



ICLG

The International Comparative Legal Guide to:

Gambling 2019

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A practical cross-border insight into gambling law

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Romania

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1 Relevant Authorities and Legislation

1.1 Which entities regulate what type of gambling and social/skill gaming activity in your jurisdiction?

Relevant Product		Who regulates it in digital form?	Who regulates it in land-based form?
Gaming	Casino gaming (including slots and casino table games such as roulette & blackjack)	National Gambling Office.	National Gambling Office.
	Poker	National Gambling Office.	National Gambling Office.
	Bingo	National Gambling Office.	National Gambling Office.
Betting	Betting	National Gambling Office.	National Gambling Office.
	Sports/horse race betting (if regulated separately to other forms of betting)	Not regulated separately, but falls under the general category of betting.	Not regulated separately, but falling under the general category of betting.
	Fantasy betting (payment to back a 'league' or 'portfolio' selection over a period of time, for example in relation to sport or shares)	Not specifically regulated under Romanian gambling legislation. Depending on its characteristics, it may be qualified by the National Gambling Office within the category of "other types of games of chance".	Not specifically regulated under Romanian gambling legislation. Depending on its characteristics, it may be qualified by the National Gambling Office within the category of "other types of games of chance".
Lotteries	Lotteries	National Gambling Office. Lottery gambling is under the monopoly of the Romanian state.	National Gambling Office. Lottery gambling is under the monopoly of the Romanian state.

Relevant Product	Who regulates it in digital form?	Who regulates it in land-based form?	
Social/Skill arrangements	"Social" gaming with no prize in money or money's worth	Not qualified as a game of chance, since it lacks one of the mandatory elements provided under Romanian regulation – a monetary prize.	Not qualified as a game of chance, since it lacks one of the mandatory elements provided under the Romanian regulation – a monetary prize.
	Skill games and competitions with no element of chance	Not qualified as a game of chance, since it lacks one of the mandatory elements provided under the Romanian regulation – chance/randomness.	Not qualified as a game of chance, since it lacks one of the mandatory elements provided under the Romanian regulation – chance/randomness.

1.2 Specify: (i) the law and regulation that applies to the Relevant Products in your jurisdiction; and (ii) – in broad terms – whether it permits or prohibits the offer of Relevant Products to persons located in your jurisdiction.

The Romanian legislation which impacts upon gambling activities comprises the following main normative acts:

- (i) Government Emergency Ordinance no. 77/2009 on the organisation and operation of games of chance ("GEO no. 77/2009");
- (ii) Government Decision no. 111/2016 for the approval of the Methodological Norms for implementation of GEO no. 77/2009 (the "Secondary Legislation");
- (iii) Government Emergency Ordinance no. 20/2013 on the organisation and functioning of the National Gambling Office and for the modification and supplementation of GEO no. 77/2009;
- (iv) Government Decision no. 298/2013 on the organisation and functioning of the National Gambling Office;
- (v) Law no. 227/2015 regarding the Fiscal Code ("Romanian Fiscal Code");
- (vi) Law no. 207/2015 on the Fiscal Procedure Code;

- (vii) Order issued by the President of the National Gambling Office no. 47/2016 for the approval of content, reports and access to information transmitted by remote gambling operators to the National Gambling Office;
- (viii) Order issued by the President of the National Gambling Office no. 48/2016 for the approval of the procedure for fulfilling the conditions for connecting land-based slot machines and betting-type games of chance; and
- (ix) Order issued by the President of the National Gambling Office no. 93/2016 for the approval of the mandatory requirements for certification and audit of the remote gambling systems.

As a matter of principle, the Romanian regulation permits the offering of any of the Relevant Products on the Romanian market, both in land-based and digital/online forms, provided that the necessary licences and authorisation(s) are obtained by the operator intending to offer the respective Relevant Product.

As regards the social/skill games referenced under question 1.1, these sorts of product are not expressly regulated under the Romanian gambling legislation and should not normally be qualified as games of chance. Thus, in accordance with GEO no. 77/2009, a game of chance is defined as a product which cumulatively meets the following characteristics: (i) the charging of a participation fee; (ii) the game being based on the random selection of results; (iii) monetary winnings; and (iv) public offering of the respective game by the organiser to the participants.

