

# Lex Mundi Global Gaming Law Guide

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# Romania



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## Gaming Law Practice

During the past 10 years, **NNDKP's** Gaming Practice has been building its expertise assisting international companies active in this field that first started tackling Romania, which positioned us as a law firm at the forefront of the development of the Romanian gambling market. Our two-Partner-led practice has emerged as a preferred local counsel for companies active in the gaming sector, having amassed a varied, yet solid portfolio of clients comprised of betting and gaming operators, software & platform suppliers, financial services providers, auditors & certifiers, industry relevant associations or marketing affiliates. We also provide integrated advice to the gaming industry by seamless access to NNDKP's true pool of resources across business law areas, including intellectual property, tax, commercial, data privacy, financial services, competition etc. Our Gaming practice has been directly and substantially involved in the drafting of the Romanian gambling legislation, as representative of one of the most relevant European professional associations, Remote Gaming Association (RGA)"

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1. What is “gaming” or “gambling” defined as?  
What elements of a game constitute gambling?

Article 3 paragraph (1) of the Romanian primary gambling legislation (Government Emergency Ordinance no. 77/2009 on the organization and operation of games of chance), defines games of chance as follows: *“the activity which cumulatively meets the following conditions: material winnings are offered, usually of pecuniary nature, following the public offer of an organizer for a potential winning and the acceptance of such offer by the participant, where a participation fee, direct or dissimulated, is perceived, where winnings are given based on game rules priorly approved by the National Gambling Office, by a random selection of the results to the events which make the object of the game, irrespective of the method in which such are produced.”*

In addition, the same normative act provides under Article 3 paragraph (2) that “the activities where the beneficiaries of the awards are established on the basis of the results of events or competitions produced without the involvement of the organizers” also fall under the definition of gambling.

The core elements which confer to a game the nature of a game of chance can be extracted from the legal definition quoted above, as per the following:

- A public offer for a potential winning – usually of pecuniary nature - made by an organizer and correlated with the acceptance of the offer by the participant;
- A participation fee;
- The randomness - “alea” element - in determining the results of the events which make the object of the game.

2. Is gambling legally allowed in any form? If so, what types are allowed and briefly describe how each is defined and the requirements for each. List examples of existing licensed gaming operators.

I. Gambling is legally allowed in Romania and can be organized, subject to the observance of the licensing and authorization requirements, under the following forms:

- Land-based gambling activities - defined as all the games of chance expressly regulated or not by the primary gambling legislation which fulfil the legal conditions applicable for a game of chance and are performed through gaming means installed on the Romanian territory and which are not transmitted or performed through any kind of communication system (internet, land line or mobile telephony or any other transmission systems), and
- Online gambling activities - defined as all the games of chance expressly regulated or not by the primary gambling legislation which fulfil the legal conditions applicable for a game of chance and are performed only through any kind of communication system (internet, land line or mobile telephony or any other transmission system)

In what concerns the types of gaming services regulated under the Romanian legislation, as a matter of principle, it must be noted that most of the categories of gambling may be operated as a land-based and/or online activity, provided that the relevant licenses and authorizations have been obtained. Article 10 of the primary gambling legislation defines the following type of gambling services:



- Lottery – defined as the games of chance which depend on the random outcome of events consisting of drawing of numbers, letters, tickets or symbols, regardless of the procedure used and of the characteristics of the means used to make the draw (drums, wheels, cups and other similar equipment) and which can be organized (in case of land-based activity) with or without the players being physically present.

Note: In relation to lottery games, the legislation sets forth that both land-based lottery games as well as the online version represent state monopoly and can be organized only by the Romanian State Company “Loteria Română”.

- Betting – generally defined as the games of chance where the participant must indicate the results of future events or which are randomly generated by an independent IT system.

The primary legislation expressly regulates three categories of betting: (i) fixed-odd betting (for instance, sports betting), (ii) mutual betting, (iii) exchange betting, which can be licensed and authorized both as land-based or online gambling.

