Similar Games (hereinafter the "LA"), and was to be fully replaced by the new AISG. Funds for the simultaneous operation of two information systems for the performance of activities in the field of gambling after 31 December 2022⁵ are assessed by the SAO as spent uneconomically and ineffectively (see para. 4.1, 4.16).
- The MF spent more than CZK 2.5 mil. in 2016 and 2017 to ensure compliance of the SSBL IS with the legislation of the Czech Republic, despite the fact that these modifications to the SSBL IS were secured by a lump-sum payment contract concluded in 2009. The SAO has assessed this duplication of funds spending as ineffective and uneconomical, and as indicative of a breach of the budgetary discipline (see para. 4.2).

1.2 The data in the information systems supporting the gambling tax administration is not fully usable.

- The SAO has found out in its audit sample of fifteen gambling tax returns that in none of the cases did the data in the AISG match the data in the tax returns, and has further verified that the STO made only limited use of the data from the AISG; for example, the SAO has not, until the end of the audit, used the data for assessment purposes in the cases identified. The use of the data was limited by its insufficient quality (see para. 4.20, 4.25).
- The efficiency of the gambling tax administrator's audit activities was reduced by sending of erroneous data by gambling operators to information systems or by the difficulty of using the AISG data reports by the gambling tax administrator. The complicated, non-automated, administratively demanding way of exchanging and sharing information between the authorities concerned persists (see para. 4.17 to 4.21, 4.23 to 4.28).
- The incompleteness and unreliability of data in the SSBL IS reduced the efficiency of the gambling tax administrator's audit activities due to the need for additional

⁵ After this date, activities resulting from the original legislation (Act No 202/1990 Coll.) ceased to have any support in the legal regulations. Provisions of Section 136(9) of Act No 186/2016 Coll., on Gambling.

verification of this information from other sources for the purposes of the tax procedure (see para. 4.19).

1.3 In the public procurement of the AISG system, the STSSC state enterprise did not proceed in accordance with the Public Procurement Act.

- The STSSC state enterprise, which, on the basis of vertical cooperation with the MF, was ensuring the operation of the entire AISG and the delivery of one of the three AISG modules, repeatedly failed to award public contracts (hereinafter "PC") for subcontracts in the types of tender procedures provided for by law under the PPA⁶. In some cases, it also failed to comply with the principle of transparency under this Act⁷ (see para. 4.7, 4.8).

1.4 The Ministry of Finance and the Specialised Tax Office did not, when carrying out activities in the field of gambling and gambling tax, in the identified cases, proceed in accordance with the legislation; the MF did not use its legal authority.

- The MF repeatedly did not proceed in accordance with the LA and the GA in the administration of sureties and bails deposited by operators. The SAO has found out that in some cases, even when tax arrears existed, the MF returned the bail to the operator or took no action until the expiry of the provided bail. The MF was also unreasonably inactive for almost two years and did not decide on the appeal filed against the cancellation of the basic license, during which time the validity of the granted bail expired. As a result of the MF's procedures, the state's receivables in the form of unpaid gambling tax in the amount of tens of millions of crowns became unsecured (see para. 4.33, 4.34, Example No 1, Example No 2, Example No 3).
- In one case, the STO did not comply with the TC⁸, when it did not ensure the payment of more than CZK 12 mil. in tax. The STO granted a delay in the payment of the gambling tax to a bankrupt operator, whose assets were declared bankrupt by the court. Paradoxically, in its application for the delay, the operator demonstrated that it had sufficient funds to pay the tax (see Example No 1).
- According to Act No. 187/2016 Coll., on Gambling Tax (hereinafter the "GTA"), the STO is obliged to inform the MF about operators that violate their tax obligations⁹. The SAO has found out that in the case of 11 tax entities, whose tax arrears in the period under review totalled more than CZK 2 bil., the STO did not provide this information for the purposes of the proceedings to revoke the basic license (see para. 4.35).
- According to the GA¹⁰, the MF will revoke the basic license of operators that repeatedly violate the obligations set out in the GA or the GTA. The SAO has found out that although the MF received the information about such breaches of obligations from the supervisory authority (GDC) and the gambling tax administrator (STO), in neither case did the MF revoke the basic license of these operators or initiate proceedings to revoke the basic license for this reason (see para. 4.29, 4.30).

⁶ Provisions of Section 2(3) of Act No 134/2016 Coll., on Public Procurement.

⁷ Provisions of Section 6(1) of Act No 134/2016 Coll., on Public Procurement.

⁸ Provisions of Section 1(2) of Act No 280/2009 Coll., the Tax Code.

⁹ Provisions of Section 8 of Act No 187/2016 Coll., on Gambling Tax.

¹⁰ Provisions of Section 95(2)(c) of Act No 186/2016 Coll., on Gambling Tax.

1.5 The efficiency of online gambling supervision is hampered by ambiguous legislation.

- In the audited period, according to data submitted by the STO, the number of detected illegal operators was 15 times higher than the number of operators with the basic gambling operation license issued. Formulationally ambiguous legal regulation of the legal characteristic of illegally operated gambling – "*focusing on or targeting persons residing in the territory of the Czech Republic*" – reduces, due to considerable administrative and time consumption, the efficiency of the supervision (see para. 4.44 to 4.52, Example No 4).
- The total number of audits of operators by the MF and the CA CR in the period 2017 to 2021 was 1,005 in the land-based¹¹ environment and 167 in the online environment. The MF and the CA CR thus focused their attention on online gambling in only 14% of the total number of audits carried out. According to the SAO, these authorities responded insufficiently to the shift of gambling from land-based environment to online environment (see para. 4.41 to 4.43).
- In a random sample of websites, the SAO has verified that the time from the receipt of the complaint to the publication of the gambling game on the list of unauthorised online games ranged from 119 to 368 days. During this period, unauthorised gambling is allowed to continue to operate in the Czech Republic and users may participate therein, including persons excluded from participation in gambling according to the GA. By the end of 2022, more than 550 websites offering illegal online games were progressively blocked (see para. 4.44, 4.46).

On the basis of its findings, the SAO recommends amending the legislation to refine the criteria for assessing unauthorised online gambling and to streamline the process of blocking relevant websites (see para. 4.44 to 4.52, Example No 4).

¹¹ The method of the operation of gambling in so-called brick-and-mortar establishments.

II. Information on the Audited Area

2.1 The fields of gambling and gambling tax have been regulated since 1 January 2017 by new legislation, namely Act No 186/2016 Coll., on Gambling, and Act No 187/2016 Coll., on Gambling Tax. The main motivation for the new approach to regulation was the high social cost of gambling in the Czech Republic (estimated at CZK 14.2 to 16.1 bil.) and "*the development and use of modern, especially information, technologies and the resulting need to modernise the regulation itself*"¹².

2.2 According to the provisions of Section 3 of the GTA, the tax base is the sum of the partial tax bases, which consist of the amount, by which the sum of the received deposits exceeds the sum of the total amount paid out for winnings and the total amount of the returned deposits. The tax rates for individual types of gambling are regulated by the provisions of Section 4 of the GTA.

Table 1: Gambling tax rate by type of gambling

	Lottery	Odds betting	Totalizator game	Bingo	Technical game	Live game	Raffle	Small-scale tournament
Tax rate	35% *	23%	23%	23%	35%	23%	23%	23%

Source: Act No 187/2016 Coll., on Gambling Tax; SAO own elaboration.

* From 1 January 2020, 23% until then.

In accordance with the provision of Section 7 of the GTA, out of the gross national revenue from the tax on technical gambling, 35% is the state budget income and 65% is the municipal budget income. Out of the gross national revenue from the tax on other gambling types, 70% is the state budget income and 30% is the municipal budget income.