Therefore, any game that lacks one (or several) of the mandatory elements provided by the legal definition should not be qualified as a game of chance and, in principle, should not be permitted in Romania without obtaining the licences and authorisation(s) imposed by the gambling regulation.

2 Application for a Licence and Licence Restrictions

2.1 What regulatory licences, permits, authorisations or other official approvals (collectively, “Licences”) are required for the lawful offer of the Relevant Products to persons located in your jurisdiction?

In order to lawfully offer the Relevant Products in Romania, a gambling operator must apply for and obtain both (i) a Class 1 licence to organise games of chance, as well as (ii) one or several authorisations to operate games of chance.

In addition to business-to-consumer (“B2C”) operators, which are required to obtain the Class 1 licence and related authorisation(s), Romanian regulation also imposes the licensing requirement on business-to-business (“B2B”) providers specialised in the gambling industry which supply products/services to licensed B2C operators. Such providers are required to obtain a Class 2 licence granted by the National Gambling Office.

The categories of B2B suppliers for which the National Gambling Office has issued Class 2 licences are the following:

- manufacturers, distributors as well as other entities performing activities with gaming means or gaming components (Note: this type of Class 2 licence is relevant for the land-based sector);
- software providers;
- providers of platform management and hosting services;
- providers of live casino streaming services;
- certification laboratories, auditors and conformity assessment bodies;

- payment processors; and
- marketing affiliates.

The list of licensed B2C online operators may be accessed at the following link from the regulator’s website – <http://onjn.gov.ro/approved/> – while B2B providers holding a Class 2 licence are listed here: <http://onjn.gov.ro/lista-licentiati-clasa-a-ii-a/>.

As regards lottery gambling, GEO no. 77/2009 expressly sets forth that the organisation and operation of lottery games, whether as land-based or online/digital activity, fall under the monopoly of state company “Loteria Romana” which, by law, is granted the necessary licence (i.e. Class 3 licence) to offer lottery gambling in Romania.

2.2 Where Licences are available, please outline the structure of the relevant licensing regime.

In line with the regulation, B2C operators are required to hold both a Class 1 licence as well as one or several authorisations in order to offer gambling services in Romania. As regards online operations, the Secondary Legislation sets forth that authorisation is granted for the entire activity conducted on the same gambling platform, which may be connected to one or several Internet domain names. Another particularity for online gambling is that, pursuant to GEO no. 77/2009, the online casino licence includes online poker as well as online slot-machine gambling, so an operator holding the online casino licence may also offer online poker and online slots on its Romania-designed platform.

The licensing and authorisation regime for land-based gambling varies by reference to the type of activity for which each these permits is granted. For example, in case of land-based slot-machine gambling, authorisation is granted for each gaming machine (the regulation also imposes a minimum of 75 machines to be operated by the same organiser, under the penalty of having all authorisations as well as the licence withdrawn); while for land-based poker clubs or land-based casinos, authorisation is granted for the location where the respective operations are conducted.

2.3 What is the process of applying for a Licence for a Relevant Product?

The Class 1 licensing and authorisation process may be considered generally straightforward. With the exception of land-based casinos, poker clubs and bingo operations, the legislation regulates a closed-box procedure, all regulatory approvals being granted based exclusively on documents submitted for the analysis of the National Gambling Office, without the applicant or its representative(s) being present in front of the regulator for the hearing when the application is analysed and voted on. In the case of land-based casinos, poker clubs or bingo gambling (as well as for the Class 2 licence application by providers of casino streaming services), the regulation sets forth that in order for the licensing documentation to be put forward for the approval of the regulator, a team formed of representatives of the National Gambling Office and Ministry of Internal Affairs shall conduct a prior inspection of the location in order to ensure that it observes the regulatory conditions.

The list of documents to be submitted in the process is indicated by the legislation, such documents being aimed at providing information on the applicant (up to the ultimate beneficial owner(s)), its good standing (as well as the good standing of its legal representatives and shareholders) – including the capacity to cover debts towards the Romanian state budget or the applicant’s own players at any moment – but also must detail the technical and reporting system

intended to be used when carrying out the respective gambling activity in Romania. Nevertheless, the legislation also provides for the obligation of the applicant to provide any other data or information, as requested by the regulator.