- Casino games – defined as the games of chance which make use of specific gaming equipment such as cards, roulettes, dices, gaming tables and gaming means and where – in case of landbased activities – the players are physically participating to the games. A particularity must be noted in case of online casino games in the sense that this category also includes online poker games and online slot-machine games, thus permitting the licensed gambling operator for online casino to also offer poker and slot-machine gaming on its gaming platform.
- Poker – defined as the games of chance with “poker” playing cards which are – in case of landbased activities – performed exclusively between the participants in specialized locations.
- Land-based slot machine gaming – defined by reference to one of the following three categories:
  - i. Slot machine games with unlimited winnings played via specific machines or equipment, with the players being physically present, operated in specialised premises where gambling takes place;
  - ii. Games played via electronic devices which offer limited risk winnings (known in the industry as “AWP machines”), with the players being physically present, but which cannot be placed in specialized gambling premises;
  - iii. Video lottery games, where the players are physically present and for which the gaming equipment must be connected to a central server running the gaming programme and which validates the win.
- Bingo games – games of chance defined by reference to the means used in performing the activity:
  - i. Bingo games played in gaming rooms with the winnings generated by random elements which use lottery-type draw equipment and with the players being physically present in the premises;
  - ii. Bingo games organised via television networks, with the players not being physically present at the time of the draws;
  - iii. Online bingo games, which are played entirely without the players being physically present and are organized and transmitted via any communication system.
- Keno games – games of chance only regulated as an online gambling activity, being included in the category of online bingo and keno games;

- Tombola – defined as the activity of drawing numbers, letters or other symbols, regardless of the characteristics of the mechanical, electronic, digital or video devices used to make the draw whereby players (physically present or not) may win prizes only in kind, where the value of the prizes must have a minimum value no lower than 50% of the total value of the stakes paid to participate in the game. Tombola games may be organized both as land-based or online activity;
- Temporary games – land-based casino games, slot-machine games with unlimited winnings, traditional bingo that takes place in tourist resorts or on leisure crafts qualifies as temporary games of chance and are subject to a special temporary license and authorization valid for a period of three months.  
A distinct category of temporary games is represented by poker festivals which are defined by the law as the temporary events organized in tourist resorts or other locations and which consists in poker tournaments performed exclusively between the participants.
- Any other types of games of chance, namely new games of chance or combination of games – any product which fulfils the cumulative conditions of games of chance and which is not expressly defined by the gambling regulation. The legal regime of such unregulated products will be established by the local regulator (National Gambling Office – “NGO”) based on the game rules and description presented by the organizer.

II. In what concerns the operators currently licensed to offer gaming services in Romania, an exemplificative list can be found below, as the operators may be found activating on the land-based gambling activity or the online gambling market:

- Land-based gambling operators in Romania
  1. S.C PLATINUM POKER CLUB S.R.L.- providing poker clubs gaming services;
  2. CASINO PALACE SRL – providing casino gaming services ;
  3. DOMINO DIVERTISMENT GRUP S.R.L. – providing bingo gaming services in gaming rooms;
  4. BET ACTIVE CONCEPT S.R.L. – providing fixed-odd betting gaming services.  
Further information about the licensed land-based gambling operators may be accessed on the following URL: <http://onjn.gov.ro/structura-organizatorica/autorizare/lista-organizatorilor-de-jocuri-de-noroc-licentiat/>.
- Online gambling operators in Romania
  5. BETFAIR INTERNATIONAL PLC – providing online betting gaming services;
  6. HEADLONG LIMITED – providing online fixed-odd betting and casino gaming services;
  7. MAXBET MALTA LIMITED – providing online fixed-odd betting and casino gaming services.  
Further information about the licensed online gambling operators may be accessed on the following URL: <http://onjn.gov.ro/approved>.

