

Guido Schluetz – IMGL European Regulator of the Year 2012

By Sharon Harris

THE International Masters of Gaming Law is proud to honour Guido Schluetz as its 2012 Regulator of the Year - Europe.

Schluetz serves as the senior government official, Gambling Regulation and Supervision, Ministry of the Interior of the German federal state of Schleswig-Holstein. Under his direction, Schleswig-Holstein is the only German jurisdiction to legislate online gaming in 2011.

This annual tribute recognises one professional who has enhanced the IMGL mission of "advancing gaming law through education" during his career. The honored government regulator must have a career record of integrity and noteworthy gaming achievements that have created a stable regulatory environment in his jurisdiction.

Schluetz joins an impressive

international list of prior gaming regulator honourees from California, Denmark, Great Britain, Italy, Macau Mississippi, Nevada, Native American tribes and Spain.

Friends and colleagues of Guido Schluetz call him a pioneer in German gaming. Schluetz has regularly faced challenges since his 2009 appointment as senior government official, Gambling Regulation and Supervision, Ministry of the Interior of Schleswig-Holstein, Germany's northernmost state. Schluetz manages the basic issues relating to gaming law and also coordinates gaming supervision within Schleswig-Holstein.

Prior to his assignment, Schluetz had served in various other positions within the Ministry of the Interior. His earlier governmental expertise included eight years, from 1999-2008, as the head of division of housing and urban development law. Schluetz states: "Within the Interior department, I have the additional responsibility for the War Graves Commission, which includes abandoned Jewish cemeteries."

The passage of the 2008 Treaty on Gambling meant German state operator Oddset would have the exclusive on sports betting and online casino games. The European Union's Court of Justice rejected that treaty as a non-compliant agreement.

For three years, Germany's 16 state prime ministers maintained their prohibition of online gaming, which protected the federal monopoly of running sports betting and the lottery. Seeking more autonomy, Schleswig-Holstein decided in late 2011 that the time had come to create its own gaming legislation. The Gaming Act liberalised gambling and betting regulation.

The legislation, earning approval and praise from the European Commission, took effect on January 1, 2012. The language anticipated the early licensing process to begin in March 2012. The new law promotes

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opportunities for private operators of sports betting - both online and stationary - and online casino games. It also lowers tax rates while permitting a wider range of products.

Attorney Matthias Spitz of Melchers law firm in Heidelberg confirms that Schluetz distinguishes between operator and distributor licences, although the Act permits an operator to hold both. Published in late January 2012, the Act is divided into three tiers.

Tier one requires the licence applicant comply with the following expectations:

- 1) Corporate and individual reliability.
- 2) The capability to operate games of chance.
- 3) A bank guarantee - initially for a six-year period - of €1m for payment claims to Schleswig-Holstein.
- 4) A safe server located within the borders of Schleswig-Holstein, allowing continuous data access for Schluetz and his team in near real time.

Tier two involves the actual technology. Applicants must submit evidence of their ability to restrict access by minors and other publicly barred players. They must also guarantee security for payment processing, fraud prevention and profitability, among other items.

Following completion of the first two tiers,



Schluetz's office awards a provisional six-month licence that permits operators to either open an online casino or take bets.

Tier three allows six months to show adherence to statutory technical standards. Independent, accredited labs will confirm certification to Schluetz and his regulatory staff. Once certified, the temporary licence is immediately converted into a permanent one. Cooperation between Schluetz and the certification labs is crucial to the programme's success.

Since the licensing process began, Schluetz has received more than 40 sports betting and online casino applications. To date, seven have been awarded. These include NordwestLotto Schleswig-Holstein GmbH and Co, KG (Angebot Oddset), Polco Ltd (Betfair group), Personal Exchange International Ltd (mybet Holding SE), Hillside New Media Ltd (bet365), Bet-at-home.com Internet Ltd, Electraworks Kiel Ltd (bwin) and Tipico Company Ltd.

Six additional applications are pending issuance. Schluetz estimates that Schleswig-Holstein will earn €5m in taxes from gaming operators this year.