2.3 Gambling tax collections totalled CZK 50.5 bil. for 2017–2021 and increased by CZK 2.1 bil. between 2017 and 2021. In contrast, received gambling deposits increased by CZK 286.7 bil. in this period, winnings paid out increased by CZK 287.7 bil., and the difference, which forms the main part of the gambling tax sub-base, decreased by CZK 1.0 bil. between 2017 and 2021. The amount of winnings paid out is influenced, among other things, by the setting of win shares for technical games. The GA sets the condition that the win share for technical games must not be less than 75% and not more than 100%.¹³

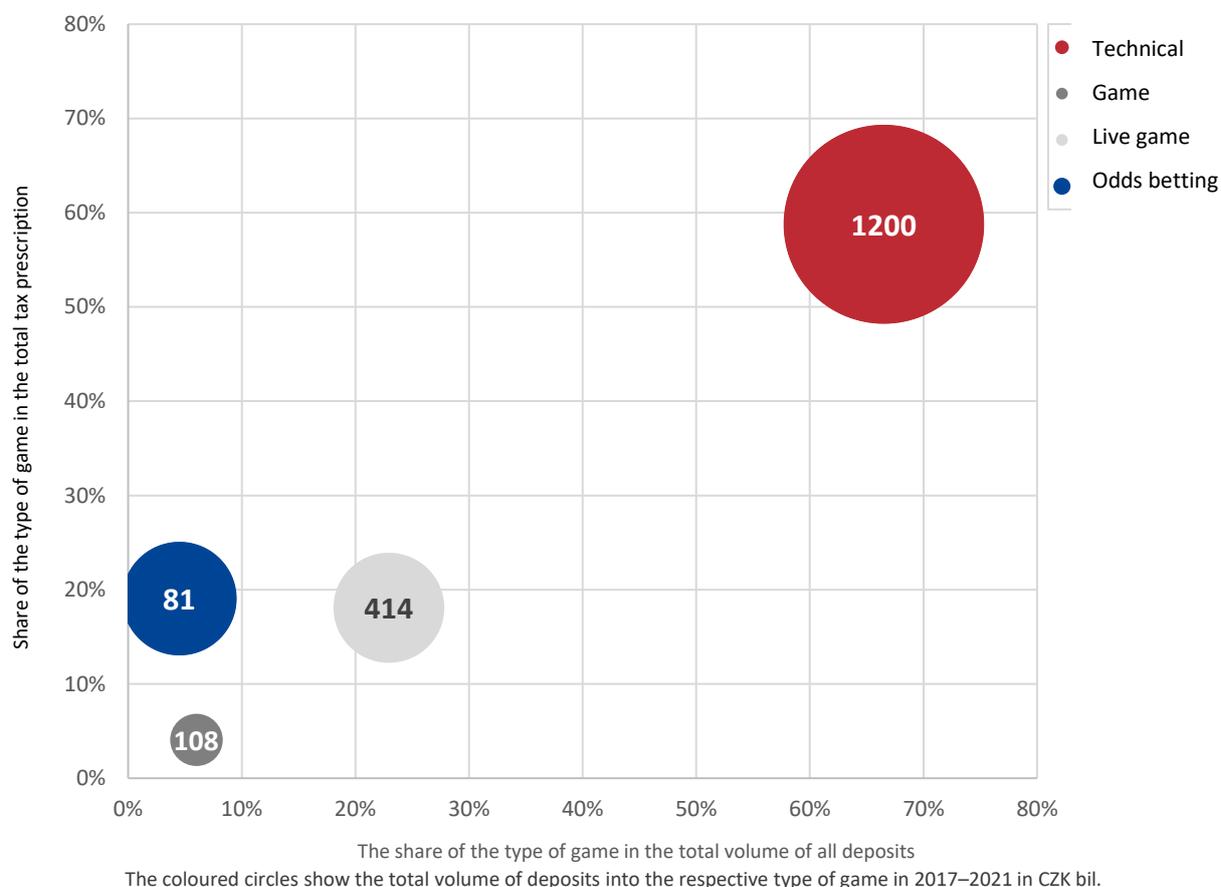
2.4 The gambling sector has long been dominated by four types of games: technical games¹⁴, odds betting, live games and lotteries, which accounted for almost 100% of total gambling deposits received in 2017-2021. The shares of each type of gambling in deposits and gambling tax prescription are shown in Chart 1.

¹² Explanatory report to Act No 186/2016 Coll., on Gambling.

¹³ Section 51 of the GA sets out the conditions for setting the win share for technical games and its definition.

¹⁴ A technical game is operated by means of a technical device operated directly by the bettor; this means in particular a reel game, electromechanical roulette and electromechanical dice.

Chart 1: Shares of each type of gambling in deposits and gambling tax prescription in 2017–2021



Source: STO data; own elaboration of the SAO.

Note:

The horizontal axis of the chart shows the share of the type of game in the total volume of all deposits, while the vertical axis shows the share of the tax prescription on the given type of game in the total gambling tax prescription. The total amount of deposits into the game type in CZK bil. is marked in a circle. The area of the circle corresponds to the size of the tax prescription for the given type of gambling. Deposits in the other four types of games (totalizator game, raffle, small-scale tournament and bingo) totalled CZK 138 mil. for the given period, which represents 0.0076% of the total deposits.

2.5 Between 2017 and 2021, the total volume of deposits received for technical games was CZK 1.2 tn. In 2021, it was higher by almost CZK 240 bil. compared to 2017. Collection of tax on technical games in 2017–2021 amounted to CZK 29.7 bil., in 2021 it decreased by CZK 820 mil. compared to 2017.

2.6 During the audited period, online games saw rapid development. The difference between funds wagered and paid out, which forms the main part of the gambling tax base, gradually increased, in the case of online gaming, from less than CZK 9 bil. in 2017 to about CZK 23 bil. in 2021. The difference between funds wagered and paid out in land-based gambling saw the opposite development, with a decrease from CZK 33 bil. in 2017 to CZK 17 bil. in 2021.

Ministry of Finance

2.7 According to the provisions of Section 4(1) of Act of the Czech National Council No 2/1969 Coll., on the Establishment of Ministries and Other Bodies of Central Government of the Czech Republic, the MF is the central state administration body for, inter alia, taxes, fees and gambling. The MF is the gestor of the GA and GTA, on the basis of the GA it supervises compliance with this Act, decides on the issuance, amendment or cancellation of the basic license to operate gambling, supervises compliance with the conditions set out in the basic license and the license for the location of the gambling premises and the requirements specified in the notification, deals with offences committed by authorised persons, internet access providers in the territory of the Czech Republic and payment services providers, processes information from the reporting for analytical purposes and for the purposes of supervision of compliance with the obligations set out in the GA, decides on the issuance of authorisations for professional assessment and certification, supervises the fulfilment of the obligations of an authorised person, administers bails, is the administrator of the register of private individuals excluded from participation in gambling (hereinafter the "REI"), maintains the list of unauthorised online games, is the administrator of the SSBL and AISG information systems.

Specialised Tax Office

2.8 The STO was established by Act No 456/2011 Coll., on the Financial Administration of the Czech Republic. The STO exercises competence in the entire territory of the Czech Republic and, since 1 April 2019, it has been the exclusive gambling tax administrator (until 31 March 2019 it was the gambling tax administrator only for selected entities, which were legal entities established for the purpose of business with a turnover greater than CZK 2 bil. and which operated gambling). Since 1 January 2017, the STO has not performed the supervision of lotteries and other similar games, this competence has been transferred to the CA CR by the new legislation.

General Directorate of Customs

2.9 The GDC was established by Act No 17/2012 Coll., on the Customs Administration of the Czech Republic. Within the system of the CA CR bodies, the GDC performs the competence of the nearest superior administrative body to the customs authorities that perform the competence in the field of customs administration and administration of certain taxes, according to the relevant legislation. According to the GA, the CA CR bodies, among other things, perform supervision over the compliance with the GA and process information from reporting. They also search for illegal operators. Since the beginning of the effectiveness of the Gambling Act, the CA CR has been supervising land-based gambling operations, and since October 2019, it has also been supervising online gambling (previously, the MF had this competence). Since January 2021, it has also been handling offences in this area (until 31 December 2020 they were under the responsibility of the MF).