From a procedural perspective, the complete licensing and/or authorisation documentation must be submitted at least nine business days prior to the date of the meeting of the National Gambling Office's Supervisory Committee (such meetings being generally organised twice a month), which is the body within the regulator competent to decide upon licence applications.

2.4 Are any restrictions placed upon licensees in your jurisdiction?

The Romanian gambling regulation comprises certain provisions which, depending on the envisaged business model, may be considered restrictive or cumbersome, such as:

- only companies established within the EU, EEA or Swiss Confederation may apply for a Class 1 gambling licence;
- online operators which do not hold their main gaming server in Romania are required to establish safe and "mirror" servers on the Romanian territory, for the purpose of replicating data from the main server, and report information, on a continuous basis, to the National Gambling Office;
- online operators are required to open bank accounts in Romania, as well as to perform all transactions with the players via a Class 2 licensed payment processor;
- both land-based and online operators are required to rely only on those B2B providers holding the necessary Class 2 licence(s) granted by the Romanian regulator;
- the introduction in Romania of land-based gambling equipment may be performed only with the prior notification of the regulator;
- foreign online operators are required to appoint a local authorised representative for the purpose of representing the operator in relation to the Romanian authorities; and
- bonuses granted by online operators may be advertised only on limited channels (i.e. operator's own website(s), Class 2 licensed affiliates website(s) or e-messages to active players on the operator's database).

2.5 Please give a summary of the following features of any Licences: (i) duration; (ii) vulnerability to review, suspension or revocation.

The Class 1 licence is valid for 10 years and may be renewed for identical periods of time, while the authorisation is generally granted for one year (with the exception of the authorisation for land-based temporary games, which is valid for three months) and must be renewed/prolonged on an annual basis.

The Secondary Legislation sets forth that the licences and authorisations may be prolonged, upon request, for identical validity periods in the case that, at least 30 days in advance of the expiration date, the licence holder proves that the conditions taken into consideration at the moment of the initial licence/authorisation continue to be observed.

In accordance with GEO no. 77/2009, the licence and authorisation enter into force on the first day of the month following the one during which the licence/authorisation application was approved by the regulator and the taxes owed by the operator were paid in advance.

The licence or authorisation may be **cancelled** in cases where it is discovered that at the moment of granting the licence/authorisation, the applicant provided false or inaccurate information which, had

it been known, would have led to the dismissal of the licence/authorisation application. In this situation, a new licence application can be submitted after a minimum of five years from the date on which the cancellation decision becomes final in the administrative appeal system, or from the date on which the court judgment becomes final and irrevocable.

The National Gambling Office may decide to **revoke** the Class 1 licence, depending on the consequences of the breach, for cases such as: (i) failure to comply with the obligations of payment to the Romanian state budget, or payment of the respective obligations with delay; (ii) the operator no longer has the organisation of games of chance as its main object of activity/scope of business; (iii) a final judgment of conviction without rehabilitation has been issued against the operator; or (iv) any of the shareholders or legal representatives of the operator keep their position for more than 30 days, when a final judgment of conviction without rehabilitation has been issued against the respective individual/entity, in Romania or in a foreign jurisdiction, for a crime stipulated by the Romanian gambling legislation or for any other crime committed with intent, to which a minimum two-year prison sentence was applied.

After the Class 1 licence has been revoked, a new application can be submitted after at least one year from the date on which the revocation decision became final.

The regulator may also decide to **suspend** the Class 1 licence for situations such as the breach by the operator of its terms and conditions or game rules, which generates damage for the player, or for any other reasons, even though not expressly regulated in the legislation, until the situation is clarified.

2.6 By Relevant Product, what are the key limits on providing services to customers? Please include in this answer any material promotion and advertising restrictions.

One of the general key limits under the Romanian regulation is the prohibition of minors under 18 years old from participating in any kind of gambling activity.

In terms of sector-specific limits, it is worth noting the prohibition from operating a casino within a hotel having a classification of less than three stars, and the prohibition from placing AWP slot machines within gaming halls dedicated to slots with unlimited stakes and winnings. In addition, land-based gambling locations are subject to several restrictions in terms of signalling their activity.