At the April 12 World Regulatory Briefing conference in Frankfurt, Schluetz described the diversity of applicants to the 160 gaming industry attendees. He claimed that incomplete submissions of some applications, coupled with limited civil servants within his department, have slowed the licensing process.

Schluetz said: "We get applications on a daily basis. To put it nicely, the quality varies quite a bit... The slimmest application form we got was a postcard, but we also got a storage box full of nine or 10 ring binders from one applicant."

At the time, some questioned the speed of application approvals, voicing concern that officials were unconsciously delaying due to concerns about the May elections. Schluetz dismissed the characterisation, responding that any repeal of the Gaming Act by a new government would not occur until at least late October.

However, although the licensing process proceeded, all parties have consistently understood their vulnerability. State elections in early May 2012 could alter the government's leadership and gaming programme, which is exactly what happened. The conservative-liberal leaders who wrote the Gaming Act were defeated by a coalition of Social Democratic, Green and Danish parties.

These challengers had promised to repeal the Gaming Act; once elected, they are confronting certain realities. Andreas Breitner, the new minister of the Ministry of

the Interior, has confirmed that existing online gaming licences would be "grandfathered" in, or left intact.

Breitner has also acknowledged that all prior applications would remain eligible for licensing. Of the 42 presently pending, Breitner expects four to six will be approved. As the approved licences will remain effective, it is favorable news for those considering applying.

Breitner holds a thin majority in the government. He concedes that Parliament must enact a moratorium on all licensing actions to stop gaming operators seeking to enter Germany's online gaming market via Schleswig-Holstein. However, any repeal of the Gaming Act would not take effect for almost two years after passage and the European Commission in Brussels must also approve the repeal.

Schluetz will continue with his work. Reversing the Gaming Act may be improbable, but changes to the current regulations could occur.

Unlike many other countries and jurisdictions, Germany has approached online gaming with reluctance. When Schleswig-Holstein passed its legislation, its permanence was uncertain. The state's politicians decided to forge ahead anyway.

Former head legal advisor to the Danish Gambling Authority and 2010 European Regulator of the Year recipient, Morten Ronde compliments Schluetz for overcoming great odds. Ronde explains that while he was still a regulator, he met with government officials from Schleswig-Holstein. They wanted information about the new Danish legislation. Ronde has since left the Danish government to become the chief executive of the Danish Online Gambling Association.

"The Schleswig-Holstein officials sought my advice on different portions of the provisions in the Act. I don't believe Guido was working with this area yet. They passed the Gaming Act in the Schleswig-Holstein Parliament at the end of 2011, just when I joined the trade association," Ronde says.

Once Schluetz assumed his regulatory position, Ronde's licensed association members requested that he contact Schluetz. These Danish gaming operators sought a licence in Schleswig-Holstein and wished to provide input as the German state drafted its regulations.

According to Ronde: "Guido had worked on the secondary regulation-the decrees-for the Gaming Act. He had copied many items from the Danish gaming regulations, which I had drafted before I left the Gambling Authority. We met for four hours in Kiel, the capital of Schleswig-Holstein. We discussed many gaming issues, including the regulation

of the Schleswig-Holstein gaming market."

Ronde praises Schluetz for his positive attitude, believing Schluetz demonstrated a willingness to listen and absorb other perspectives. Regarding Schluetz as flexible and amenable to suggestion, Ronde was impressed with how much consideration Schluetz had given the different provisions of the Act.

"Guido remained very open to discussing the provisions' interpretation and how the Act could possibly be amended. I realised how difficult his working conditions were. He was the only person assigned to the job and there was a strong political opposition to the Gaming Act," Ronde states.

Ironically, on the very day of their meeting, opponents of the Gaming Act proposed its repeal in the Parliament. Despite this scenario, Schluetz remained adamant that regulation would begin and that the licensing of gambling operators would soon start.

Ronde admits that Schluetz has beaten the odds so far, but no one knows what the future of Schleswig-Holstein gaming will bring. Recognising that triumphs often compensate for tough working conditions, Ronde praises Schluetz for his achievements.

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