State Treasury Shared Services Centre, state enterprise

2.10 The STSSC is a state enterprise established by the MF as a legal entity operating business activities with state property on its own behalf and under its own responsibility. In 2019, the STSSC started providing shared infrastructure services to the MF for the purpose of

its applications within the project of information system for the supervision of the gambling market.

General Financial Directorate

2.11 The GFD was established by Act No 456/2011 Coll., on the Financial Administration of the Czech Republic, and is subordinate to the Ministry of Finance. The GFD is an organisational unit of the state with nationwide competence for tax administration, including gambling tax. It is involved in drafting legislation and providing analytical and conceptual tasks in this area.

III. Scope of the Audit

3.1 In the audit, the SAO has examined the economy, efficiency and effectiveness of the spent state funds related to the competence of the state administration bodies in the field of gambling and the efficiency of meeting the objectives in the field of gambling tax administration. The audited period was the period from 2014 to 2022, for factual contexts the preceding periods were also included.

3.2 The use of public funds is considered economical if it ensures the performance of the set tasks with the least possible expenditure of such funds while ensuring the adequate quality of the tasks performed¹⁵. The economy has also been assessed in relation to assets used to perform the functions of the state and to carry out specified activities¹⁶.

3.3 The use of public funds is considered efficient if it achieves the best possible scope, quality and benefit of the tasks performed in comparison with the amount of funds spent on their performance¹⁷. Efficiency therefore expresses the relationship between the resources invested

and the outputs obtained, in terms of quantity, quality and time. Efficient gambling tax administration means, for the purposes of the audit of the administration of this tax, such quality of the performance of the activities of the administrator which achieves the maximum possible scope of the tasks performed in the tax administration, i.e. the correct identification and

the assessment of taxes and ensuring the payment thereof¹⁸.

3.4 The use of public funds is considered effective if it ensures an optimal rate of achievement of objectives in the fulfilment of the set tasks¹⁹. Effectiveness therefore expresses the relationship between the achieved and the planned outcome. For the purposes of the SAO audit, effectively spent funds have been those that were spent in accordance with the gambling objectives. The effectiveness has also been assessed in relation to assets used to perform the functions of the state and to carry out specified activities¹⁶.

3.5 The SAO has audited the state funds spent by the MF on information support for the activities of state administration bodies in the field of gambling and gambling operation

¹⁵ Provisions of Section 2(m) of Act No 320/2001 Coll., on Financial Control in Public Administration and on Amendments to Certain Acts (Act on Financial Control).

¹⁶ Provisions of Section 14(1) of Act No 219/2000 Coll., on the Property of the Czech Republic and the Representation of the Czech Republic in Legal Relations.

¹⁷ Provisions of Section 2(n) of Act No 320/2001 Coll., on Financial Control.

¹⁸ Provisions of Section 1(2) of Act No 280/2009 Coll., the Tax Code.

¹⁹ Provisions of Section 2(o) of Act No 320/2001 Coll., on Financial Control.

supervision and licensing, administration of sureties and bails, and activities in the field of illegal gambling operation.

3.6 The SAO has audited in the STO in particular the use of information systems (SSBL IS and AISG) for the purposes of gambling tax administration and the audit and enforcement activities of the STO in the field of gambling tax administration. In the case of the GDC, the SAO has focused on examining whether the activities performed by the GDC are in compliance with the Gambling Act, especially after the change in supervision under the new legislation and the transfer of powers to the CA CR bodies from the MF. At the GFD, the audit has verified aggregated data concerning the gambling tax administration.

3.7 The SAO has also verified whether the STSSC state enterprise proceeded in accordance with legal regulations when awarding public contracts. A total of seven small-scale PC for services, two sub-limit PC for services awarded in a simplified sub-limit procedure pursuant to the provisions of Section 53 of the PPA, and one above-limit public contract for services awarded in an open procedure pursuant to the provisions of Section 56 of the PPA have been audited.

3.8 The total audited volume of the MF's expenditure related to information support in the field of gambling for the years 2017–2021 has amounted to CZK 174 mil. The audited volume of funds at the level of the system of performance of activities in the field of gambling and gambling tax administration has amounted to CZK 5.53 bil. (this amount includes the value of bails and bank guarantee documents for bails, in selected cases the value of gambling tax arrears, the value of the additionally assessed gambling tax, the value of the technical game tax sub-base and the value of penalties imposed by the CA CR).

Note: The legal regulations indicated in this Audit Report are applied in their wording effective for the audited period. Funds are inclusive of VAT unless otherwise stated.

IV. Detailed Facts Found in the Audit

The Ministry of Finance failed to provide the public administration authorities concerned in the field of gambling with information support for the efficient supervision and gambling tax administration.

SSBL information system:

4.1 The SSBL IS meets the needs of the public administration authorities concerned by about 20%. In 2016, the MF anticipated its parallel operation with the new AISG until 31 December 2019. According to the AISG supply contract, the AISG administrative module (hereinafter the "AISG AdM") was supposed to take over its functions by the end of 2020. However, the MF had not constructed and commissioned the entire AISG AdM by the time the audit was completed. MF and other public authorities cooperating on the gambling agenda are therefore still using the SSBL IS, e.g., for licensing procedures, licenses for the location of gambling premises, gambling notifications, supervisory activities or the provision of information. These are more than 1,000 users. After 31 December 2022, activities resulting

from the original legislation ceased to have any support in the legal regulations²⁰. The operation, maintenance and development of the SSBL IS after this date in parallel operation with the AISG posed a risk of ineffective and uneconomical expenditure at the time of the audit.

4.2 The development of the SSBL IS was ensured by the *Contract for methodological and technical support of the SSBL IS* dated 16 February 2009. On the basis of this contract, the MF paid CZK 205.7 thousand per quarter. In addition to this contract, the MF had paid a total of CZK 5.6 mil. for the development of the SSBL IS since 2014, by which the MF did not comply with the measure imposed by the Government Resolution No 1019 of 8 December 2014 to remedy the shortcomings identified by the SAO Audit No 13/35, namely that "*the SSBL system in use will only be maintained in the operational phase without additional costs for its development and optimisation.*" Of this amount, the Ministry of Finance spent more than CZK 2.5 mil. on activities already covered by the above-mentioned contract. The SAO has assessed this procedure, where the MF duplicated the payments for the services provided, as ineffective and uneconomical spending of the funds, and as indicative of a breach of the budgetary discipline.

4.3 The SSBL IS is also used to keep track of the sureties deposited by gambling operators under the LA, and the bails deposited by gambling operators under the GA. However, the SSBL IS provides only limited functionality for bails administration and does not include information on how to deposit bail. Thus, the MF records the bails in auxiliary tables in MS Excel and the MF employees maintain additional notes, e.g., in paper form, for their own use.

AISG information system:

4.4 In connection with the preparation of the Gambling Act, the MF was preparing a completely new information system from 2014, which was to consist of three modules.

- Analytical module (hereinafter the "AISG AnM"), enabling the collection, control and storage of gaming and other data from gambling operators and subsequent analyses of such data for the purpose of supervision.
- Supervision module (hereinafter the "AISG SM"), supporting the legal requirements for the registration of gamblers and the maintenance of a register of private individuals excluded from gambling.
- Administrative module, which was to provide comprehensive support for administrative proceedings and for supervision and audit activity for the public administration entities concerned (MF, CA CR, Financial Administration of the Czech Republic, municipalities).

4.5 One of the objectives of the development of the AISG was to obtain "*a complete data base for the entire public administration, including audit authorities and the financial administration (background documents for audit of gambling operations and for auditing operators' tax returns)*"²¹, which was intended to improve the supervision and control of gambling operations. The purpose of the AISG was also to replace the SSBL IS.

²⁰ After this date, activities resulting from the original legislation (Act No 202/1990 Coll.) ceased to have any support in the legal regulations. Provisions of Section 136(9) of Act No 186/2016 Coll., on Gambling.

²¹ AISG project main document.