Romanian legislation contains certain restrictions related to gambling advertising. Some of the most significant may be deemed to be the following:

- spamming is forbidden – publicity in the form of unsolicited e-messages that include information regarding a game of chance, addressed to an unlimited number of recipients, is forbidden;
- sending advertising materials to self-excluded players from online platforms is prohibited;
- advertising of gambling services which are not authorised in Romania is prohibited;
- outdoor advertising may not be placed within or near educational institutions, socio-cultural or religious premises; and
- bonuses granted by online operators may be advertised only on limited channels (i.e. the operator's own website(s), a Class 2 licensed affiliate's website(s), or e-messages to active players from the operator's database).

In terms of the regulator's approach in relation to gambling advertising, it is worth mentioning that the former management

of the National Gambling Office (replaced in May 2018, having been operational for only one year) drafted and published on its website, at the beginning of 2018, the Code of Ethics regarding responsible communication in gambling. This Code is not of a regulatory nature *per se* and the former president of the authority has stated that operators, in view of the principle of social responsibility, should voluntarily adopt the Code and apply stricter rules in terms of advertising their activities (the English version of the Code is published on the following page of the regulator's website: <http://onjn.gov.ro/wp-content/uploads/Onjn.gov.ro/Rela%C8%9BiiPublice/Joc-responsabil/Ethical-code-on-responsible-gambling-ENG.pdf>). The former management of the regulator also requested the industry's feedback on the Code and, at that time, the Code remained to be finalised. Based on the latest discussions between the industry's representatives and the gambling office, it appears that (at least at the time of writing of this chapter) the new management does not endorse this Code of Ethics.

In addition, with regard to potential restrictions in relation to TV commercials for gambling, please refer to question 5.1 below.

2.7 What are the tax and other compulsory levies?

Taxes for land-based gambling

For land-based gambling, the licence tax is a flat fee of a specific amount depending on the type of land-based games operated, which may range from EUR 5,000 per year (in the case of tombola or poker clubs) to EUR 95,000 per year for land-based casinos.

The authorisation tax for land-based activities is also paid on an annual basis and is calculated by reference to the following criteria:

- (i) **Operator's revenue:** in the case of betting activities, bingo broadcast on television, and tombola, the authorisation tax represents 16% of the operator's revenue, but not less than a specific amount which varies depending on the type of game (EUR 90,000 for betting; EUR 115,000 for televised bingo).
- (ii) **Number of locations/gaming means:** land-based casinos entail an authorisation tax of EUR 60,000 per table (for Bucharest) or EUR 30,000 per table (for locations outside Bucharest); each slot machine with unlimited winnings requires an authorisation tax of EUR 2,600; while in the case of bingo performed in gaming halls, the operator is bound to pay an authorisation tax consisting of EUR 7,000 per location plus 3% of the value of the printed cards mandatorily purchased from the Romanian National Printing House.

The legislation also imposes certain special taxes for the following categories of land-based gambling:

- entry fee for casinos (RON 50 = approx. EUR 10) and poker clubs (RON 30 = approx. EUR 7); and
- vice tax for unlimited-winnings slot machines and video-lottery machines (VLT) of EUR 400 per post (terminal) per year.

As a separate payment obligation, organisers of land-based games of chance are required to contribute EUR 1,000 per year to the public fund for the prevention of gambling addiction (not yet established).

In addition, organisers of land-based games of chance must establish a guarantee fund in order to cover the risk of non-payment of the obligations to the state budget. The amount of the guarantee varies according to the type of gambling activity; being set up either per machine (slot), per gambling table or per premises and activity (for example, for land-based betting the level of the guarantee is EUR 7,000 for the activity itself and an additional EUR 100 for each agency, but no more than EUR 100,000 for that operator).

Taxes for online gambling

An operator of online gambling must pay an annual licence tax, calculated by reference to the operator's turnover, which ranges

between EUR 6,000 per year (for an annual turnover of less than EUR 500,000) to EUR 120,000 per year (for a turnover exceeding EUR 10,000,000).

The authorisation tax for online gambling is also paid on an annual basis and amounts to 16% of the income obtained from gambling activities (GGR), but not less than EUR 100,000 per year.