### 3. What legislation impacts upon gambling activity? Does it allow or forbid gambling?

The conditions under which the organization and operation of games of chance are permitted on the Romanian territory are outlined in the following normative acts:

- Government Emergency Ordinance no. 77/2009 on the organization and operation of games of chance (“GEO 77/2009” or “primary legislation”);
- Government Decision no. 111/2016 for the approval of the Methodological Norms for implementation of Government Emergency Ordinance no. 77/2009 on the organization and operation of games of chance (“GD no. 111/2016” or “secondary legislation”);
- Law no. 124/2015 for the approval of Government Emergency Ordinance no. 92/2014 regulating certain fiscal-budgetary measures and amending certain normative acts;
- Government Emergency Ordinance no. 20/2013 on the establishment, organization and functioning of the National Gambling Office;
- Government Decision no. 298/2013 on the organization and functioning of the National Gambling Office.

Besides the abovementioned normative acts, gambling activities are also regulated by means of instructions, orders or decisions issued by the National Gambling Office. Such administrative acts are issued in relation with various aspects of gambling operations such as:

- Necessary technical configuration and reporting requirements for online gambling operators (NGO President Order no. 47/2016) or for land-based operators of slot-machines or betting activities (NGO President Order no. 48/2016);
- Certification guidelines for online gambling systems (NGO President Order no. 93/2016);
- Instructions for drafting the necessary operational registers (NGO President Order no. 135/2016) and monthly statements reflecting the revenues obtained by both land-based and online operators (NGO President Order no. 239/2015)

In addition to the normative acts specifically enacted to regulate gambling activities, general legal requirements from the fiscal, consumer protection or advertising legislation are also applicable for gambling operations. In this sense, the Fiscal Code regulates the taxation mechanism for the revenues obtained by the players from gambling activities. In case of online gambling, the operators are required to notify each individual player with respect to the revenues obtained from gambling activities. Following such notification, each player is required to submit with the Romanian tax authorities a statement reflecting the financial results and based on such statement the tax authority will determine the applicable tax due to be paid by the player.

Moreover, certain specific requirements in the field of anti-money laundering and prevention of terrorism are also applicable to gambling activities, as such are generally comprised in the following normative acts:

- Law no. 656/2002 on prevention and combating of money laundering and financing of terrorism;
- Regulation of 4 June 2008 for the implementation of Law no. 656/2002.

#### 4. Are gambling licenses available?

If so, what types, and what is the process to obtain a license?

I. In order to conduct gambling or gambling related activities in Romania, relevant licenses and authorizations must be obtained, as per the following:

- 1st Class license and authorization(s) to organize and operate games of chance  
In Romania, in order to perform land-based or online gambling activities, any economic operator is due to apply for and obtain a 1st Class license and one or several authorizations. While, in case of land-based gambling, the authorization must be obtained for each type of activity (or machine, as the case may be) intended to be performed, in matter of online gambling, only one authorization is to be obtained for all the activities conducted on the same gambling platform (which can be connected to one or several internet domain names).
- 2nd Class license for B2B suppliers  
In addition to the 1st Class licenses (and related authorizations), the gambling legislation also imposes the obligation of B2B suppliers addressing to the gambling industry to apply for and obtain a 2nd Class license. In the mirror with the obligation of the B2B supplier, the 1st Class license holder is bound to use exclusively services originating from suppliers granted with a 2nd Class license.  
The categories of B2B providers which are expressly required under the primary legislation to obtain a 2nd Class license are:
  - Manufactures, producers, distributors etc. of gaming equipment or gaming components (Note: this category is generally relevant for suppliers targeting the land-based sector);
  - Platform hosting providers;
  - Gambling software developers (which also include live-casino streaming operators);
  - Marketing affiliates;
  - Certifiers;
  - Auditors;
  - Conformity assessment bodies;
  - Payment processors
- 3rd Class license to organize and operate lottery games  
As mentioned above, lottery gambling activities (both in land-based or online forms) may only be conducted by the state company Loteria Romana, the only authorized economic operator to organize lottery gaming activities in Romania. According to Article 18 (2) of the primary legislation, Loteria Romana benefits from the license and authorization by the effect of the law, provided that the licensing and authorization taxes have been paid.