4.6 On 1 April 2016, the Ministry of Finance announced a public procurement in a tender procedure for the *Supply and implementation of an information system for the supervision of gambling* (hereinafter the "AISG PC"). The tender documentation (hereinafter the "TD") for the AISG PC contained analytically flawed requirements. The MF issued 15 corrective notices during the PC. The deadline for submission of offers in the tender procedure was extended by the MF from 60 to 207 days, i.e. almost 3.5 times the originally planned deadline. On the basis of the above-mentioned reasons, the SAO assessed the tender documentation as poorly executed. After modifications during the AISG PC, the MF used this TD in subsequent PC announced for the AISG. The MF spent funds of CZK 5.3 mil. for the preparation of background documents for this tender procedure and its preparation. The SAO has assessed the reduced effectiveness and economy of this expenditure.

4.7 On 28 February 2017, the MF cancelled the AISG PC, because it subsequently found out, that it had not responded to a supplier's request for additional information within the time limit set out in Section 49(2) of Act No 137/2006 Coll., on Public Contracts, and did not do so even at a later date. On 12 March 2018, i.e. 21 months after the GA came into force and more than a year after the abolition of the AISG PC, the MF decided to separate the AISG AnM from the AISG SM and AISG AdM. The contract for the supply of the AISG AnM was concluded by the MF within the vertical cooperation with the STSSC state enterprise.

4.8 According to the MF's information for the Government of the Czech Republic dated 7 November 2018, external costs (i.e. third party subcontracting for STSSC) for the implementation of the AISG AnM were to represent approximately 20% of the contract price. However, STSSC enterprise subcontracted almost 80% of the PC for the AISG AnM. STSSC enterprise also incorrectly set the estimated values of AISG-related public contracts and did not enter them in the types of tender procedures provided for by law. This repeatedly violated the provisions of Section 2(3) of the PPA. In some cases, the STSSC state enterprise did not act in accordance with the provision of Section 6(1) of the PPA, which stipulates that the contracting authority must comply with the principle of transparency.

4.9 The Ministry of Finance concluded the contract for the delivery of the remaining two AISG modules (AISG SM and AISG AdM) on 3 December 2018. The completion date was set for 17 May 2020. The aim of the contract was *"to operate a fully functional information system for the registration, monitoring and audit of gambling."*

4.10 On 31 August 2020, the MF, with general reference to the covid-19 pandemic, entered into a contractual amendment, which substantially reduced the subject matter of the contract and stopped the development of the AISG in a state, where the basic purpose and objective of the contract had not been met. According to the SAO, there was no objective reason for this. The MF did not proceed with the goal of full AISG functionality and did not take advantage of the provisions of the contract that allowed such a procedure. The status of the project as at August 2020, i.e. more than four years after the date of the GA entry into force, does not ensure the conditions for the efficient performance of the entrusted activities in the field of gambling and gambling tax administration. The authorities concerned therefore continue to use the SSBL IS, which functionally covers only part of the support for administrative procedures and gamblers registration. By the time the audit has been completed, the MF did not take any action to complete the AISG.

4.11 The AISG AdM supports only three processes out of the planned twelve: namely the methodological activity, enquiry handling, and complaint resolution. However, this support is not used by the MF or other state administration bodies. The SAO has assessed the funds spent on the implementation of the support for these three processes as spent uneconomically and ineffectively, because the AISG did not achieve the desired status and the funds spent did not serve to ensure the set tasks. It has not been possible to ascertain the exact amount of the funds spent in this way due to the method of determination of the price of the part of the AISG handed over.

4.12 For the delivery of the AISG AdM and the AISG SM, the MF was to pay CZK 24.1 million. After the reduction of the AISG AdM, the MF paid CZK 19.9 mil. for the parts delivered. The determination of the final price for these parts of the AISG was made without detailed costing.

4.13 In most cases, when administering the REI, which belongs to the AISG SM, the MF relies on data provided to it by other public authorities. Persons that apply for registration themselves, and persons registered on the basis of information from the competent courts, are entered manually into the REI by the MF.

Table 2: Development of the number of persons registered in the REI by reason of registration from 1 January 2021 to 31 July 2022

Reason for exclusion	1 January 2021	1 April 2021	1 July 2021	1 October 2021	1 January 2022	1 April 2022	1 July 2022	31 July 2022
At own request	310	889	1,302	1,774	2,266	2,835	3,479	3,669
Restriction and obligation to abstain from gambling or protective treatment	1	5	36	37	42	42	44	44
Receiving benefits in material need	64,809	68,407	68,684	64,619	61,676	60,608	60,587	60,018
Provisional measure banning gambling	0	0	0	1	1	1	1	1
Person assessed jointly with a person receiving benefits	25,462	26,327	26,182	24,748	23,929	23,696	23,744	23,633
Bankruptcy	108,452	107,719	107,479	107,415	107,355	106,523	106,076	106,018
Substitute alimony	x	X	x	x	x	x	5,601	5,805
Total number of excluded persons	195,796	199,866	200,192	195,270	192,014	190,418	195,618	195,288

Source: MF data, own elaboration of the SAO.

Note:

Total number of excluded persons – this figure has not been created as a simple sum of the number of persons in the REI by reason of exclusion, due to the registration of persons in the REI for multiple reasons at the same time. In this row, persons registered in the REI are counted only once each time.

4.14 The GDC spent CZK 1.98 mil. on the preparation of internal applications for connection to the AISG AdM in 2019. However, the connection and sharing of information did not take place, due to the non-completion of the AISG AdM by the MF. The SAO has assessed the funds used in this way as spent ineffectively, because, as a result of the MF decision, they did not ensure an optimal level of achievement of the objectives in the performance of the tasks set.

4.15 The GFD spent a total of CZK 23.9 mil. on the implementation of changes to the ATIS IS²² in connection with the new gambling legislation. By the end of the audit, the connection of the AISG AdM to the ATIS IS had not been implemented. The only tool for examining the data contained in gambling operation licenses connected to the ATIS IS is the SSBL IS, even after the introduction of the new legislation in the field of gambling.

Table3: Overview of planned and achieved status of key parameters of information support in the field of gambling

Parameter	Planned target status	Actual status
Scope	Functional AISG AnM Functional AISG SM Functional AISG AdM supports 12 processes. SSBL IS for archival purposes only.	Functional AISG AnM Functional AISG SM AISG AdM supports 3 processes that are not used by the MF. SSBL IS in operation, partial replacement of AISG AdM.
Acquisition costs	AISG SM + AdM: CZK 24,114,816 AISG AnM CZK 16,380,246	AISG SM + AdM CZK 19,909,630 (reduced scope, reduced price) AISG AnM CZK 29,230,446
Monthly operating costs	AISG SM + AdM: CZK 758,657* AISG AnM: CZK 885,756	AISG SM + AdM: CZK 461,338** (reduced scope, reduced price) AISG AnM: CZK 885,756
Delivery dates	AISG AdM: 17 December 2019 AISG SM 17 May 2020 AISG AnM 16 July 2019	AISG AdM (reduced scope): 31 Aug 2020 with reservations 30 Sep 2020 without reservations AISG SM: 18 May 2020 AISG AnM: 19 December 2019 with reservations 7 August 2020 without reservations

Source: MF information; own elaboration of the SAO.

* Of which CZK 286,012.00 for maintenance services, CZK 472,645.36 for operational services.

** Of which CZK 200,908.40 for maintenance services, CZK 260,430.26 for operational services.

4.16 The Gambling Act entered into force on 15 June 2016. Simultaneous operation of the SSBL IS and the AISG, caused by the non-completion of the AISG AdM, continued as at the date of completion of the audit, i.e. more than six years after the entry of the GA into force. Total costs related to the SSBL IS and the AISG exceeded CZK 174.1 mil. in the audited period, of which the costs for the development of the SSBL IS amounted to CZK 6 mil., operating costs of the SSBL IS CZK 7 mil., other costs of the SSBL IS CZK 0.5 mil., costs for the AISG assignment CZK 7.7 mil., costs related to the development of the AISG CZK 85.4 mil., and the AISG operating costs CZK 67.5 mil.