The administrative taxes for applying for and obtaining a Class 1 online licence are as follows: (i) EUR 2,500 for analysis of the file, paid when the documentation for obtaining the licence is submitted to the National Gambling Office; and (ii) EUR 8,500 for the issuance of the licence.

In addition, online licensed operators will have to make an annual contribution of EUR 5,000 to the fund for the prevention of gambling addiction (which is, however, yet to be established).

Also, in order to cover the risk of non-payment of the obligations to the state budget, operators of online gambling must establish a guarantee fund, according to the provisions of GEO no. 77/2009. The guarantee is established in the amount of EUR 100,000 per type of game organised (online casino, online betting, online bingo and keno).

Taxes for licensed B2B providers

The regulation also sets forth that a B2B provider holding a Class 2 licence is bound to pay an annual licence tax of EUR 6,000 and contribute EUR 1,000 per year to the fund for the prevention of gambling addiction (again, this fund is not yet established).

In addition, certification and auditing bodies for online gambling operators must set up a guarantee fund in the amount of EUR 250,000 in order to cover the risk of non-payment of obligations to the state budget.

Corporate income tax

Operators established as Romanian legal entities, as well as foreign operators generating a permanent establishment in Romania, will also be required to pay the general corporate income tax in the amount of 16% applied to taxable profit. The law provides an exception regarding land-based casino activities, where it is stated that this category may be subject to a 5% turnover tax in the case that the profit tax is less than 5% of their revenue.

Income tax on players' winnings

As regards the taxation mechanism for the winnings obtained by players from online gambling operations, until 23 March 2018, the online operator was required to only inform the player and the tax authority about the revenues obtained by the player in the previous year, and afterwards the players themselves were required to file a tax statement regarding the revenues obtained, after which the tax authority would calculate the tax due and issue a decision on the tax which the player was required to pay. However, following the amendment of the Romanian Fiscal Code, as of 23 March 2018, the mechanism has changed in the sense that the online operator now has the obligation to withhold the related tax from each withdrawal performed by the player from the account opened on the platform.

As a particularity applicable to land-based activities, revenue obtained by players from casino, poker club, slot-machine and scratch card operations which does not exceed RON 66,750 (approx. EUR 15,000) is not subject to taxation.

2.8 What are the broad social responsibility requirements?

The gambling regulatory framework is focused on protecting minors and preventing their access to gambling, as well as ensuring the integrity and transparency of gambling activities and maintaining a fair game system which is constantly supervised.

All entities involved in the gambling industry which hold a licence granted by the Romanian regulator (both land-based and online operators, as well as licensed B2B providers) are required, pursuant to GEO no. 77/2009, to pay an annual contribution to a public fund whose main purpose is to finance programmes and activities aimed at ensuring a responsible gambling environment and preventing gambling addiction cases. However, at the time of writing, this public fund has not been created yet, so the contributions imposed by the law are not yet payable. Nevertheless, the draft government decision for the creation of the public fund was published a few months ago on the National Gambling Office's website and is available, in Romanian language only, here: http://onjn.gov.ro/wp-content/uploads/Onjn.gov.ro/Rela%C8%9BiiPublice/transparenta-decizionala/proiecte-acte-normative/Proiect-HG-infiintare-fond-%C8%99i-adminstratia-fondului-16_05_2018.pdf.

As regards online gambling, the Secondary Legislation specifically provides that the platforms must be designed to enable responsible gambling functions such as setting daily, weekly or monthly deposit limits, the possibility for players to permanently or temporarily self-exclude from gambling, etc. In addition, online operators are obliged to inform players who have opted to self-exclude of the possibility of receiving counselling and treatment for gambling addiction at a treatment centre.

2.9 How do any AML, financial services regulations or payment restrictions restrict or impact on entities supplying gambling? Does your jurisdiction permit virtual currencies to be used for gambling and are they separately regulated?

In accordance with GEO no. 77/2009, all payments to players participating in online gambling must be made only through a payment processor which holds a Class 2 licence granted by the National Gambling Office, irrespective of whether the respective payment entity already holds the necessary authorisations/approvals in accordance with the banking/financial regulation.