II. Process for obtaining a 1st or 2nd Class license

Generally, the licensing procedure implies that the economic operator submits an application request along with several corporate and operational documents related to the legal entity itself as well as its directors, shareholders and associates. In addition, depending on the particular type of gambling intended to be performed, the applicant must prove the fulfillment of several technical conditions related to its gambling system and equipments.

The complete licensing and authorization documentation is subject to an approval procedure in front of the Supervisory Committee within the National Gambling Office. In matter of frequency, the meetings of the Supervisory Committee are generally scheduled twice a month. As a procedural requirement, the complete documentation must be submitted with the NGO with at least 9 business days in advance of the Supervisory Committee' meeting.

With specific reference to the 1st Class license which must necessarily be accompanied by the relevant authorization(s), the licensing procedure is doubled by the authorization procedure which can be conducted only by the operator that has been previously granted with a 1st Class license. However, the regulation allows an operator to submit a request for both a license and an authorization at the same time provided that the necessary conditions are fulfilled for each of these permits.

## 5. If licenses are available, what time limits exist and how can licenses be revoked?

### I. Time-limits related to issuance of the gambling licenses

According to Article 1 (4) of the primary gambling legislation, "requests to be granted with a license to organize or authorizations to operate games of chance shall be resolved within a timeframe of 30 days from the date of submission of the complete documentation". In addition, as mentioned above, from a procedural perspective, the license and authorization application files must be submitted with at least 9 business days in advance of the NGO' Supervisory Committee meeting.

Note should be made however that the gambling license and authorization/s enter into force only starting with the 1st day of the month following the month when (i) an approval decision has been issued by the National Gambling Office and (ii) the applicable license and authorization taxes have been paid.

### II. Revocation of the gambling license

According to Article 17 (2) of the primary legislation, depending on the consequences produced, the NGO' Supervisory Committee may revoke the license in case of one of the following situations:

- Failure to execute the payment obligations to the State budget or a delay in payment longer than 30 days from the due date;
- The gambling organizer does not have as main object of activity the organization of games of chance;
- After the police approvals granted to the legal representatives of the operator have been withdrawn, such persons maintain their position for more than 30 days;
- The legal entity (operator) has been convicted through a final judgement which was not subject to rehabilitation;
- The legal representatives of the organizer are in a state of incompatibility for a period of time longer than 30 days from the date the incompatibility occurred;
- The shareholders or legal representatives of the organizer maintain their position for more than 30 days, even if such have been convicted through a final judgment of conviction, in Romania or a in a foreign state, for a crime provided by the primary gambling legislation or for other crime committed with intent for which a punishment of minimum 2 years of imprisonment has been imposed;

- Organization of fraudulent games of chance;
- Non-observance of the requirements related to the guarantee fund meant to secure the payment of the obligations to the state budget;
- Finding that the operator does not observe the requirements in terms of recording the winnings, paying the taxes as well as other authorization or licensing requirements provided by the gambling legislation;
- Finding that the gambling activity conducted by the operator does not observe the provisions of the Law no. 656/2002 on preventing and sanctioning money laundering and terrorism financing;
- Finding that the operator does not observe several regulatory requirements including the absence of notifying the regulator about the updates occurred to the information on the basis of which the license and authorization have been granted.

The Monitoring Committee may proceed to the revocation of the license ex officio or, upon the motivated request of other public authorities, namely the National Office for Prevention and Control of Money Laundering (“NOPCML”), National Agency for Fiscal Administration, police bodies specialized in investigation of economic crime.

It must be also emphasized that a new license application request may be made only after at least one (1) year from the moment the revocation measure imposed by the NGO becomes definitive.

**6. Are there any limitations on the types of gaming that can be offered?**

If so, please provide details.

As a principle, note should be made that only the gaming services for which the operator has obtained the license and authorization/s may be provided to costumers.

In addition, Article 23 (2) of the primary legislation stipulates, under the sanction of criminal liability, the express interdiction to organize and operate:

- Fraudulent games of chance;
- Games of chance through radio channels or through other assimilated transmission means;
- Games of chance based on the results of clandestine competitions (such as dog fighting - expressly forbidden by the Romanian legislation -, illegal car racing, etc.);
- Clandestine games of chance of whose results may be influenced by the dexterity of the game means handler for the purpose of obtaining revenues;
- Competition-games with winnings of any type through telephone lines or other communication systems, television or radio and which condition the obtaining of material advantages on the result of the answers provided to questions of general knowledge or intelligence and which involve a participation fee.

