



ICLG

The International Comparative Legal Guide to:

Gambling 2015

1st Edition

A practical cross-border insight into gambling law

Published by Global Legal Group, with contributions from:

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London SE1 3PL, UK
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Email: info@glgroup.co.uk
URL: www.glgroup.co.uk

GLG Cover Design
F&F Studio Design

GLG Cover Image Source
iStockphoto

Printed by
Ashford Colour Press Ltd
December 2014

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ISBN 978-1-910083-24-6
ISSN 2056-4341

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Albania



Evis Jani



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1 Relevant Authorities and Legislation

1.1 Which entities regulate what type of gambling activity in Albania?

Gambling activity in Albania is regulated by the following entities:

- The Gambling Monitoring Unit (the “Gambling Unit”) is the national authority in charge of granting permits for the operation of electronic casinos, online electronic casinos, traditional bingo halls, TV-bingo, sports betting and horse/dog racing betting. The Gambling Unit is also responsible for keeping records of the entities operating in the gambling sector, for their inspection and control, as well as for imposing fines and confiscating the gambling machines in case of violation of the applicable law.
- The Ministry of Finance (the “Ministry”) is the competent authority for granting licences for the operation of the national lottery and casinos, as well as granting authorisation for the promotion of games of chance.
- The Council of Ministers is the competent authority for approving the criteria, the standard documents, the structure of the bid evaluation commission and the minimum technical standards in relation to the national lottery. The Council of Ministers is also responsible for regulating requirements related to obtaining a licence for operating a casino.
- The Albanian Parliament is the competent authority for approving the national lottery licence granted by the Ministry.

1.2 Specify all legislation which impacts upon any gambling activity (including skill and social games), and specify in broad terms whether it permits or prohibits gambling.

Gambling is permitted in Albania, provided that the requirements stipulated in the applicable laws are met.

The most important laws governing gambling activity in Albania are:

- Law 10033/2008 “On gambling”.
- Law 8438/1998 “On income tax”.
- Law 9917/2008 “On the prevention of money laundering and terrorist financing”.
- Decision of Council of Ministers (“DCM”) 1180/2009 “On the determination of the authorised authorities for granting a licence for the “National Lottery” and licences for casinos”.
- DCM 770/2009 “On the determination of additional means and forms, terms, conditions and requirements for the purposes of organising promotional games of chance”.

- Instruction of the Ministry of Finance 26/2013 “On the terms and conditions and technical standards to be observed by the operators of online electronic casinos”.
- Instruction of the Ministry of Finance 21/2010 “On the requirements, procedure, value and form of the compensation of companies whose licence for gambling games has been revoked”.
- Instruction of the Ministry of Finance 20/2010 “On the method of calculation of the taxes for game categories including sports betting and bingo”.
- Instruction of the Ministry of Finance 46/2009 “On the procedures of confiscation, storage and demolition of equipment related to gambling games”.
- Instruction of the Ministry of Finance 6/2009 “On warnings to players and the regulation of exposure of religious, health and educational institutions to gambling games”.
- Instruction of the Ministry of Finance 5/2009 “On opening and closing procedures of sports betting halls, electronic casinos and traditional bingo halls”.
- Instruction of the Ministry of Finance 4/2009 “On the determination of bank guarantees in relation to the guarantee of the winner(s) of gambling games”.
- Instruction of the Ministry of Finance 3/2009 “On the purchase and transfer of shares of licensed gambling companies”.

2 Application for a Licence and Licence Restrictions

2.1 Who can apply for a licence to supply gambling facilities?

In order to obtain a permit for an electronic casino, an online electronic casino, a traditional bingo hall, TV-bingo, sports betting or horse/dog racing betting, an application must be filed by a joint stock company which has its legal seat in the territory of the Republic of Albania and meets the minimum capital requirements, depending on the type of gambling activity.

In order to obtain a licence for the national lottery or a casino, an application must be filed by an Albanian or foreign legal entity or joint venture which meets the minimal capital requirements. Upon the selection of the winning bidder (in the case of national lottery), or approval of the licence (in case of a casino) the applicant should establish an Albanian company in any legal form stipulated under the Albanian Commercial Law.