By comparison to foreign-licensed operators active in Romania, those operators incorporated as Romanian companies are subject to the entire Romanian legal framework, which may potentially generate additional legal obligations. In this sense, it is worth noting that, based on the recent quasi-official interpretation of the Romanian AML Office, only Romanian-based operators are subject to the local AML law (as such implements the EU Directive), while foreign entities fall under the AML regulations existing in their country of origin.

While the Romanian gambling legislation does not specifically regulate the use of virtual currencies for gambling operations, GEO no. 77/2009 expressly provides that any payment instrument used for gambling must comprise the identification details of the individual who operated the respective instrument. This regulatory requirement may lead to the conclusion that virtual currencies which cannot enable this identification standard are not permitted under the Romanian gambling regulation.

3 Online/Mobile/Digital/Electronic Media

3.1 How does local law/regulation affect the provision of the Relevant Products in online/mobile/digital/electronic form, both from: (i) operators located inside your jurisdiction; and (ii) operators located outside your jurisdiction?

The Romanian gambling legislation does not provide for different legal regimes for the provision of the Relevant Products, depending

on the nationality of the operator. As mentioned above, in order to obtain a licence, it is not mandatory for the operator to be established as a Romanian legal entity; it is permitted to apply for the licence as long as the applicant is incorporated in an EU or EEA jurisdiction or the Swiss Confederation. Furthermore, Romania is not a “ring-fenced” market in the sense that the online platforms designed for Romania may, as a matter of principle, also be accessible from abroad (as long as the applicable foreign laws allow this structure).

Nevertheless, irrespective of whether the licensed online operator is a Romanian or foreign company, as long as the main gaming server is not placed in Romania, the respective operator will be required to establish safe and “mirror” servers in the Romanian territory.

3.2 What other restrictions have an impact on Relevant Products supplied via online/mobile/digital/electronic means?

In order to protect consumers from unlicensed gambling activities, the National Gambling Office has the responsibility to identify those websites that enable access from the Romanian territory to online gambling operations which are not licensed in accordance with the local regulation.

Moreover, pursuant to GEO no. 77/2009, the Romanian regulator must also: (i) identify websites used for carrying out marketing, advertising and publicity activities or any other promotional activities relating to unlicensed online gambling; and (ii) communicate all information identified to the ISPs, so that access to these websites and unlicensed gambling websites can be blocked. In addition, the regulator shall communicate the information about the unlicensed gambling websites to the payment processors, so that any payments to and from these websites can be blocked.

The unlicensed gambling websites are included by the National Gambling Office on a blacklist, available at the following page on the regulator's official website: <http://onjn.gov.ro/lista-neagra/>.

3.3 What terminal/machine-based gaming is permitted and where?

As to the possibility to link land-based terminal/machine-based gambling with online operations, the Secondary Legislation sets forth explicitly that it is prohibited to install any kind of devices in land-based gambling locations which allow access to online gambling platforms.

4 Enforcement and Liability

4.1 Who is liable under local law/regulation?

In accordance with GEO no. 77/2009, liability for the lawful organisation and operation of gambling activities pertains entirely to the operator which holds the licence and authorisation(s).

Under the Romanian regulation, performing gambling activities in the absence of the necessary licence and authorisation(s) represents a criminal offence sanctioned by imprisonment or criminal fine. GEO no. 77/2009 also sets forth that the operator (legal entity) found guilty of performing unlicensed gambling shall be mandatorily dissolved and the amounts of money obtained from the illegal activities shall be confiscated.

The relevant provision from GEO no. 77/2009 sanctioning the performance of gambling activities without a licence is broadly phrased, in the sense that it states that performing any activities in

the field of gambling without a licence or authorisation represents a criminal offence. This could theoretically be interpreted as encompassing all gambling-related activities that require such licence or authorisation, including the performance of B2B activities.

In addition, for B2B activities, a specific article provides that carrying out any B2B activities in the absence of the necessary Class 2 licence is considered a minor offence and is sanctioned with a fine ranging between RON 50,000 and RON 100,000 and the confiscation of the amounts derived from the illicit activity.

From the perspective of the players, participation in unlicensed online gambling, from the Romanian territory, represents a minor offence sanctioned by a fine ranging between RON 5,000 and RON 10,000.

