During the last year new business opportunities in Bulgaria have emerged in the gambling services sphere. This was initiated by the adoption in 2012 of a new Gambling Act (GA) which allows the provision of gambling services at a distance in Bulgaria. On-line gambling and gambling through other electronic means, including fixed and mobile telephony and cable and satellite television, are already established on the market in Bulgaria, but until now they have not been regulated. The new rules, which also correspond with Bulgaria’s commitments as a Member State of the European Union, aim to provide the necessary regulation of these activities by creating clear national rules regarding the cross-border provision of on-line gambling services and to guarantee security for consumers who use gambling services provided at a distance.

The introduction of the new online gambling regulation is combined with special rules on gambling in other areas, including taxation. In particular the Corporate Income Tax Act provides for a 15 per cent tax rate for gambling activities, the tax base being the amount of all stakes accepted. At the same time, the Value Added Tax Act states that the organising of gambling services under the GA is considered a tax-free delivery, and is not subject to VAT, which makes the Bulgarian regulation one of the most liberal regulations of online gambling in Europe.

The new Gambling Act provides that all types of gambling except for lottery and instant lottery games may be provided at a distance. The requirements towards such provision of games of chance correspond to those for the provision of the same services off-line. The entity providing them on the territory of Bulgaria has to register with and receive a licence from the State Commission on Gambling (SCG) and has to adhere to the general requirements ensuring its financial stability – to have a capital of at least BGN 500 000, and, if part or all of the capital is owned by an entity which is not registered in Bulgaria, the European Union or the European Economic Area, to invest in other significant economic activities in Bulgaria.

Specific requirements for provision of gambling services online provide that the physical electronic communications equipment and the centre where the central computer system of the gambling services provider must be situated within the territory of Bulgaria or another Member State of the European Union. Another requirement towards the central computer system of the online gambling organiser is that it has a system for registration and identification of all participants in the respective games of chance, as well as an automated system for storing and transferring of necessary information to the competent authorities of the National Incomes Agency. The system has to be able to transfer information for all accepted bets and paid prizes in real time. All types of gaming software used for provision of on-line gambling services as well as all its updates and different versions have to be approved by the SCG.

The organiser of games of chance at a distance also has to open a bank account for accepting bets and paying off prizes at a bank which has the right to perform its activities within the territory of Bulgaria.

The act also provides for requirements for at least five years of previous experience in providing gambling services at a distance, requirements for the minimal contents of the website through which the games are offered, and others.

The law provides for certain powers of the SCG which aim to ensure that all the requirements shall be observed and that the possibility to provide gambling services at a distance without their observance will be minimised. One of the powers of the SCG with this respect is to create a list of websites through which games of chance are offered in Bulgaria without their organiser having received a respective licence. If a website is listed on the SCG’s website, its owner has three days to eliminate the violation. After this term the SCG has the right to refer to the Sofia District Court and ask for a court order instructing all undertakings providing electronic communication networks and/or
Development in the last few months has shown some practical weaknesses of the new regulation, including with the enforcement of the above described powers of the SCG, which may be due to lack of previous practice. First of all there was some delay in adopting the secondary legislation necessary for the practical implementation of the new law, such as templates for licensing applications, rules on how to assess and permit the use of gambling software, etc. In addition the SCG chose inappropriate timing for enforcing administrative measures against unlawful provision of online gambling services in the country. In particular, the Commission started to exercise its power to blacklist websites providing illegal (i.e. without license) gambling services in Bulgaria and to request from the court to issue a restriction order obliging all internet service providers in Bulgaria to block access to those websites, before all documentation and secondary legislation necessary to receive a license for online gambling under the new law was adopted, and before most gambling operators had the chance to declare their interest in obtaining such licences. In addition, the law lacks a clear procedure on how to remove a website from the “black list” once it is entered there.

Nevertheless the opportunity for provision of online gambling services in Bulgaria remains. With secondary legislation already in place and the new regulation weaknesses pointed out and publicly discussed, it may be expected that the practical issues will soon be cleared and the basis for development in the sector set in the GA will bring positive results for investors.

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