2.2 Who or what entity must apply for a licence and which entities or persons, apart from an operator, need to hold a licence? Are personal and premises licences needed? Do key suppliers need permit?

In relation to the premises, any place of gambling activity should be approved by the Gambling Unit and must be registered as a place of business with the National Registration Center.

In relation to personnel, Albanian Law does not provide for any special licences; exceptionally, an operator of an online electronic casino must obtain approval from the Gambling Unit for the employment of people in the following positions: dealer; cashier (according to the rules of the game); inspector (according to the rules of the game); security staff; and supervisor of the game.

In relation to the key suppliers, Albanian Law stipulates that the import of gambling equipment and spare parts, either electronic or mechanical, may be performed only by operators that are duly authorised by the Gambling Unit.

Moreover, in the case of a casino, the operator should obtain the approval of the Ministry of Interior with regard to security measures for inside and outside the premises.

2.3 What restrictions are placed upon any licensee?

Restriction in relation to the transfer of shares: the transfer and the pledge of shares of a company operating in the gambling sector should be notified in advance to the Gambling Unit.

Restriction in relation to the premises: gambling operators must be located a certain distance from educational, religious, health and banking institutions; such distance varies from 15 metres if on the same side of the street to 40 metres if located in front of the building.

Any new place of gambling activity should be notified and approved by the Gambling Unit.

Moreover, the holder of a casino licence is not entitled to operate more than one casino in the territory of Albania.

Restriction in relation to advertising: The holder of a gambling licence, with the exception of the operator of a national lottery licence, may not advertise gambling activity in any print or audio-visual media.

In particular, the holder of a gambling licence may not perform advertising activities addressed to minors or promote gambling activity as a solution to financial problems.

2.4 What is the process of applying for a gambling licence?

In order to obtain a licence or a permit the applicant should file an application, along with all the required documentation, with the Ministry (in case of casino licence) or the Gambling Unit (in case of gambling games not related to a casino).

Exceptionally, to obtain a licence for operating the national lottery, a bidding procedure must be announced and conducted by the Ministry, and following the selection of the winning bidder, the licence must then be approved by the Albanian Parliament. The documents which need to be supplied by an applicant for both procedures include: (i) corporate documents proving the company was established in the required form and has the share capital required by the law for the relevant type of gambling activity; (ii) draft regulations of the gambling game which will be exercised; and (iii) documents proving the financial capacity of the applicant to exercise the gambling activity.

Upon receipt of the permit or licence, the operator should provide a financial guarantee for the winners of the gambling games in the form of a bank deposit; the amount to be deposited varies depending on the type of gambling activity. In case of failure to provide the bank guarantee, the Gambling Unit may terminate the relevant gambling activity.

2.5 Please give a summary of applicable time limits and revocation.

There is no statutory time limit for the issuance of the permit for an electronic casino or online electronic casino, sports betting or horse/dog racing betting, bingo or TV-bingo or licences for casinos or the national lottery; however, in practice, it takes up to 30 days.

If the application is rejected, the applicant is entitled to appeal the relevant decision to the head of the competent authority (i.e. the Ministry – in case of a licence for a casino – and the Gambling Unit in all other cases) within 30 days as of the notification date. Following the filing of an appeal, the relevant authority should reply to the appellant within 30 days as of receipt of the appeal. If the authority fails to reply within the above-mentioned term, or if the appeal is rejected, the appellant is entitled to file an appeal to the Tirana District Court within 30 days.

The Gambling Unit is entitled to revoke the licence for gambling activity if the holder of the licence has not exercised the licence, has suspended activity for at least one year or has not filed the required tax declaration with the tax authorities.

2.6 By product, what are the key limits on providing services to customers?

The following key limits should be observed by the gambling operators in providing services to customers:

- an electronic casino should have at least 10 electronic machines for each hall;
- a casino operator is not entitled to operate more than one casino in the territory of the Republic of Albania;
- an online electronic casino operator should not accept payment in cash but only bank transfers, credit or debit card or any other electronic form of payment;
- the operator of a national lottery draw should offer in prize money an amount of not less than 50% of the collected amount for each lottery;
- the operator of a casino should offer in prize money an amount of not less than 80% of the collected amount;
- the operator of a TV-bingo game should in prize money an amount not less than 50% of the amount collected from the sale of tickets; and
- the organiser of a promotional game of chance should offer in prize money an amount of not less than 80% of the amount collected from all SMS messages sent by the participants (if they are premium SMS messages).

