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Gaming Law

Montenegro

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practiceguides.chambers.com

2020

MONTENEGRO

Law and Practice

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1. Introduction

1.1 Current Outlook

Montenegro is a liberal jurisdiction with regard to gaming regulations. With a handful of restrictions, it generally permits all common types of games of chance in both land-based and online forms. Gaming concessions are issued upon an operator's request for most of the game types, with exceptions for the casino and lottery concessions, which are subject to a competitive tender procedure. Also, the lottery concession is restricted to a single operator.

The current legislation dates from 2004 and needs updates, particularly in the online gambling field, which is under-regulated, and in the field of prevention of problem gambling, as there are currently no rules in that respect. The concessions can be granted only to companies incorporated in Montenegro, organised in the form of a limited liability company or joint-stock company, meaning that in Montenegro, games of chance cannot be organised by other types of companies, foreign companies or entrepreneurs. Once granted, a concession cannot be transferred to third parties.

Online gaming is permitted subject to a special licence that can be given only to operators already holding concessions for land-based games of chance. Offerings of offshore online operators in Montenegro are not permitted, due to a general ban on participation in games organised abroad, but there have been no real attempts to restrict access to foreign gaming platforms. Games of chance are generally divided into two groups, namely lottery games of chance and special games of chance. The first group encompasses the lottery, bingo, lotto, keno and other similar draw games, while the second group encompasses casino games, betting and games on gaming machines. There is no differentiation between gambling and gaming.

1.2 Recent Changes

In accordance with a decision of the Ministry of Finance from 2013, it was permitted for operators to install and keep betting terminals at cafes, restaurants and other hospitality facilities, subject to a special three-year licence issued by the regulator. This decision was challenged before the Constitutional Court and was quashed by the court in 2017 as it was found not to be in conformity with the gaming legislation, and hence no new licences for terminals have been issued since. However, the court's decision did not affect the licences that had already been issued, so they are to remain valid through the three-year term. The last licences were issued during 2017, and after their expiry in 2020 there will be no gaming terminals in venues other than betting shops.

2. Jurisdictional Overview

2.1 Online

Montenegrin legislation permits online gaming; that is, the provision of games of chance via the internet or via other means of telecommunication. This right is subject to a special licence for online gaming. However, the licence can be issued only to an operator that already holds a concession for any type of land-based game of chance. So the online licence is more an upgrade of an existing concession than a standalone licence.

An online gaming licence does not differentiate between types of online games, so it allows holders to organise any type of game of chance, irrespective of the underlying type of land-based concession. Therefore, a licence for online gaming issued to a holder of any kind of concession for land-based games entitles its holder to offer a full spectrum of online games – such as sports betting, casino games, slots, bingo games and fantasy sports – without restriction on their type and number.

Social games are not regulated, as such, and they may be freely organised. Still, if a social game qualifies as a game of chance, which would be the case if players are paying to participate in that social game, if the outcome of the game depends on chance, and if there is a prize in money, goods or services, it would require the licence for online games of chance.

2.2 Land-Based Betting

Betting is permitted, with very few restrictions. Namely, it is not permitted to organise betting on the results of political elections, and owners or shareholders of sports clubs cannot at the same time be providers of sports betting on results of the sport their club is playing or on results in the league in which their club is competing. The concession term is three years, but it can be extended through a simple procedure for an additional two years. After expiry of the (extended) term, the operator may apply for the concession anew. Operators must hold a separate concession for each betting shop they have. All betting shops must be connected over the internet to the regulator's system.

Poker

Montenegrin law does not regulate poker as a separate type of game of chance, but rather considers it to be a type of casino game, so it can be played only in casinos.

Bingo

Bingo is a permitted game of chance, and it requires a concession. The concession is issued for a three-year term and may be extended for an additional two years.

Casinos

Casinos are permitted in Montenegro, but the total number of casinos is currently limited to eight. Operating a casino requires a concession, and one can be obtained only through a public competitive tender launched by the government (while launching a tender requires a prior initiative with the government). The concession is granted for ten years and may be extended for an additional five years. A casino concession includes the right to offer gaming machines as well.

Gaming Machines

It is permitted to organise games of chance on gaming machines, subject to a special concession. Exceptionally, a separate concession for gaming machines is not required when they are offered in casinos, because the casino licence covers gaming machines as well. The concession is granted for three years and is extendable for an additional two years.