On a separate but related note, as mentioned above, in case a certain game of chance is neither expressly regulated, nor forbidden, the Romanian regulator has the competence to analyze such based on the game rules provided by the applicant and determine in which category the unregulated product should fall in, in order to establish the applicable licensing and authorization regime.

7. Are there any restrictions for gaming operators on any technology or machinery? If so, please provide details.

Yes, the gambling legislation imposes certain requirements for the machinery used by a gambling operator in organizing and operating games of chance in Romania, both in respect of land-based and online activities.

#### I. Requirements in the machinery used by a land-based gambling operator

The requirements that must be observed by the equipment used by a land-based gambling operator depend on the actual gambling activity performed.

For example, in case of land-based betting products, the betting agencies must be provided with (i) at least one dependent betting specialised terminal for issuing and registering bets comprising an IT system which enables viewing the offer, selection of the events, registration of the betting tickets, viewing of the events and verifying the winnings, (ii) a printer for issuing betting tickets or betting offers and (iii) a system for sending data to the central premises. The betting terminals must be connected to the central IT system of the gambling operator which is in its turn connected to a terminal located at NGO or in a location indicated by the regulator which shall permit the regulator's access to the database of the gambling operator.

In what concerns the casino activities, such can be offered only in casinos provided with both basic and additional technical equipment, including cards and dices, as per the requirements of the legal provisions and the international practice. A casino must be provided with at least 12 special gaming tables in case such is located in Bucharest or 10 for casinos located in other cities.

In case of slot-machines equipments, the legislation imposes for the operator the obligation to operate minimum 75 electronic devices with unlimited stakes and winnings and/or electronic devices offering limited-risk winnings. Similar to betting agencies, slot-machines must be connected through independent computer systems, with the obligation of the gambling operator to centralise the information provided by the law in a central IT system located on the Romanian territory which will be connected to a terminal situated at NGO.

All the machines, installations, devices, gaming tables and any other gaming means used in operation of land-based gambling activities are subject to a technical control which may be conducted only by the Romanian Office for Legal Metrology or other conformity assessment bodies granted with a 2nd Class license by NGO.

#### II. Requirements in technology used by online gambling operators

Also in the field of online gambling the applicable legislation provides for a set of mandatory requirements the IT system has to observe in order to be used for the Romanian market, irrespective of the gaming products offered to the players, as follows:

- i. "Right to use" requirement - remote gambling organisers may carry out their activities by using only software programmes specific to games of chance in respect of which they have been granted the right to use by specialized developers holding a 2nd Class license issued by NGO;



- ii. Localization requirements - (i) the central gaming server of the operator will be located in Romania or another Member State of European Union, in a state that is signatory of the Agreement on the European Economic Area or in the Swiss Confederation, and (ii) in case the central gaming server is not located in Romania, safe and mirror servers must be established on the Romanian territory (in order for the NGO to be able to monitor the activity related to the Romanian market and verify any incidents occurred);
- iii. Certification requirements - any economic operator who applies for a 1st Class license must hold a certification for the gambling system (software and platform being included in the scope of certification), issued by a specialized company, that holds a 2nd Class license issued by the NGO.

**8. Are there reporting requirements for player account deposits or remittance of player winnings?**

Certain reporting requirements are established by reference to the AML related obligations incumbent to the gambling organizer, both in land-based and online gambling activity.

In this sense, reporting requirements may be categorized depending on two main criteria:

- Transaction specificity (possible given by the amount of money deposited in the account, money flow within the game activity, amount of money requested for withdrawal, etc.)

