

# Unblocking the online gambling market in Romania

In late March 2013, the Romanian government passed an Emergency Ordinance aimed at finally remedying the roadblock preventing the legal practice of online gambling in Romania. Ana-Maria Baciú and Oana Coanda, of Nestor Nestor Diculescu Kingston Petersen, examine the Ordinance and its likely impact.



## About the authors:

*Ana-Maria Baciú manages the Gaming Practice of Nestor Nestor Diculescu Kingston Petersen, a practice that has emerged as a result of the increased interest of the main gambling operators in the Romanian market and has been rapidly expanding, especially over the last five years. Ana-Maria has substantial cross-disciplinary experience and her expertise in gaming legislation grew through constant collaboration with well-known companies acting in the gaming industry, both local and international, as well as with international law firms specialised in betting and gaming.*

*Oana Coanda specialises in intellectual property law, advising clients in various industries on trademark rights, design rights and copyright and related rights matters, as well as consumer protection and gaming.*

2013 began in Romania with a new and bright promise for the future of online gambling.

While in theory online gambling has been allowed in Romania since December 2010, such activity could not be legally conducted, as, in practice, there was no person authorised to monitor the activity.

In March this year, the Government seemed to have decided that it was finally the time to unblock the online gambling market in Romania, and, as a first step, it issued the Government Emergency Ordinance no. 20/2013 ('GEO 20/2013'), intended for the creation of the National Gambling Office, as well as for amending certain provisions from the so-far in-force legislation that regulates gambling.

Apparently, the creation of this new governmental body - the National Gambling Office (the 'Office') - replaces the existing Gambling Commission within the Ministry of Finance, and had, as fundamental, the expertise of the European States with tradition in this area. The Office is aimed at allowing an efficient management of the legal issues regarding budget venues, prevention and combating of illegalities and at the creation of any necessary means in order to grant protection for minors and vulnerable groups from gambling addiction.

By creating the new authority, the Romanian Government tried to remedy the lack of supervision of online gambling, to find a better way to control the accuracy and legality of gambling transactions as well as to create an effective structure that may fulfill the goal of collecting taxes from online gambling activities.

Thus, according to the substantiation report of GEO

20/2013, the National Gambling Office shall improve coordination, cooperation and information exchange between institutions with competence in the field, ensure mitigation of potential tax evasion in the field and enable better coordination and management of surveillance and control in the field of gambling, but mostly increase revenues to the state budget.

## Why now?

But what has prompted the authorities to issue this Ordinance now, more than two years after permitting online gambling? The lack of any official position of the authorities on this matter, one can assume.

One could think, for example, that back in 2010 the authorities did not have a clear view on what to actually expect from the market. And that when, two years later, their hope that a private economic operator would apply for monitoring authorisation did not come true, they had to come up with a different approach.

There might also have been repeated requests from the online gambling operators that intended to enter the Romanian online gambling market, but refused to do so illegally.

However, the main reason for the issuance of the new piece of legislation seems to be the need to bring more money to the state budget. Back in 2010, the Romanian authorities allowed online gambling with the purpose of generating revenues to the state budget. More than two years have passed since then, and not a single coin went to the state budget from online gambling.

## Let the money come

The issuance of GEO 20/2013 was in fact necessary in order to increase revenues to the state

budget, by actually collecting money from an activity that was already conducted in Romania and was generating huge revenues for gambling operators. The initiators of the Ordinance estimate that this new piece of legislation will have as an effect the increase of the amount poured into the state budget by approximately EUR 20.5 million in 2013 and EUR 27 million per year in the following five years.

According to Cristian Pascu, the President of the Romanian Association of Gaming Organisers and Producers, the online gaming market at the moment is worth EUR 500 million<sup>1</sup>, although, we would add, there are still no companies authorised to organise online gambling in Romania.

### Technical legal aspects

According to GEO 20/2013, the National Gambling Office will perform the following main tasks:

- (i) coordinate the uniform, fair and non-discriminatory application of legal provisions in the gambling area;
- (ii) analyse and solve applications submitted by operators wishing to conduct gambling activities according to the legislation in force;
- (iii) supervise the activities of gambling directly or with other state institutions under the law;
- (iv) exercise systems for technical control, monitoring and surveillance of online betting, bingo games and online gambling organised through communication systems such as the internet, landline and mobile telephone systems, as these activities are regulated by the legal provisions currently in force;
- (v) control the enforcement of specific legislation, ensuring its uniform application, assess minor offences and apply penalties provided by law or notify competent authorities, as the case may be;
- (vi) review the complaints received, verify and solve issues raised or notify competent authorities;
- (vii) solve the preliminary complaints of operators on measures taken in the exercise, according to the law competences and provisions;
- (viii) analyse and solve requests from other authorities, operators and other interested parties, according to the provisions of the gambling legislation;
- (ix) issue administrative provisions relating to the activity and manage the necessary documents granting the organisation and functioning rights and the issued decisions;
- (x) provide database management and publish information on its website;
- (xi) perform risk analysis for verification and control actions of gambling activities for each permit holder licensee, establishing the risk associated with each one;
- (xii) archive the activity documentation according to the law;
- (xiii) participate in the activities of specialised international organisations; the Office may be a member of these, based on the mandate received from the Romanian Government; and
- (xiv) ensure cooperation, information exchange and representation in the gambling area.

In exercising its attributions, the National Gambling Office will be able to establish cooperation and collaboration agreements with similar institutions, gambling associations or other authorities and institutions, and will establish contracts concerning gambling surveillance.

Also, the normative act establishes general criteria regarding the surveillance activity of online gambling as well as the main rules applicable to the functioning of the Surveillance Committee, created within the Office.

### What to expect

Now, with this new authority created, and a new set of rules put on paper, the Romanian gambling market should become more secure, more attractive, more transparent and more profitable, and should, as a direct consequence, open its gates widely to major operators in the field.

Still, the promised bright future does not seem so bright right now, as, apparently, the Supervision Committee, the decisional structure within the Office, exists only on paper and has never been convened so far.

Moreover, the requirement that operators must be organised as Romanian companies (not excluded by the new legislation) will most probably still be a barrier for the involvement of operators in the Romanian gambling market.

How important such a barrier will be, and what other obstacles the operators will have to overcome in order to be successful in the online gambling sector, only time will tell.

**Ana-Maria Baci** Partner  
**Oana Coanda** Associate  
 Nestor Nestor Diculescu Kingston Petersen  
[ana-maria.baci@nndkp.ro](mailto:ana-maria.baci@nndkp.ro)  
[oana.coanda@nndkp.ro](mailto:oana.coanda@nndkp.ro)

1. Pursuant to the interview given for the 'Financial Magazine Live' online program on 19 April 2013: <http://www.zf.ro/zf-live/cristian-pascu-presedintele-asociatiei-organizatorilor-si-producatorilor-de-jocuri-de-noroc-din-romania-la-zf-live-am-castigat-20-30-de-mii-de-locuri-de-munca-10767027>

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