Lotteries

The offering of lottery games is permitted, but the right is restricted to a single lottery operator. The concession is granted for 15 years and can be extended for an additional five years.

3. Legislative Framework

3.1 Key Legislation

The piece of key legislation that regulates the gambling sector in Montenegro is the Games of Chance Act (*Zakon o igrama na sreću*, "Official Gazette of the Republic of Montenegro", No 052/04; "Official Gazette of Montenegro", Nos 013/07, 073/10, 040/11, 061/13, 037/17).

3.2 Definition of Gambling

A game of chance is defined as a game in which the participants have an equal opportunity to win a prize (in money, goods or services) against an indirect or direct payment of consideration, while the result of the game depends on chance or some uncertain event in the game. The notion of games of chance does not encompass quizzes, where the outcome depends on one's knowledge, or entertainment games on computers, simulators, video game machines, pinballs and similar machines, or billiard, darts and similar games, where the only prize can be one or more free games of the same kind.

There are no guidelines as to what extent the outcome of a game must depend on chance in order to be considered as a game of chance, provided that it also contains the other two mandatory elements (the consideration and the prize).

3.3 Definition of Land-Based Gambling

The legislation does not provide for a special definition of land-based gambling. The general definition of games of chance applies to any type of game and covers both online and land-based products.

3.4 Definition of Online Gambling

The legislation provides no particular definition of online gambling. The general definition of games of chance applies to any type of game and covers both online and land-based products.

3.5 Key Offences

The key offences stipulated under the Games of Chance Act are as follows.

- Organising games of chance without a previously obtained licence, meaning that a concession agreement needs to be signed prior to starting the gambling business.
- Organising games of chance in contravention of the Games of Chance Act or the concession agreement.
- Collecting stakes in Montenegro for participation in games of chance organised abroad.
- Selling, holding, issuing, marketing or otherwise presenting foreign lottery tickets and other foreign tickets for gambling on the territory of Montenegro.
- Organising games of chance in free zones.
- Organising games where participants pay a certain amount of money to participants who have already joined the game and expect payment of a certain amount of money from participants who will join the game later on, as well as any other payments and promises of gains contrary to the aleatory nature of the games of chance.
- Organising betting:
 - (a) that is against the Games of Chance Act, good business practices, and ethics;
 - (b) that is related to political elections; and
 - (c) organising betting by the owners or shareholders of sport clubs on results of the sport their club is playing or on results in the league in which their club is competing.
- Providing credit to players.
- Keeping facilities where the games of chance are organised less than 250 metres from educational institutions such as primary and secondary schools.
- Allowing minors under the age of 18 to enter casinos, betting shops or gaming machine shops.
- Failing to calculate and pay concession duties.
- Failing to display game rules at casinos, betting shops or gaming machine shops.

3.6 Penalties for Unlawful Gambling

Organising games of chance without entering into a concession agreement with the Games of Chance Administration is a criminal offence punishable by a monetary fine or imprisonment for up to three years. Also, if in such a case the provider of games of chance or the player uses deception, they can be punished by imprisonment for between three months and five years. Further, a monetary fine or a penalty of imprisonment for up to two years can be imposed for unauthorised sale of gambling tickets or collection of payments for games organised abroad.

Additionally, licensed organisers of games of chance who breach various requirements of the Montenegrin Games of Chance Act can be fined for misdemeanour with a monetary fine of up to EUR20,000.

Furthermore, licences may be revoked if one of the following cases occurs:

- the concession was granted on the basis of incorrect data;
- the operator did not start operations within the commencement deadline set out under the concession agreement;
- the concessionaire stopped the operations in violation of the Games of Chance Act;
- the concessionaire no longer complies with the prescribed technical, IT and other requirements;
- the concessionaire breaches the rules of games of chance;
- the concessionaire fails to pay duties under the Games of Chance Act or fails to pay winnings to players;
- the concessionaire does not allow, or otherwise prevents, supervision to be performed in accordance with the Games of Chance Act, or makes the supervision difficult;
- the concessionaire incorrectly reports the realised turnover;
- the concessionaire lends money to players;
- the concessionaire breaches the concession agreement; or
- subsequent facts occur, due to which the concession would not have been granted.

3.7 Pending Legislation

The Ministry of Finance has been working for the past couple of years on a draft of the new Games of Chance Act, and the deadline for its completion is being regularly extended. No draft material has been published so far, but there are certain general expectations from this piece of legislation.