Depending on the transaction specificity, the gambling operator has the obligation to report to NOPCML any operation in relation to which (i) has learned that is to be carried out with the purpose of money laundering or terrorism financing or (ii) ascertains that is atypical for the activity of a said customer or for the type of transaction in question and has suspicions on the transaction as having as purpose the money laundering or terrorism financing. In addition, the gambling operator shall immediately report to NOPCML when it ascertains that, in what concerns an operation or several operations which were carried out on behalf of a customer, there are suspicions that the funds have as purpose money laundering and terrorism financing.

- Transaction value

The gambling operator is due to report to NOPCML any external transfer in and from accounts for amounts of money which have a minimum limit of the equivalent in RON of EUR 15,000. Note should be made that special focus should be given on the global transaction structure, in the sense that also transactions performed through one or more operations that seem to be linked to each other - globally summing up to the threshold above - are falling under the reporting obligation.

The same threshold of EUR 15,000 is also relevant for the reporting obligations incumbent upon the online operators in relation to the NGO. Thus, licensed online operators are required to create a reporting interface accessible for the regulator and where various aspects about the gambling activity (winnings, revenues, technical glitches etc.) will be reported. Winnings above EUR 15,000 as well as transactions (simple or correlated) which exceed this amount are included among the information operators are required to report via the reporting interface.



**9. What gaming tax levies are imposed? Are winnings or “takings” taxed?**

From a fiscal point of view, land-based gambling operators that operate in Romania are subject to a 16% corporate tax, in addition to any other fiscal obligations imposed under the Romanian Fiscal Code. In case of online gambling operators, the corporate tax is due only in case of Romanian entities or in case a permanent establishment is operated in Romania. Otherwise, the non-resident gambling operator owes income taxes in the country of establishment and will be required to pay in Romania the annual license and authorization fees.

In Romania, the revenues obtained by players are subject to tax charges. However, an important difference is made in respect of the taxation of players' revenues by the current fiscal legislation in the sense that in case of land-based games, the operator is required to withhold the applicable tax and subsequently pay such to the state budget, while in the situation of online games, each player is bound to execute individually the tax duties imposed by the Romanian authorities.

The fiscal legislation introduces the same thresholds for taxation of gambling revenues for both land-based and online activities:

**Gross revenue**

- Up to 66,750 RON (including) (approx. EUR 14,500) --> 1% Tax
- Above 66,750 RON – 445,000 RON (including) --> 667.5 RON + 16% Tax for the amount exceeding 66,750 RON
- Above 445,000 RON (approx. Euro 100,000) --> 61,187.5 RON + 25% Tax for the amount exceeding 445,000 RON

As a particularity applicable for land-based activities, the revenues obtained by the players from casino, poker clubs, slot-machines and scratch cards operations which do not exceed RON 66,750 are not subject to taxation.

10. What anti-money laundering and counter-terrorism financing measures exist and what is their impact on operators?

Both in terms of land-based and online gambling activities, the gambling operators are bound to comply with certain anti-money laundering and counter-terrorism financing obligations, such as:

- Appointing one or several persons with responsibilities in enforcing the provisions of the AML Law (Law no. 656/2002);
- Implementing adequate internal policies and procedures (KYC procedures) and ensuring proper training of employees;
- Notifying/reporting suspicious transactions, as per the applicable legal requirements;
- Notifying/reporting external transactions having a minimum threshold of the RON equivalent of Euro 15,000;
- Collaborate with NOPCML;
- Implementing the measures requested by NOPCML in relation to individuals participating in games of chance;

As far as the impact of the legal AML obligations on the gambling operators is concerned, such an assessment is to be made on a case-by-case basis. Naturally, the main consequences arising from the implementation of the relevant AML measures would firstly impact the internal organizational structure of the gambling operator, with the corresponding investments of human, technical and financial resources (e.g. in case of notifying/reporting obligations, adequate alert systems should be in place in order to identify the transactions carried out and which could fall under the AML requirements).

11. Is internet gaming offered to local residents prohibited when the website is hosted offshore by an offshore-licensed operator?

Yes, the scenario described hereby is prohibited under the applicable Romanian laws since the legislation in force expressly requires, for any economic operator aiming at conducting activities of remote games of chance in Romania, to obtain a local license and authorization from the NGO, even if such operator holds a license in a foreign jurisdiction.