4.2 What form does enforcement action take in your jurisdiction?

At the time of writing, the regulator has included on the blacklist of unlicensed gambling websites more than 1,000 domain names (the full list is available at: <http://onjn.gov.ro/lista-neagra/>) and has instructed all ISPs to block access to these websites and redirect all traffic to an IP address that is publicly known to belong to the Special Telecommunications Service (a central specialised structure which organises and coordinates the activities in the special telecommunications field for the Romanian public authorities, having a military structure and being part of the national defence system).

Gambling has also been on the agenda of the National Audiovisual Council since the beginning of 2017. The audiovisual regulator has recently summoned several TV stations to enter into legality due to the fact that they broadcast commercials for online gambling services (licensed in Romania) during timeframes considered by the Council as available to the general public, thereby breaching the principle of protection of minors.

4.3 Do other non-national laws impact upon liability and enforcement?

Under EU Directive 98/34/EC, when intending to introduce a regulation for the provision of information in the field of technical standards and regulations, EU Member States (thus, including Romania) must notify the European Commission and other Member States about the draft regulations regarding products and information society services (such as online gambling) before adopting them.

4.4 Are gambling debts enforceable in your jurisdiction?

In accordance with the Romanian Civil Code, only debts arising from duly licensed and authorised gambling operations are enforceable.

5 Anticipated Reforms

5.1 What (if any) intended changes to the gambling law/regulations are being discussed currently?

The following regulatory initiatives, if enacted, may have a significant impact on the Romanian online gambling market:

- **Advertising restriction for gambling** – while the audiovisual legislation currently in force does not include any explicit restriction regarding the time-spans for broadcasting gambling commercials, in April and then December 2017, the National Audiovisual Council (the “NAC”) issued warning decisions against several TV stations because they had aired gambling commercials during timeframes “available to children” and hence the audiovisual principle regarding the protection of minors had been breached. Based on the argumentation presented in the decisions, it appears that, in NAC’s opinion, gambling commercials cannot be broadcast between 07:00 and 23:00. Even if these decisions were not of a regulatory nature *per se*, based on certain information available on the market, it seems that, as of 1 January 2018, (at least) some Romanian-licensed broadcasters have taken the approach of complying with this decision and have ceased transmitting gambling advertisements between 07:00 and 23:00. However, at least one sports broadcaster, licensed in a foreign jurisdiction, does not appear to be following the same approach as the local channels.

At this stage, it appears that the NAC’s intention is to create a regulatory framework for broadcasting gambling advertisements and the industry has proposed to the audiovisual regulator several circumstances and exceptions with respect to the permitted time interval (e.g. the allowance of commercials in the context of a live sport event, irrespective of when it is broadcast, etc.).

- **Amendment of the monthly statement submitted to the National Gambling Office** – online operators are required to provide to the regulator, on a monthly basis, a statement including, among others, the financial figures (e.g. total stakes, total prizes, revenue, etc.) obtained in the reporting month. The regulator has launched discussions with industry representatives in order to issue an order amending the template of such monthly statement. One of the envisaged amendments concerns the clarification of the mechanism regarding the taxation of bonuses granted by operators.
- **Creation of the public fund for preventing gambling addiction** – as mentioned in question 2.8 above, the draft government decision for the establishment of the public fund for preventing gambling addiction has already been published on the website of the gambling regulator. All licensed operators and B2B providers will be required, in accordance with the regulation, to pay an annual contribution to this public fund.

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ATTORNEYS & COUNSELORS

Legal & Tax

NNDKP is a preeminent full-service business law firm active in Romania, and a trusted legal and tax advisor to domestic and international companies, financial institutions and entrepreneurs. We line up as one of the most reputed and strongest teams in Romania.

In gaming, our dedicated practice has been at the forefront of the development of the Romanian gambling market. We have been building our expertise over several years, since the first international companies active in this field started tackling Romania. Members of our team have been directly involved in the drafting of the primary and secondary Romanian gambling legislation.

We are well equipped to provide specialised gaming advice combined with seamless access to a vast pool of resources across various business law areas, including IP, tax, commercial, M&A, data protection, competition and more.

Operators, financial services providers, industry-relevant associations, auditors and certifiers, marketing affiliates in the gambling industry and software/platform suppliers for the gaming industry regularly turn to us for expert legal advice in this industry.

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