Information systems do not provide complete and reliable data to state administration bodies

4.17 The tax authority uses the SSBL IS as an information source on issued basic licenses to operate gambling and on issued licenses for the location of gambling premises. It is also used, among other things, to audit gambling operators and the types of gambling they are authorised to, or to verify the number of authorised gambling locations when auditing the determination of the minimum partial tax on technical games. This system provides only

²² Automated Tax Information System.

limited functionality for the administration of bails and sureties. As at 1 August 2022, the volume of bails administrated by the Ministry of Finance totalled CZK 3.84 bil. (according to the MF records). The SAO has found out that the MF recorded a casino bail in the amount of CZK 50 mil. in the form of a bank guarantee 5 months after expiry thereof. In this case, the MF sent erroneous information about the bail to the Specialised Tax Office. The SAO has also found out a discrepancy between these records and the balance on the special account²³ of the MF in the amount of CZK 200 mil. This discrepancy has been partly explained by the incorrect indication of the method of depositing the bail at two gambling operators and by the failure to record two payments as the bail due to crediting the funds at a later date only. The MF does not have a correct and complete overview of the bails received from operators. Moreover, the MF does not record the period of validity of the bank guarantee in the auxiliary bail records in MS Excel. There is a risk that the MF will not use the bail from gambling operators due to incorrect and inaccurate records and the resulting receivables of the state will remain unsecured.

4.18 According to the AISG project documentation and the contract with the supplier, information about the start or end of the gambling area operation was to be entered into the system by operators. Due to the discontinuation of the AISG development, this function has not been implemented. The SSBL IS is still used to store and process this information and is fed by the municipalities. Correctness of data and documents of relevant decisions in the SSBL IS also has implications for the performance of supervision of compliance with the conditions set out in the license for gambling premises location. Procedures for auditing the data entered by municipalities into the SSBL IS are not set in writing by the MF.

4.19 The SAO has verified, on a sample of 12 performed tax audit files, the administrative complexity of the STO audit activity in relation to the use of the SSBL IS. In seven cases, the STO sent a total of 65 requests to municipal and customs authorities to provide data for the purpose of ascertaining or verifying data relating to licenses for gambling operation and location of gambling premises, although these data were available in the SSBL IS. The STO is not the administrator of the SSBL IS, but only its user. The relevance of data and information entered into the SSBL IS by third parties was additionally verified by the STO for the purposes of tax proceedings in accordance with the procedures set out in the TC. Incompleteness and unreliability of data in the SSBL IS were the reasons for the reduced efficiency of the STO's audit activity.

4.20 According to the provisions of Section 131 of the GA, the AISG AnM is to contain gambling and financial data sent by the gambling operator. However, in practice, operators enter incorrect data into the AISG AnM. For example, the SAO has found out cases where operators reported a tax sub-base for online gambling even though they did not have a basic licence to operate online gambling. Furthermore, the SAO has found out in an audit sample of 15 gambling tax returns that eight of the tax returns understated the amount of the sub-base of the tax on technical game compared to the AISG AnM reports by a total amount of CZK 21.84 mil. In the other cases, the amount of the technical game sub-base claimed in the tax return was higher than in the AISG AnM reports, by a total amount of CZK 8.65 mil. Only in one case from the audited sample did the tax authority initiate actions leading to the filing of an additional tax return and the additional assessment of the tax on the technical game on the basis of the identified discrepancy. Thus, in the above cases, the STO used the data in the

²³ Account for depositing bails.

AISG AnM, until the SAO audit was completed, only as a source of formal audit of the claimed gambling tax, not for the purposes of the additional assessment procedure.

4.21 The CA CR also carried out audits of operators focused on the provision of data to the AISG AnM. The results of the formal correctness audits showed that 23 out of 49 operators were at fault in 2020 and 25 out of 52 operators were at fault in 2021. In 2022, operators were already providing formally correct reporting. The CA CR authorities also audited the quality of the reporting provided to the AISG AnM, identifying cases where the operator did not provide data to the required extent or provided duplicate data. Within the 2020–2022 audit actions, the error rate for operators fell from 100% to 42%. The audit found out that additional corrections to the data entered into the AISG are continuously being made. The possibility of corrections by operators is set out in Section 108d of the GA, and the conditions under which corrections can be made are set out in the Reporting Decree²⁴. Due to the fact that some operators, even after two years since the launch of the AISG, are still reporting gambling and financial data in contradiction with the Reporting Decree, the MF allows for data adjustment beyond the specified timeframe in individual cases, in order to improve data quality.

4.22 The SAO has found out that the audit of material violations of the GA²⁵ was carried out using the AISG AnM by the CA CR authorities only marginally until the end of the audit, and the data from the AISG AnM were used mainly to audit the provision of correct and complete reporting by operators. In addition to the low reliability of the data, the limited usability of the data was also an obstacle – the CA CR also verifies the identified shortcomings in other ways, e.g., by audit purchases or camera footage.

4.23 The audit has found out that the basic reports for the needs of gambling tax administration were made available to the STO staff at the end of 2019, but the STO has only had extended access to define additional needs of the tax authority beyond the original requirements since April 2022. The MF granted access to the STO almost 3 years after the system was put into operation.

4.24 The SAO has found out that in 2017–2021, the tax authority-initiated procedures to remove doubts²⁶ for a total of 213 tax entities, of which 191 entities (90%) operated gambling without the relevant license.

4.25 Although the data in the AISG AnM can be used to detect potential risky or non-standard phenomena suspected of violating legal regulations, as the MF demonstrated in the analytical activity example, the STO made only limited use of these data and did not use it for the purposes of the additional assessment procedures in the cases identified until the audit was completed. The main problem for the STO in using this data was the inconsistency of the presented totals of amounts wagered and winnings paid out with the data declared by gambling operators in their tax returns for the relevant periods. According to the STO communication, the tax base data from the AISG sometimes differed by up to 50% from the amounts declared in the tax returns. The SAO has found out from the aggregated data on amounts wagered and winnings paid out that, for example, for technical games in 2020, the data in the tax returns (STO data) was by 13% lower than the figures in the AISG (MF data).

²⁴ Decree No 10/2019 Coll., on the Method of Notification and Transmission of Information and Data by Gambling Operators, the Scope of Transmitted Data and Other Technical Parameters of Data Transmission.

²⁵ For example, operation of a technical game end device with higher than legal limits for individual bets (CZK 100 gaming hall / CZK 1,000 CZK casino).

²⁶ The procedures for removing doubts are described in Section 85(1) of Act No 280/2009 Coll., the Tax Code.

4.26 The gambling data available in the AISG AnM reports was the basis for inclusion in the STO's 2020–2022 audit plan in only three cases out of 199 newly planned audits.

The way in which information is exchanged and shared between the public authorities concerned is the cause of less efficient administration and supervision in the field of gambling

4.27 The AISG AdM was intended to contribute to improving communication and information exchange between the authorities concerned in the field of gambling. As a result of its incompleteness, there is incomplete information sharing, the need to manually enter documents into the SSBL IS and manually record the start or end of operation of each individual end device of the technical game. The information, that would be automatically shared between the MF, GDC and GFD in AISG AdM, still needs to be shared manually using the SSBL IS and other tools. This situation reduces the efficiency of the CA CR audit activity in the field of gambling.

4.28 The SAO has verified, on an audit sample of 20 complaints received from the MF and directed at the CA CR activities, how these complaints were handled by the CA CR authorities. The basic criterion for the sample generation has been the selection of complaints from all GDC departments and individual customs offices. The SAO has found out that the Customs Administration of the Czech Republic did not inform the Ministry of Finance about the outcome of the investigation in 9 complaints, although the MF did request this information from the GDC (customs authorities).

The Ministry of Finance did not revoke basic licenses for repeated violations of legal regulations

4.29 On 1 February 2021, the STO sent to the MF a total of nine "*communications of the tax authority*"²⁷ on tax entities that have been in long-term default of their obligations towards the tax authority. In these communications, the STO stated, inter alia: "*It is the obligation to correctly report the results of gambling operations and, as a consequence, also the misstatement of data in the gambling tax return (...), and by this conduct it actively causes considerable problems and complications for the tax authority in the administration of taxes*". In these cases, the MF did not consider the errors, to the extent found out, to be serious enough for the MF to revoke the basic licenses ex officio²⁸.