As mentioned above, the gaming server used by the remote gambling operator licensed in Romania to be used for hosting the website targeting Romanian players must be located in Romania or another Member State of the European Union, in a state that is signatory of the Agreement on the European Economic Area or in the Swiss Confederation.

The operation of any kind of activities in the field of gambling without a local license and authorization represents a criminal offence punished with prison from 1 month to 1 year or fine. As an additional sanction applicable for the legal entity (operator) performing unlicensed gambling activities, such entity shall be dissolved and the illegal amounts shall be confiscated.

12. Are the accessibility of an operator's website to local residents and advertisements targeted to local residents legal?

Where availability and accessibility to an unlicensed gambling website means that the Romanian players will only be able to view the content of such website (and not be able to access any of its functionalities), then criminal liability should not become applicable.

However, it should be borne in mind that, according to Article 26 (2) of the primary legislation, activities of marketing or advertising or any other promotional activity related to unlicensed and unauthorized remote games of chance constitute administrative offences and shall be punished with fine ranging from 50,000 RON (approx. EUR 11,000) to 100,000 RON (approx. EUR 22,000) and the complementary sanction of confiscation of the amounts of money generated from the illicit activity. In this regard, it must be mentioned that the Romanian case-law includes one situation where a gambling operator has been sanctioned due to advertising activities conducted in relation to unlicensed gambling websites.

13. Is it illegal for local residents to engage in internet gaming when (i) they are physically present in the jurisdiction; and (ii) they are physically outside of the jurisdiction? If either answer is yes, will the operator incur any criminal liability?

According to Article 22(6) of the primary legislation any individual who participate, as a player, from the Romanian territory, in activity of remote games of chance operated by an unlicensed/unauthorized operator shall face administrative fines ranging from 5,000 RON (approx. EUR 1,000) to 10,000 RON (approx. EUR 2,200), thus being triggered the administrative liability of the player (and not criminal liability).

In what concerns the gambling operator's liability, as mentioned above, the operation of games of chance in Romania without being granted with a license and authorization by the NGO shall constitute criminal offence, the criminal liability of the gambling operator being distinct from the administrative liability of the player.

As a separate note, it should be borne in mind that, in Romania, the applicable legislation aims at ensuring a legal and factual background sufficient by itself to enhance awareness of the individuals in relation to non-licensed/non-authorized gambling operators and the websites the latter are operating their activity in Romania.

In this vein, at the present time, unlicensed gambling websites are blacklisted by the NGO and made publicly available within the regulator's official Internet page, accompanied by the statement outlining the possible consequences a player may face when participating on unlicensed gambling activities.

14. Is it legal for local residents to make payment for internet gaming hosted by foreign websites by credit card, electronic fund transfers or any other means?

Making payments by credit card, electronic card or electronic fund transfers in order to purchase internet gaming services from foreign hosted website is as a matter of principle permitted as long as such operations are performed strictly in relation with remote gambling operators dully licensed and authorized by the NGO.

15. Are gambling debts legally enforceable?

The Civil Code regulates, in principle, that gambling debts between individuals are not enforceable in court. However, there is a derogation for gambling operators whose activities have been licensed and authorized by the authorities from whom and against whom gambling debts can be enforced in court.

16. Are there changes planned to existing gambling legislation?

If so, please provide details.

At this moment, there are pending proposal pieces of legislation that, if enacted, will create a significant impact on online gambling activities performed in Romania:

- The legislative proposal according to which online gambling activities cannot be advertised via audio-visual means, but only on the operator's website.
- The amendment of the Fiscal Code and the re-introduction of the withholding tax system for revenues obtained by the players from online gaming activities. At this point in time, as previously stated, the fiscal legislation provides for a mechanism where each player is bound to pay the tax for the revenues obtained from gambling, based on a declaration filed with the tax authorities. It seems that the authority intention is to amend this system and impose the operators to withhold the gambling tax for players' revenues and afterwards transfer such to the state budget.

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