2.7 What are the tax and other compulsory levies?

The operator of a gambling activity is subject to profit tax, tax on gambling activities and an annual tariff to be paid to the Gambling Unit, as well as other fees listed below:

- i. Profit tax is levied at 7.5% of the net income if the turnover is up to 8 million Albanian Lek (ALL) (approx. EUR 57,000) and 15% of the net income in case of a turnover over ALL 8 million.

- ii. The tax on gambling activity is paid on a monthly basis and the relevant amount varies depending on the type of gambling activity, namely:
- For traditional bingo games the gambling tax is a fixed monthly fee varying from ALL 300,000 (approx. EUR 2,100) to ALL 500,000 (approx. EUR 3,500) depending on the district in which the bingo is located.
 - For TV-bingo the gambling tax is 10% of the turnover.
 - For sports betting, the gambling tax is 25% of the turnover, provided, however, that it is not less than a certain amount stipulated by the law; such amount varies depending on the number of the secondary addresses (places of business). In addition to the above, the operator must pay a monthly fee for each place of betting activity; such fee varies depending on the district where the betting activity located.
 - For electronic casinos, the gambling tax is 4% of the turnover but in any event not less than a certain amount stipulated by law; such amount depends on the district in which the casino is located and the number of halls, slot machines and video poker games.
 - For the national lottery, the gambling tax is 10% of the turnover.
 - For online electronic casinos the gambling tax is 1.5% on the turnover.
 - For casinos, the gambling tax is a monthly fee which varies depending on the type of gambling equipment (roulette, cards, electronic games, slot machines); the amount of such fee varies from 4% to 12% but in any event is not less than a certain amount stipulated by the law.
 - For horse/dog racing betting a fixed monthly fee amounting to ALL 2,000,000 (approx. EUR 14,000) for each operator, a monthly fee amounting to ALL 40,000 (approx. EUR 285) for each betting point of sale and a monthly fee of ALL 40,000 (approx. EUR 285) for each electronic computer.
- iii. The annual fee to be paid to the Gambling Unit is levied at a rate of 0.5% of the annual turnover of a company, provided, however, that it is not less than:
- ALL 2,000,000 (approx. EUR 14,000) for casinos and the national lottery;
 - ALL 1,500,000 (approx. EUR 10,700) for electronic casinos and online electronic casinos;
 - ALL 1,000,000 (approx. EUR 7,100) for sports betting and horse/dog racing betting; and
 - ALL 300,000 (approx. EUR 2,100) for bingo and TV-bingo games.
- iv. The annual fee to be paid to the regional tax authorities is at the following rates:
- ALL 2,000,000 (approx. EUR 14,000) for sports betting and horse/dog racing betting;
 - ALL 1,000,000 (approx. EUR 7,000) for electronic casinos;
 - ALL 5,000,000 (approx. EUR 3,500) for online electronic casinos; and
 - ALL 2,000,000 (approx. EUR 14,000) for bingo and TV-bingo games.
- v. Licence fee:
- ALL 1,000,000,000 (approx. EUR 7,143,000) for casinos in the Tirana district, ALL 600,000,000 (approx. EUR 4,286,000) for casinos in the Durres district and ALL 300,000,000 (approx. EUR 2,143,000) for casinos in another district in Albania; and
 - ALL 300,000,000 (approx. EUR 2,143,000) for the national lottery.
- vi. Other fees:
- The operators of sports betting must pay a monthly fee to the Ministry of Tourism, Culture and Sports at a rate of 0.2% of the monthly turnover for the purposes of promoting sports.
 - Casino operators and horse/dog racing betting operators must pay a monthly fee amounting to 0.2% of the monthly turnover to the municipality in which the establishment is located.
- Gambling activity is excluded from VAT.

2.8 What are the broad social responsibility requirements?

By virtue of Albanian law, minors (under 18 years of age) must not be employed in the gambling industry and must not otherwise engage in gambling.

Furthermore, gambling operators should not allow persons who are forbidden from gambling (as a result of a request from a family member to the Gambling Unit) to participate in any gambling activities.

