

Lithuania's reforms establish rules for legal online gambling

Law amendment regulates online gambling for the first time

Coming into force on 1 January 2016, the amended Gaming Law¹ will regulate online gambling for the first time in Lithuania. Up until now online gambling in Lithuania has been deemed illegal, yet it has been carried out anyway. In response to pressure from European Union institutions, and seeking to generate tax revenue from online gambling, the Lithuanian Parliament agreed on a bill on 21 May 2015.

The new bill will also bring changes concerning the promotion of gambling, limitations on participation in certain gambling activities, limitations regarding events that can be the object of gambling and certain procedural requirements.

As far as online gambling is concerned, the amendments have been heavily criticised for three main reasons: 1) the physical establishment requirement; 2) the minimum paid share capital requirement; and 3) the requirement to open a certain number of land-based gambling establishments in Lithuania.

According to the upcoming amendments, companies that wish to engage in online gambling activities will have to establish at least one gambling house (casino) or five totalisators for horseracing, or ten slot machine parlours, or twenty betting shops, or twenty totalisator shops. Companies willing to operate online gambling will have to get the required licences for any land-based establishment they wish to open, as well as obtain permits to organise online gambling.

Furthermore, companies will have to meet minimum paid share capital requirements, which amount to €1,158,000 for online gambling activities. Foreign entities that seek to organise online gambling activities in Lithuania will also have to raise their minimum share capital to meet the aforementioned amount of €1,158,000 even if the country of origin has no required minimum paid share capital. Moreover, organisers of online gambling will have to either invest in government bonds or hold in the bank, or in the company itself, an amount of at least €72,400 at all times, which can be used only for paying out winnings won through online gambling. It must be noted that this amount of €72,400 can be a part of the minimum paid share capital amount of €1,158,000; however, as mentioned above, its sole purpose must still be for paying out the winnings of online gambling.

Some hold the view that the requirements to establish land-based gambling houses and to have a minimum paid share capital are likely contrary to the basic principles of European Union law, such as the rules on free movement of services and capital, and if that is found to be the case, Lithuania might face repercussions.

Having said that, perhaps the most controversial change introduced in the amendments is a right, given to the supervisory body (i.e. the Gambling Control Authority), to order internet service providers ('ISPs') to block access to illegal gambling sites. This provision has already been heavily criticised as giving rise to internet censorship. And it will likely be

challenged in the future by the ISPs who will have to take on this burden.

The new bill also introduces limits on betting and totalisator content. According to the new law, unlawful events that are contradictory to public order and good faith, or events that have no possibility of happening, cannot be the object of gambling. All bets that are contrary to these requirements will be considered null and void and the betting organiser will be held liable. Upcoming changes also expand on existing measures that prohibit persons from participating in gambling organised by companies that they are a part of; this will now include a prohibition on persons betting on events where they themselves, their family or their relatives are participating.

In anticipation of a likely increase in the popularity of gambling, the Parliament decided to include in the new bill legal norms dedicated to the promotion of gambling, or rather, to limiting the promotion of gambling. When the new law comes into force, it will be forbidden to promote gambling by giving gifts to participants of gambling activities and it will also be unlawful to organise contests, lotteries, trial bets and other activities outside gambling houses or outside the organiser's internet page. It will also be a requirement to put up warnings in gambling spots to warn players and visitors about the addictive nature of gambling.

To fight a possible increase in gambling addiction, the amendments also include the possibility for a player to make a request to gambling organisers asking to limit his/her participation in online gambling activities. In such cases, organisers would be obligated to limit the maximum amount that the player who made the request can bet, limit the time the player can access the gambling organiser's internet page or limit the possibility for the player to participate in online gambling altogether.

There are other less significant changes in the new bill, such as changes to the supervision of gambling activities, licensing, procedural matters, etc., but the focus is on online gambling. The new amendments of the Gaming Law are certainly a step in the right direction, because legalising online gambling will bring more clarity and stability to the gambling community, as well as generate tax revenue that was previously lost. However, some of the upcoming amendments can be considered controversial and unnecessarily restrictive. Therefore, there is a general opinion that significant changes to the law will be required in the future if Lithuania hopes to stay in the game.

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1. Please note that the official translation of the law uses the term 'gaming' instead of gambling. However, we believe that for such activities as betting, totalisator, machine games, bingo, card and roulette games the term 'gambling' is more appropriate and we will use the latter term here.