

Gambling sector in the republic of moldova

In this article I would like to analyze the following topics related to the gambling sector in Moldova.

1. Gambling regulation;
2. State monopoly on gambling;
3. Liability for infringement of gambling monopoly;
4. Licensing of casino activities.

1. Gambling regulation

The Moldovan gambling sector is regulated by the Law no. 291 of 16.12.2016 regarding the organization and conduct of gambling (hereinafter Law no. 291/2016). It establishes the way of organizing and carrying out activities in the field of gambling, the rights and obligations of the game organizer and the player, the state policy in the respective field, as well as the restrictions on the development of this activity to protect the morality, rights and legitimate interests of citizens.

In the Republic of Moldova the state regulation of the activity in the field of organizing and conducting games of chance is carried out by Parliament, Government, and the Public Services Agency. The supervision and state control of the activity in the field of gambling are exercised by the State Inspectorate for the Supervision of Non-Food Products and Consumer Protection, as well as by other authorities of the public administration empowered with the right of control and supervision in the limits of the provisions of Law no. 131 of June 8, 2012, regarding state control over the entrepreneurial activity.

Article 6 of Law no. 291/2016 provides the list of gambling activities in Moldova:

- a) casino maintenance;
- b) organizing and managing lotteries;
- c) organizing the operation of gaming rooms with gaming machines with monetary winnings;
- d) organizing and running bets for sports competitions/events;
- e) organizing games of chance through electronic communication networks.

According to article 6 of Law no. 291/2016, **the state monopoly includes the activities mentioned above in the letters b)-e), except the maintenance of casinos (letter a). The management of gambling activities, which constitute a state monopoly, is carried out through the Joint Stock Company "National Lottery of Moldova".** Thus, of all the gambling activities regulated by this law, only the casino maintenance activity can be practised freely by the legal entities and is subject to authorization through licensing.

2. State monopoly on gambling

The Republic of Moldova has recently chosen to establish a state monopoly on the gambling sector, except for the maintenance of casinos. The notion of state monopoly is defined in point 69 of the Constitutional Court Decision no. 11 of 28.05.2013 for the control of the constitutionality of a

provision from art. 8 para. (1) letter a) point 5) of Law no. 451-XV of July 30, 2001, regarding the regulation by licensing of entrepreneurial activity (Report 26a/2012). Therefore a state monopoly is the situation in which a limited number of economic agents are vested by the public administration authorities with exceptional rights to carry out economic activity in a certain sphere of production, transport, sale, or purchase of goods (services).

According to art. 2 of Law no. 291/2016, a gambling organizer is *"the legal person, registered in the manner established in the Republic of Moldova, authorized to organize and operate gambling under the conditions of this law"*. According to the same article, the organizer of games of chance, which constitutes a state monopoly, is considered the "National Lottery of Moldova" Joint Stock Company, the only one authorized to conduct games of chance that constitute a state monopoly.

There are two agreements (for a period of 15 years) on the public-private partnership (one of the agreements relates to the development of activities of the National Lottery of Moldova in the lottery and betting sector, sports competitions/events, including via electronic communications networks, and the other agreement refers to the development of the National Lottery of Moldova in the field of cash machines, including via electronic communications networks), with private investors for lotteries and betting at sport competitions/events and automatic cash game events that were signed in 2018 and they will end in 2033.

The state has implemented a public-private partnership project with two EU companies. The first contract, relating to slot machines, has been won by Novo Gaming M Technologies GmbH, part of Austria's Novomatic consortium operating. The second contract, regarding the lottery and sports bets, has gone to NGM SPC Limited, formed by Market AD, National Lottery AD, and NGM SPC Limited. The companies are part of National Lottery AD, Bulgaria's largest licensed gambling operator. The distribution of revenues following the implementation of the public-private partnership is intended to take place in percentages. Thus, the National Lottery of Moldova will hold 75% of the total revenues in the lottery sector, and the private partner – 25%. As far as the revenues from the betting sector on competitions or sports events are concerned, 90% will belong to the National Lottery of Moldova and 10% to the partner to be selected. Of the gross revenue in the slot machines sector, 51% will be held by the National Lottery of Moldova and 49% by the private partner. Again, these circumstances reinforce the idea that establishing a monopoly on the gambling sector was intended to increase the revenues to the public budget.

3. Liability for infringement of gambling monopoly

Law no. 291/2016 provides in art. 54 that, *"Physical and legal persons guilty of violating this law bear administrative, criminal, and/or civil liability, by the legislation of the Republic of Moldova"*.