Gambling operators must place a notice on the negative impact of gambling in a visible position in their establishment.

Gambling operators must be located in a certain distance from educational, religious, health and banking institutions; such distance varies from 15 metres if on the same side of the street to 40 metres if located in front of the building, etc.

Gambling advertisements must not target minors or promote such games as a solution to financial problems.

2.9 How do any AML financial services regulations or payment restrictions restrict or impact on entities supplying gambling?

By virtue of the Money Laundering Law, the operator of gambling activities should take all of the necessary measures to identify their clients, in particular in case of transactions equal or in excess of EUR 750 or in case there are any doubts over money laundering or financing of terrorism. For this purpose the operators of gambling activities should, *inter alia*:

- approve and implement internal regulations and instructions in relation to accepting clients and high risk transactions;
- implement a recruitment procedure in relation to new employees in order to guarantee their integrity and their training regarding the prevention of money laundering; and
- employ a qualified person at management level in order to supervise and control the prevention of money laundering.

Failure to comply with the above may result in a fine imposed by the General Directorate for the Prevention of Money Laundering (“GDPML”) amounting to between ALL 500,000 and ALL 5,000,000.

The operator of gambling activities should notify the GDPML of any suspicions or money laundering activities. Furthermore, if the operation identifies a potential client, such client should then not be allowed to partake in gambling activities.

Failure to comply with the above may result into a fine imposed by the GDPML of between ALL 300,000 and ALL 3,000,000.

3 The Restrictions on Online Supply/Technology Support/Machines

3.1 Does the law restrict, permit or prohibit certain online activity and, if so, how?

Only operators of sports betting, the national lottery and online electronic casinos may organise online gambling, provided that they meet the legal requirements on technical standards for the technology and machines used. In particular, the operators should use only dedicated and certified registered servers that can be monitored by the Gambling Unit.

3.2 What other restrictions have an impact on online supplies?

The servers used for online gambling may be located in Albania or abroad. In case the servers are located abroad, the operator of the online gambling activities must make available all relevant data in relation to their players and their gambling activities in Albania to a dedicated server in Albania or in another jurisdiction; such other jurisdiction should be approved by the Gambling Unit.

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

The permitted terminal/machine-based gaming activities are casinos and electronic casinos and the permitted gambling machines are slot machines, electronic machines enabling several players to play the same moment and video lottery terminals. The terminals/machines may be placed only in locations which hold the relevant licence or permit for gambling activities.

4 Enforcement and Liability

4.1 Who is liable for breaches of the relevant gambling legislation?

The holder of a licence or permit for gambling activities is liable for any breach of the applicable law, and may be subject to penalties imposed by the Gambling Unit.

Furthermore, by virtue of the Albanian Criminal Code, any person exercising unauthorised gambling activity is subject to criminal penalties and may be punished by a fine or imprisonment of up to 3

months. In addition, the lessor is liable if for an unauthorised gambling activity if the premise is leased; such offence is punishable by a fine or imprisonment for up to 6 months.

4.2 What is the approach of authorities to unregulated supplies?

By virtue of Albanian law only the following gambling activities are permitted: sports betting and horse/dog racing betting; casinos; electronic casinos and online electronic casinos; the national lottery; and bingo and TV-bingo.

Any legal entity operating in the gambling sector without the relevant licence or permit, or exercising gambling games other than the above-listed may be subject to a fine imposed by the Gambling Unit. The Gambling Unit is also entitled to seize the respective machines and equipment and file a criminal complaint with the relevant public prosecutor office.

4.3 Do other non-national laws impact upon enforcement?

There are no non-national laws that impact upon enforcement.

4.4 Are gambling debts enforceable in Albania?

Gambling debts are enforceable in Albania, provided that the gambling activity is legal, it is proved that the player participated in a game of its own free will and that he/she was aware of the terms and conditions of the relevant game.

5 Anticipated Reforms

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

Recently, the Government of Albania has started to draft the amendments to the current legal framework regulating gambling. Such amendments are expected to explicitly ban, *inter alia*, overseas online gambling, the exercising of any gambling activity in residential areas, except where the gambling activity is undertaken in the premises of a 5-star hotel, and provided that the hotel is located in a touristic area.

However, no draft has been prepared yet or submitted to the group of interests for their input.

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