It is expected that the lottery concession award will be regulated in more detail. There has been no lottery operator since December 2016, when the concession of the last lottery operator expired, and a tender for the new lottery concession is expected to be launched only after the new legislation is adopted and the rules for the public award of the concession are made clearer. Among other things, although there can be only one lottery

concession issued, which effectively gives the operator a monopoly, there is no requirement for payment of a concession award fee, which would normally be expected. This matter had not been an issue in the earlier period as the last lottery operator was originally a state-owned monopolistic lottery whose concession rights pre-dated the current legislation and was privatised later on, so the public tender for the award of the lottery concession has never been launched in practice. Therefore, it is expected that one of the novelties of the new legislation in the lottery sector would be the initial one-off fee payable by the awarded party in a public concession award procedure.

On the contrary, the current casino concession award fee is set at EUR2 million per single casino, and it proved to be a dissuading factor for potential investors, so it is expected that either this fee will be reduced to some extent or it will cover multiple casinos. Online gambling is currently under-regulated so the new legislation might bring new licensing rules, especially in terms of specification of the online products the licence is issued for, which is not the case now as the licence is issued as a general one and covers any possible online gambling product, and new rules in terms of technical requirements one has to satisfy in order to obtain the licence.

The introduction of certain measures for restriction of gambling on online platforms of unlicensed offshore operators is also expected.

Finally, the current legislation does not address prevention of problem gambling, so it is to be expected that the new legislation will regulate that area as well.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The primary regulatory authority for the gambling industry in Montenegro is the Games of Chance Administration, which is under the supervision of the Ministry of Finance. Additionally, the government of Montenegro is the body that awards concessions for lottery and casino games.

4.2 Regulatory Approach

The Montenegrin jurisdiction applies a traditional prescriptive approach to regulation of the gambling sector. In combination with infrequent legislative updates, this regulatory approach does not seem to be the best option to keep up with the changes in the industry.

4.3 Types of Licences

The legislation provides for the following types of concessions/licences applicable to the provision of games of chance:

- concession for lottery games;
- concession for bingo, TV tombola and tombola;
- concession for casino games;
- concession for gaming machines;
- concession betting; and
- licence for online gambling.

It is important to point out that a licence for online gambling can be issued only to an entity already holding a concession for land-based operations and cannot be granted as a standalone licence.

4.4 Availability of Licences

The availability of concessions depends on the type of concession sought. In that sense, the concessions for betting, gaming machines, and bingo, TV tombola and tombola are available on request. The licence for online gambling is available on request as well but can be granted only to holders of land-based concessions. On the other side, the concessions for casinos and lottery can be granted only through a public competitive procedure launched by the government of Montenegro.

4.5 Duration of Licences

Every type of games of chance concession or licence is granted for a fixed time period and can be extended. The duration of individual concessions/licences is as follows:

- lottery games – ten years, extendable for up to five years;
- bingo, TV tombola and tombola – three years, extendable for up to two years;
- casino games – ten years, extendable for up to five years;
- gaming machines – three years, extendable for up to two years;
- betting – three years, extendable for up to two years; and
- online gambling – under the Games of Chance Act, no provision is given regarding the duration of the term for online gambling licences, but in practice they are commonly granted for a term of three years, with an option of unrestricted extension so they can match the duration of the underlying land-based concession.

4.6 Application Requirements

A general condition for any operator is that it is incorporated in Montenegro in the form of either a limited liability company or a joint-stock company. Additional specific requirements – such as the minimum share capital, the amount of the mandatory bank guarantee for payment of duties and winnings, or staffing

requirements – are prescribed separately for each concession type.

The conditions a potential operator must meet, the documents that must be provided with the application, and the criteria for the award of the lottery concession are determined in the very public call for the award of the concession, and they are not prescribed by the Games of Chance Act.

Applications for licences for bingo, TV tombola and tombola must be submitted to the Games of Chance Administration along with the following documents/information:

- name and seat of the company;
- proof of registration of the company;
- memorandum of association;
- a three-year business plan;
- proof of ownership of, or the right to use, business premises;
- game rules;
- proof that the minimum share capital requirement of EUR75,000 is met;
- proof of bank deposit or bank guarantee of EUR10,000 (as security for payment of duties and winnings); and
- proof of payment of the administrative fee.