According to the will of the legislator, the violation of the state monopoly on gambling takes place in the following ways:

- a. Organization of gambling activities that constitute a state monopoly;
- b. Carrying out gambling activities that constitute a state monopoly;
- c. The import of gambling activities that constitute a state monopoly;
- d. Supporting gambling activities that constitute a state monopoly;
- e. Intermediation of gambling activities that constitute a state monopoly;
- f. Facilitation of gambling activities that constitute a state monopoly;
- g. Encouragement of gambling activities that constitute a state monopoly.

These provisions above constitute the premise of criminalization in art. 242³ "Breach of the legislation regarding the organization and conduct of games of chance which constitutes state monopoly" of the Criminal Code of the Republic of Moldova.

According to article 50¹, of Law 291/2016, the Public Services Agency identifies the web pages through which gambling games that are not authorized in an established manner are accessed, and immediately communicates to the competent authorities the information regarding the identified unauthorized activities, and requests the blocking of access to these web pages.

4. Licensing of casino activities

Article 30 of the Law no. 291/2016 provides the notion of the casino. The casino is a special gaming place where authorized games of chance are played with the players' direct participation and physical presence. **Casino maintenance is an activity subject to licensing.** Games of chance in the casino can take place between the player and the organizer (through his representative) or directly between the players.

Article 11 of the Law no. 291/2016 provides that, the organizer of games of chance (except the organizer of games of chance that constitutes a state monopoly) can only be a legal person resident in the Republic of Moldova, who cumulatively meets the following conditions:

- a) it is created by the legislation of the Republic of Moldova in the form of a commercial company, which carries out its activity on the territory of the Republic of Moldova in the manner provided by law;
- b) has the size of the social capital equal to or greater than the amount of 5,000,000 lei (around 250,000 euros) on the date of issuance of the activity license in the field of gambling and at least 70% of its social capital constitutes monetary means;
- c) has the share capital formed entirely on the date of the submission of the license release declaration and does not have the share capital formed from sources whose origin cannot be confirmed;
- d) the leader and deputy heads who have relevant higher education, as well as have no criminal record and are not deprived of the right to hold certain positions or to carry out a certain economic activity;
- e) the chief accountant who has higher education and work experience in the position of chief accountant for at least three years, as well as has no criminal record and is not deprived of the right to occupy certain positions or to carry out a certain economic activity;
- f) its members (shareholders) do not have state bodies (except for the gambling organizer which constitutes a state monopoly), local public administration authorities, or legal entities that are in bankruptcy;
- g) experience in organizing and conducting games of chance on the territory of the Republic of Moldova or in the states of the European Union for no less than 5 years, or this experience has its members (shareholders) who exercise, directly or indirectly, control over more of 50% of the share capital;
- h) obtaining the appropriate license, but before starting the licensed type of activity, the risk of non-payment of winnings in favour of the players against an amount not less than the share capital, as well as undertaking the insurance of this risk, in each subsequent management year, against an amount equivalent to the positive difference between the sum of the player's winnings and the sum of the game stakes from the previous management year, but not less than the share capital;
- i) corresponds to other requirements established by Law no. 291/2016.

The organizer is obliged to carry out only the types of games of chance that are specified in the license for activity in the field of games of chance and only after obtaining the appropriate license.

The Public Services Agency performs the function of the licensing body in the field of organizing and conducting games of chance. The license for casino maintenance activity is issued by the Public Services Agency based on Law No. 160 of 22.07.2011 regarding the regulation by authorization of entrepreneurial activity. Article 31 of the Law no. 291/2016 provides that licensing of the casino maintenance activity is carried out following the provisions of Law no. 160/2011 regarding the regulation by authorization of the entrepreneurial activity. **The license for casino maintenance activity is valid for 5 years from the date of issue, with the right to extend it.** The fixed fee for issuing/extending the license is paid separately for each year of license validity and is 600,000 lei (around 30,000 euros) for each gaming table and 130,000 lei (around 6,500 euros) for each roulette table operating unit.

Article 33 of the Law no. 291/2016 provides that, the casino must have at least:

- a) for cities – 5 game tables and a roulette wheel. Total cost per year = (30,000 euros * 5 game tables) + (6,500 euros * 1 roulette wheel) = 156,500 euros.
- b) for localities outside the cities – 4 gaming tables and a roulette. Total cost per year = (30,000 euros * 4 game tables) + (6,500 euros * 1 roulette wheel) = 126,500 euros.

Any form, direct or indirect, of advertising actions to promote and/or stimulate any game of chance (including online ones), is prohibited.

Art. 2 of Law 291/2016, provides the notion of **secondary gambling activities** - various activities of the gambling organizer aimed at developing its basic activity in the field of gambling, such as the provision of catering, hotel, currency exchange, the organization of entertainment-spectacular events, the import/export of gaming equipment, the production or repair of gaming equipment.

Carrying out casino activity without a license is a crime and is provided by art. 241 of the Criminal Code of the Republic of Moldova.

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