4.30 The GDC sent two complaints to the Ministry of Finance for cancellation of the basic license²⁹, however, the Ministry of Finance did not evaluate these complaints as a reason for proceeding according to Section 95(2)(c) of the GA and did not initiate any administrative proceedings leading to the cancellation of the basic license on the basis of these complaints.

²⁷ Provisions of Section 8 of the GTA.

²⁸ Provisions of Section 95(2)(c) of the GA.

²⁹ Provisions of Section 95(2)(c) of the GA.

Example 1: Procedure of the MF, the STO and the CA CR authorities towards the operator which repeatedly violated the GA

The gambling operator in question received from the CA CR authorities during the period of 2017–2021

a total of 76 penalties for repeated violations of the GA, in the total amount of CZK 4.62 mil. The penalties imposed were on average 0.06–1.17% of the maximum legal amount for each offence.

According to Section 95(2)(c) of the GA, the Ministry of Finance shall cancel the basic license *"if the operator repeatedly or seriously violates the obligations set out in this Act"*. This decision was not taken by the MF.

The MF cancelled the basic license only by a decision pursuant to Section 95(2)(d) of the GA in a situation where the operator in question had been in bankruptcy and its assets had been declared bankrupt. On 14 April 2020, the operator lodged an appeal against that decision. This appeal was decided by the Minister of Finance only on 24 March 2022, when the Minister rejected the appeal and confirmed the original decision. The SAO concludes, that in the period from 14 April 2020 to 24 March 2022 in the matter of revoking the company's basic license the MF was inactive without due cause.

During this period of inactivity by the MF, the bank guarantee for the license to locate casino-type gambling premises, which had provided a bail of CZK 50 mil., expired on 31 January 2022.

As a result of the inactivity by the MF, the bail did not fulfil its purpose and did not secure the state's receivables from tax arrears or penalties imposed for administrative offences under the GA.

That bail could be used to pay the state's receivables even after the last casino-type gambling premise ceased to exist on 1 April 2020. At that time, the receivables amounted to more than CZK 45 mil. However, the MF was inactive in this case as well. By failing to act on the use of the bail, the MF did not act in accordance with the provision of Section 90(3) of the GA.

Similarly, the MF did not proceed in accordance with the provision of Section 4b(4) of the LA in settling the deposited surety of CZK 50 mil. when it did not account for the operation of a lottery or another similar game, and failed to pay, out of the surety, the state's receivables for unpaid gambling tax.

On 26 May 2020, the STO decided to delay the payment of the gambling tax in the amount of almost CZK 35 mil. Paradoxically, in its application for the delay, the operator demonstrated that it had sufficient funds to pay the tax. Consequently, the tax payment of more than CZK 12 mil. was not secured.

As at the end of the audit, the operator was bankrupt, insolvency proceedings were underway, the court declared bankruptcy on its assets and the STO recorded outstanding receivables totalling CZK 32,435,718, of which receivables related to gambling tax amounted to CZK 31,952,515.

4.31 The MF only started monitoring critical data about the cancellation of gambling premises licenses in mid-2020 and information on the termination of gambling premises licenses in mid-2022. Thus, for more than three years from the effective date of the GA, the

MF did not systematically monitor the information entered in the SSBL IS system by municipalities, which is necessary for the administration of bails and for the supervision of the MF and the CA CR over compliance with the conditions set out in the gambling premises location license. It thus failed to sufficiently supervise compliance with the conditions set out in the gambling premises location licence and limited the efficiency of the performance of its activities in the field of gambling.

4.32 The SAO has found out cases, where municipalities entered incorrect data into the SSBL IS. If the documents of the relevant decisions on the issue, amendment or cancellation of the gambling premises location license, or information on its termination, are not entered into the SSBL IS, this has a negative impact on the supervision of compliance with the conditions set out in the gambling premises location license and may also have an impact in the form of non-use of the bail for the payment of gambling tax under the GA. In this matter, the MF, as the responsible authority for the GA and the supervisory authority in the field of gambling, warned regional authorities and statutory cities of the obligation to enter correct data into the SSBL IS.

The Ministry of Finance and the Specialised Tax Office did not proceed in accordance with legal regulations

4.33 The MF repeatedly did not proceed in accordance with the GA in the administration of bails deposited by operators. After cancellation or termination of the basic license or gambling premises location license, the bail may be used to pay gambling tax, penalties imposed for offences under the GA, and unpaid winnings to bettors.

4.34 According to the previous legislation (LA), operators were obliged to deposit sureties in a special account with a bank or a savings and credit cooperative, which were intended to secure receivables of the state, municipalities and payments to bettors. The SAO has found out a case, where the MF did not proceed, in the administration of sureties, in accordance with the LA.

Example 2: Resolving tax arrears after five years of inactivity

According to the "*list of lottery and betting operators as at 1 December 2014*" published on the MF website, the operator in question should have deposited two sureties with banks pursuant to Section 2(i) and (m)(1) of the LA, both in the amount of CZK 20 mil.

According to the statement of the MF, the company operated betting games in the casino until 31 December 2014 and tournaments in the licensed casino until 31 January 2015.

As at 27 October 2016, the STO issued two "*statements of arrears*" in the amount of CZK 702,000 and CZK 1,601,000. On 12 August 2021 (i.e. after almost five years), the STO sent a request to the Ministry of Finance for the transfer of the overpayment, which was recorded due to unsettled surety, the reason for the request being the arrears of CZK 2,303,000 recorded with the STO.

Subsequently, the MF requested the relevant banks to provide information. In response to a question from the SAO, the Ministry of Finance has said: "*The banks have said that on the request of the trading company, the funds were disbursed and the bank accounts, in which the sureties had been deposited, were cancelled.*"

The MF started acting in the matter of deposited sureties with banks on 12 November 2021, i.e. more than six years and nine months after the company had ceased to operate betting in the casino and tournaments in the licensed casino, and 142 days after the company had been removed from the commercial register.

On the basis of the information obtained from the banking companies, the MF filed a notification, during the SAO audit, about facts indicating that a criminal offence had been committed.

The failure of the MF to act in the matter of the settlement of operation of betting in the casino and tournaments in the licensed casino of the operator in question pursuant to Section 4b(4) of Act No 202/1990 Coll., on Lotteries and Other Similar Games, immediately after the expiry of their licenses, meant that the MF allowed that the irregularities in the deposited sureties could not be substantively discussed with the banks. The settlement was made only at the time when the company had been deleted from the commercial register as at 23 June 2021 due to the termination of the company's liquidation. The MF allowed that the state's receivable was not successfully recovered, i.e. that the tax arrears of CZK 2,303,000 were not paid to the state.

4.35 According to the GA, the authorities of the FA CR are obliged to provide the MF with information on breaches of obligations in the gambling tax administration by gambling tax payers. On an audit sample of 15 selected cases, the SAO has found out that in 11 cases taxpayers violated their tax administration obligations (tax payment), which the STO did not inform the Ministry of Finance about. By this procedure, the STO also violated the obligation imposed by Section 8 of the GTA, as the STO did not provide information to the MF on the breach of obligations in the gambling tax administration for the purposes of the proceedings for the cancellation of the basic license under this Act.

4.36 The procedures of the tax authority in deciding on the delay of tax payment were regulated by internal acts of the procedure in the form of *methodological instructions on delay* of 8 April 2015 and further of 16 February 2021, which state, inter alia, that the decision of the tax authority on the request for the delay must always follow the basic objective of tax administration, i.e. securing the payment of tax. At the time of deciding on the delay, the tax authority must have an objectively justifiable conclusion that the collection of the delayed tax is not at risk if the taxpayer fails to comply with the conditions of the delay and does not pay the tax voluntarily. With regard to the covid-19 pandemic, the FA CR issued *Information on delay and staggering of tax payment in instalments in connection with extraordinary measures*, which states, among other things, that the taxpayer must claim and document in the application some of the legal reasons³⁰ for which the tax office may allow the delay.