The conditions the interested party must meet, documents that must be provided with the application, as well as criteria for the award of the casino concession are determined in the public call for the award of the licence. Also, the Games of Chance Act prescribes multiple documents/information to be delivered with the application for a casino licence (following the public call), as follows:

- the name and seat of the company;
- proof of registration of the company;
- memorandum of association;
- proof of the minimum share capital of EUR300,000;
- a three-year business plan;
- information on the games that will be provided in the casino (type and scope);
- game rules;
- information on the proposed casino managers and proof of their education and qualification for managing the casino;
- casino rules;
- information on the type and number of gaming machines, with a detailed description;
- proof that the authorised persons have not been convicted for criminal offences against payment systems and commercial operations and that there are no pending criminal proceedings for such offences;
- proof of ownership of, or right to use, the premises for the casino; and

- proof of a bank deposit or bank guarantee of EUR90,000 (as security for payment of duties and winnings).

An application for the betting concession must be submitted to the Games of Chance Administration along with the following documents/information:

- name and seat of the company;
- proof of registration of the company;
- memorandum of association;
- a three-year business plan;
- proof of ownership of, or the right to use, business premises;
- rules of betting;
- proof of the minimum share capital of EUR75,000;
- proof of fulfilment of spatial and technical conditions;
- proof of bank deposit or bank guarantee of EUR30,000 (as security for payment of duties and winnings); and
- proof of payment of the administrative fee.

An application for the gaming machine concession must be submitted to the Games of Chance Administration along with the following documents/information:

- the name and seat of the company;
- proof of registration of the company;
- memorandum of association;
- proof of the minimum share capital requirement of EUR75,000;
- a three-year business plan;
- information on the games that will be provided in the gaming machine shop;
- game rules;
- data on the planned slot-machine shop managers and proof of their education and qualification for managing the slot-machine shop;
- rules of the gaming machine shop;
- data on the type and number of gaming machines, with a detailed description for their identification;
- proof that the authorised persons have not been convicted for criminal offences against payment systems and commercial operations and that there are no pending criminal proceedings for such offences;
- proof of ownership of, or right to use, the premises for the gaming machine shop; and
- proof of a bank deposit or bank guarantee of EUR25,000 (as security for payment of duties and winnings).

The only requirement for obtaining the licence for online gaming is that the operator already holds one of the types of concessions for land-based games of chance, and hence the application for the online licence will be a simple request with no additional documents needed.

The application requirements related to directors, owners or senior management of operators are very few, and are limited to casinos only. It is required that the authorised representatives (which includes directors and any other person vested with the right to represent the company) of a casino have not been convicted for criminal offences against payment systems and commercial operations. Further, there must be proof that the casino managers are properly trained to work in a casino.

There are no particular application requirements related to operators' shareholders.

4.7 Application Timing

Where the concessions are readily available – which will be the case with concessions for betting, gaming machines, and bingo, TV tombola and tombola – the administrative decision-making process must be completed within a general deadline of 30 days from submission of the application. Prospective applicants also have to take into account that the preparation of the application may take some time as they have to engage a licensed company to inspect the premises and confirm that the relevant technical requirements are satisfied, as this confirmation is one of the documents that must be submitted with the application.

Duration of the concession award procedures for casinos or lottery is not predetermined, so it would depend on the particulars of the public tender invitation.

4.8 Application Fees

The Games of Chance Act does not provide for any specific application fees, so the applications for concessions are subject only to an administrative fee of EUR2.00 applicable to administrative procedures in general.

The awarded casino operator is obliged to pay a one-off fee of EUR2 million. There is no similar award fee for other types of concessions for games of chance.

4.9 Ongoing Annual Fees

The regime of ongoing fees for operators is a combination of fixed and variable fees, being payable monthly or annually. The fees are different for each concession type, as follows.

- Casino games – annual fixed fee of EUR50,000, and a monthly variable fee of 10% of the gross gaming revenue.
- Lottery games – there is no fixed fee. There is a monthly variable fee of 10% of the sold lottery tickets less the prize fund.
- Bingo, TV tombola and tombola – there is no fixed fee. There is a monthly variable fee of 10% of the sold lottery tickets less the prize fund.

- Betting – monthly fixed fee of EUR500 per betting shop, as well as a monthly variable fee of 10% of the gross gaming revenue.
- Gaming machines – monthly fixed fee of EUR50 per gaming machine, as well as a monthly variable fee of 10% of the gross gaming revenue.
- Online gambling – monthly fixed fee of EUR10,000. No variable fee is payable for this type of licence.