³⁰ Provisions of Section 156(1) of Act No 280/2009 Coll., the Tax Code.

4.37 The SAO has found out that during the audited period, the number of applications for delayed payment of gambling tax increased – from four applications submitted in 2017 to 114 applications submitted in 2021. There was a significant (almost fourfold) year-on-year increase in the number of applications in 2020 (79 applications). While in 2017 and 2019, out of a total of 21 applications submitted, not a single delay (0%) was granted by the tax authority (the STO), at the time of the covid-19 pandemic, i.e. in 2020–2021, the proportion of positively processed applications for delay of gambling tax payment was 94% and 100% respectively.

Example 3: Release of bails in the amount of CZK 60 mil. in the case of an operator which had tax arrears

In March 2021, the MF agreed to release bails in the form of a bank guarantee in the total amount of CZK 60 mil., although the STO recorded, for the operator in question, a gambling tax arrears of CZK 5,647,899 for the first quarter of 2020 and CZK 12,979,496 for the third quarter of 2020. For both arrears, the STO allowed a delay in payment until 30 June 2021.

The MF agreed to release the bails precisely because of the delay in payment of the tax and stated on the matter: *"Given that the tax authority issued a decision to delay the payment of the tax, thereby demonstrating its willingness to postpone the payment of the tax, and at the same time did not limit this decision to the possibility of payment of the arrears so delayed from the bank guarantee accepted by the Ministry of Finance, the Ministry of Finance grants its consent to release the bail."*

There is no provision in the TC or the GA that for the purposes of the application of a bail, the delayed payment of tax would not be considered as an arrear. The MF did not proceed in accordance with Section 90(4) of the GA, when it did not request the issuer of the bank guarantee to pay these arrears on the grounds that the registered arrears were validly delayed and that the delay period set by the final decision had not yet expired at that time.

The MF did not proceed in accordance with Section 89(4) of the GA and did not use the operator's bail, thus making the state's receivable from the gambling tax arrears of CZK 18,627,395 unsecured.

The level of imposed penalties was at the very bottom boundary

4.38 The amount of penalties finally imposed by the CA CR authorities in 2017–2021 totalled CZK 94.2 mil. The SAO has found out that penalties were imposed only in the order of percent units of the value allowed by the Gambling Act. This has been verified by the SAO on an audit sample of five operators with the valid basic license which were imposed the most penalties, and on a sample of 216 operators without the basic license.

4.39 Penalties were imposed on a total of 413 operators. 326 operators were penalised once, 41 operators were penalised twice, and the remaining operators were penalised multiple times. A total of 236 penalties (out of a total of 1,104) were imposed on the five operators which violated the law most frequently, totalling CZK 10.25 mil. (CZK 7.95 mil. paid). From a formal point of view, the SAO assesses the audit activity of the CA CR without any defects.

Gambling is moving online faster than supervision thereof

4.40 The gambling market is moving from brick-and-mortar establishments to the internet. Already in 2020, the majority of deposits received came from online games (59% in total) and the volume of funds deposited in these games is still increasing. Of the gambling deposits received for the years 2017–2021³¹ in a total amount of CZK 1.80 tn., deposits in online games totalled CZK 955 bil., i.e. almost 53%. In the same period, a total of CZK 1.62 tn. was paid out in winnings, i.e. less than 90% of the total deposits received. A total of CZK 886 bil. was paid out in winnings from online games, which is just under 55% of all winnings paid to gamblers.

4.41 From 1 January 2017 to 5 November 2019, the MF carried out a total of 87 audits in the field of supervision of online gambling operations, including 51 audits in the field of illegal gambling operations, 35 audits in the field of legal gambling operations, and one audit in the field of professional assessment and certification.

4.42 CA CR authorities carried out a total of 1,085 audits of operators in 2017–2021. After obtaining the competence to exercise supervision in the field of gambling, the CA CR initially focused primarily on illegal operators in a land-based environment. Within the framework of the audit of one operator, audits are carried out not only on several establishments at the same time, but also on various areas, for example, audits focused on the legalisation of proceeds from criminal activities, individual types of games, gambling premises, advertising, remote access, etc. After obtaining the competence to audit online gambling from 1 November 2019, the CA CR authorities carried out a total of 24 audits of online operators in 2020 and a total of 56 audits in 2021. On the other hand, in the land-based gambling environment, the CA CR authorities carried out a total of 138 audits of operators in 2020 and a total of 101 audits in 2021. The SAO has found out that, especially with the decline of illegal operators in the land-based environment, the vacant capacities have started to move to the performance of supervision in the online environment; however, this shift has been delayed.

4.43 The authorities operating in the field of supervision of gambling have responded insufficiently to the shift of gambling from land-based environment to online environment. The majority of audit activity has focused on gambling operated in land-based environments. The SAO has also found out that until the end of the audit, the Customs Administration of the Czech Republic lacked, in Methodological Information No 12/2018 – *Audit of gambling operations*, regulation of a procedure of audits in the environment of online gambling.

Illegality of online gambling is not clearly defined

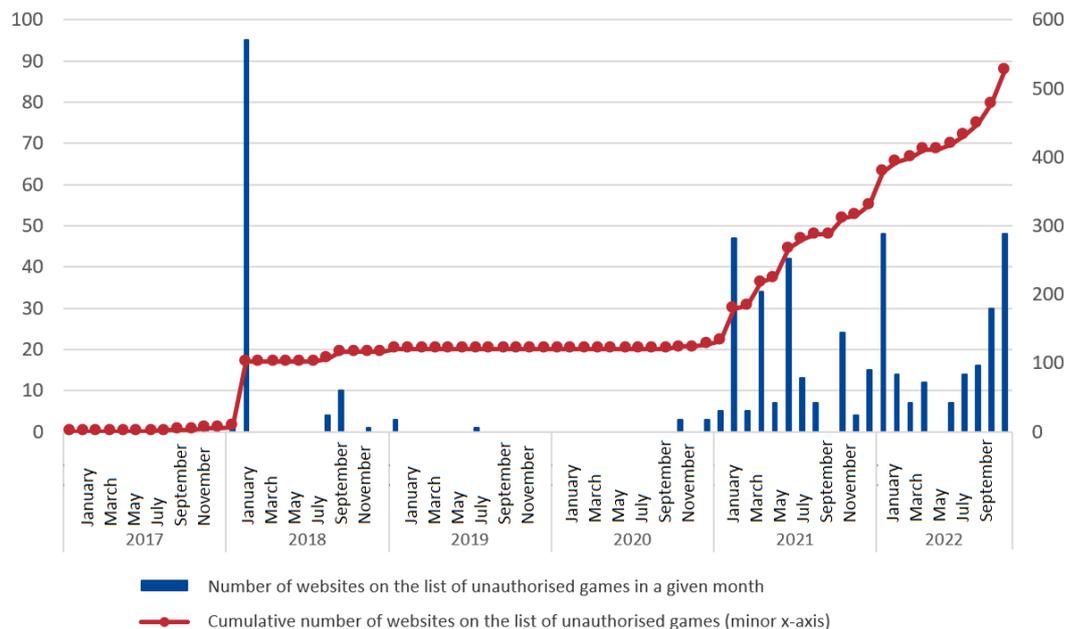
4.44 According to the explanatory report to the GA, one of the objectives of this Act was to open the market to foreign operators and to enable the operation of gambling via the internet. As at 1 February 2022, there were a total of 52 gambling operators with the basic licence issued under the GA, of which only two were not based in the Czech Republic.³² In contrast, the number of operators without the basic license detected by the tax authority from 2017 to

³¹ Data from filed tax returns for 2017–2021.

³² As at 1 January 2023, the MF registered three operators based outside the Czech Republic in the "list of gambling operators according to the GA".

1 February 2022 was 794. Moreover, more than 550 websites offering illegal online games were blocked by the end of 2022³³.

Chart 2: Evolution of the number of websites listed in the list of unauthorised online games (as at 19 October 2022)



Source: MF data and information from the list of unauthorised online games as at 27 July 2022 and 19 October 2022 (the list is available on the MF website); SAO own elaboration.

4.45 The MF did not clearly define the issue of focusing and targeting within the meaning of the provision of Section 2(2) of the GA³⁴ for online gambling operated without a relevant licence under the GA, even when transferring the supervision of online gambling to the CA CR. Interpretation of the term "focusing and targeting" is carried out by the MF in practice as a methodological body in the matter of gambling regulation and the first-instance body in administrative proceedings for registration on the list of unauthorised online games.

4.46 During the period of the assessment of the focusing and targeting, until the website is published on the list of unauthorised online games, operators are allowed to continue to operate the game in question in the territory of the Czech Republic and users are allowed to participate in unauthorised gambling. For a randomly selected sample of seven websites, this period ranged from 119 to 368 days. The SAO has assessed this fact as a sign of a reduction in the effectiveness of the GA in protecting bettors and their surroundings.

4.47 As at 1 November 2019, the MF transferred the performance of the supervision in the field of online operation of legal and illegal gambling to the CA CR. The communication procedure between the MF and the CA CR in the performance of the supervisory activity in the field of online operation of gambling was formally set by the Ministry of Finance only on 22 June 2020, i.e. more than seven months after the actual transfer of the performance of the supervision.

³³ The Ministry of Finance publishes a list of unauthorised online games on its website.

³⁴ Gambling operated via the internet shall be deemed to be operated in the territory of the Czech Republic if it is even partially focused on or targeted at, inter alia, persons residing in the territory of the Czech Republic.

4.48 The GDC adjusted the targeting characteristics differently from the previous practice of the MF, so the targeting conditions no longer include payment by Czech currency and operation of websites exclusively in the Czech language. Characteristics of passive accessibility of websites include, inter alia, telephone area code, flag of the Czech Republic, or dials divided by country. The GDC started discussing the modification of the targeting characteristics with the MF on 16 July 2019, i.e. before taking over the competence. Each case of targeting is investigated on an individual basis, and the operator's activity focused on the Czech Republic must be clearly visible, for example, advertising on other websites in the Czech language. In borderline cases, where the meanings of the terms targeting and accessibility are mixed, the interpretation may not be constant, as there is not yet enough case law for this notional threshold.

4.49 The MF did not initiate any administrative proceedings for registration on the list of unauthorised online games in the period from 14 February 2020 to 17 July 2020. The MF finally ended 132 administrative proceedings for registration on the list of unauthorised online games in the period from 1 January 2017 to 1 June 2022. In 40% of the cases, the given administrative proceedings did not lead to a permanent entry on the list of unauthorised online games, because during the proceedings the online gambling game in question stopped targeting or focusing on persons residing in the Czech Republic. Even for some websites with an issued decision to register them on the list of unauthorised online games, the relevant data was not published in the list, because in the meanwhile the online game in question stopped focusing on or targeting persons residing in the Czech Republic.

4.50 The SAO has found out that the interpretation of the statutory characteristic of illegally operated gambling "*focusing on or targeting persons residing in the territory of the Czech Republic*" varies in decision-making practice, as is evident from the proceedings against a company operating gambling without a basic licence, see the following example:

Example 4: Assessment of illegally operated gambling in administrative proceedings

On 21 January 2019, the MF issued an order, based on which it finds a company operating gambling without a basic license guilty of the offence of violating the prohibition to operate gambling without a license³⁵. The company committed this offence by operating a technical game via the internet "*without any restrictions on the creation of a player account and the acceptance of new bets; the website allowed the registration of persons residing in the Czech Republic, the deposit of funds into a user account and, after payment of the bet in Czech currency, also the participation in the gambling game itself*".

On 28 January 2019, the company filed an objection against this order and the matter was thus transferred to administrative proceedings. Therein, the MF maintained its opinion three times and decided to impose a penalty, stating that "*it considers it proven beyond reasonable doubt that the defendant operated a technical gambling game via the internet in the Czech Republic, as it provided the service of gambling via its website, which was available for registration, payment and playing to persons residing in the Czech Republic.*"

The company in question filed an appeal against these decisions three times.

The Appeal Body decided twice to annul the decision and to return it for a new hearing, and obliged the Ministry of Finance to review the indications for the assessment of focusing

³⁵ Provisions of Section 123(1)(b) of the GA.

or targeting of the operation of the online game on citizens residing in the Czech Republic, stating that *"the mere fact that a Czech player plays on the internet (website) of a foreign operator does not in itself mean its focus on the Czech market,"* while *"the facts, that the website of the participant in the proceedings allowed the selection of the Czech currency and the dial of a Czech telephone number [...] is not in itself a sufficient indication of a focus on the Czech market."*

On 31 May 2022, almost three and a half years after the first MF decision, the Appeal Body decided to reject the appeal and confirmed the previous MF decision.

4.51 The audit of the GDC has also found out that the investigation of websites allowing the operation of gambling was both administratively and time-consuming. The supervisory authority audits approximately 20 points and the audit is divided into at least 2 days (after 14 days from the initial audit, it is documented whether the targeting of the website to persons residing in the Czech Republic continues). It takes a minimum of 3 weeks to process a single complaint, and even longer in more complex cases (e.g. a large number of mirror pages). The SAO has found out that the Customs Office for the Pilsen Region (which is entrusted with this agenda on the basis of negotiations between the MF and the GDC in December 2018) examined a total of 127 complaints related to the illegal operation of online gambling from the assumption of the competence until the end of 2021, and the average time from the processing of the complaint to the initiation of administrative proceedings lasted almost 155 calendar days.

4.52 The SAO concludes that the current legal regulation of targeting, specifically the wording of the provision of Section 2(2) of the GA, is ambiguous in its wording, which increases the complexity of supervisory activities as well as the amount of state funds spent on them. Slovakia could be an inspiration for changing the legislation. When deciding whether legislation has been breached, the Slovak authorities only consider whether the operator has a license, whether its website is in Latin script, and whether it is possible to deposit funds, place bets and win prizes in the territory of Slovakia. Following a decision about inclusion on the list of prohibited sites, the competent court shall issue an order to prevent access to the website by persons providing electronic communication networks and electronic communication services. The court is obliged to decide within 7 days of the request. The court's decision is not subject to appeal.

Similar shortcomings in the field of gambling persist also nine years after the previous SAO audit.

4.53 On the basis of the above-mentioned findings identified by this audit, the SAO concludes that, nine years after the end of Audit No 13/35, similar shortcomings exist in the field of gambling, despite the new legislation. The audit report of Audit No 13/35 stated, inter alia:

- State supervision was ineffective, inefficient, did not use all legal powers and did not deal with the audit of financial flows.
- Fundamental shortcomings of the information system affected the performance of the administration and audit of this entire market segment.
- The audited entities had insufficient information to correctly assess the levies and their distribution.

- Data in the information system supporting activities under the Lotteries Act was inconclusive.

List of Abbreviations

AISG	Information system for gambling operations
AISG AdM	AISG Administrative Module
AISG AnM	AISG Analytical Module
AISG PC	Public contract <i>Supply and implementation of information system for gambling supervision</i>
AISG SM	AISG Supervisory Module
CA CR	Customs Administration of the Czech Republic
GA	Act No 186/2016 Coll., on Gambling
GDC	General Directorate of Customs
GFD	General Financial Directorate
GTA	Act No 187/2016 Coll., on Gambling Tax
IS	Information system
LA	Act No 202/1990 Coll., on Lotteries and Other Similar Games
MF	Ministry of Finance
Operator(s)	Gambling operator(s)
PC	Public contract
PPA	Act No 134/2016 Coll., on Public Procurement
REI	Register of private individuals excluded from participation in gambling
SAO	Supreme Audit Office
SSBL IS	Information system of <i>the State Supervision over Betting and Lotteries</i>
STO	Specialised Tax Office
STSSC	State Treasury Shared Services Centre, state enterprise
TC	Act No 280/2009 Coll., the Tax Code
TD	Tender documentation
VAT	Value added tax