5. Land-Based Gambling

5.1 Premises Licensing

There are various technical and spatial requirements that the premises where the games of chance are organised must satisfy, and compliance with these conditions is checked before applying for the concession, as the technical compliance certificate is one of the mandatory application documents. Technical compliance must be maintained for the duration of concession and it can be checked through regular inspections of the gaming authority.

Casinos

A casino must be arranged in such a way that both the gaming areas and the guest and casino staff areas are integrated in a single space, where the minimum size of the casino is 250 square metres. In addition, the casino must have at least five gaming tables. A special label, issued by the Ministry of Finance and displaying the main data on the operator and the concession, must be displayed at the entrance of the casino. Within the casino there must be a cash register, a separate and secured area to store money and other valuables, and an exchange office. There must also be a catering area, except when the casino is located inside a hospitality facility categorised with at least three stars.

Audio-video surveillance must be installed inside the casino so it can cover the entrance and the exit, the reception, any place where gaming chips can be purchased (cash register and exchange office), live game tables, roulette tables and gaming machines, and can cover movement of money or gaming chips in general. Video surveillance cameras and monitors must be in colour and the recordings must always show the date and time of recording. Access to the control room in which the equipment for audio-video surveillance is stored must be strictly guarded and may be accessed only by authorised security personnel.

Betting Shops

The minimum permitted size of a betting shop is 10 square metres. The premises must be equipped with an IT system for receiving payments that is connected to the central database of the regulatory authority, and there must be a metal safe in the premises for keeping the winning, non-winning and cancelled

betting tickets. Betting rules, the options on offer and results of the betting must be displayed in a dedicated notice space.

A special label, issued by the Ministry of Finance and indicating the main data on the operator and the concession, must be displayed at the entrance to the betting shop.

Payments for bets can only be made at payment points of betting shops or at betting terminals for which a concession has been granted, while the area dedicated to betting terminals cannot be less than 3 square metres per terminal. Betting via betting terminals can be organised not only in betting shops, but also in casinos and slot-machine clubs.

Gaming Machine Venues

A gaming machine venue must have at least ten gaming machines, and the gaming and guest areas must in total have an area of at least 35 square metres.

A gaming machine venue must have a cash register and a separate secured area for storing money and other valuables, and it may also have a hospitality section in which drinks and beverages may be served, or a hospitality section for preparing and serving food.

The operator is obliged to have in place a control IT system that allows the gaming machines to be connected to the IT system of the gaming regulator.

Also, a special label, issued by the Ministry of Finance and indicating the main data on the operator and the concession, must be displayed at the entrance to the gaming machines venue.

The operator is obliged to display inside the premises the games rules, a warning that gambling is prohibited to persons under the age of 18, and the minimum return rate percentage of the gaming machines.

In the case of multi-player gaming machines, the operator is obliged to provide at least 3 square metres of space per possible player.

Also, the gaming machines must support the SAS (Slot Accounting System) protocol.

Tombola

The premises where tombola is organised must meet certain hygienic-technical conditions, and its area must not be under 100 square metres.

The tombola operator must use the following equipment:

- a transparent drum with an automatic ball ejection system;
- an electronic counter of drawn play balls with lights;
- an electronic display with illuminated numbers or a computer system for monitoring the draw, with an appropriate device for displaying results;
- a TV camera with a monitor; and
- an appropriate sound system.

There must be a special label, issued by the Ministry of Finance and indicating the main data on the operator and the concession, displayed at the entrance to the tombola venue.

Bingo and TV Tombola

The premises (TV studio) inside which bingo or TV tombola is being organised, without an audience sector, cannot have an area of less than 30 square metres.

The organiser of bingo and TV tombola is obliged to ensure the monitoring of the draw of numbers and the entire course of the game through a live TV broadcast.

5.2 Recent or Forthcoming Changes

The EUR2 million fee for the award of a casino concession has been criticised by the industry as too high and is generally seen as a discouraging factor for new players wishing to enter the Montenegrin casino sector. It is therefore expected that the upcoming new gambling legislation will reduce this entrance fee for casinos. There are also expectations for novelties in the lottery sector, as there has been a three-year period without a lottery operator, since the current legislation does not regulate the lottery concession award procedure sufficiently.

6. Online Gambling

6.1 B2C Licences

Any operator holding a land-based gambling concession of any type can apply for an online licence. Due to insufficient regulation in this area, it is interpreted that the online licence, once granted, gives its holder a right to organise any type of gambling online. Practically, that means that the online games provided by the operator are not tied to the types of games for which the operator holds a land-based concession. To illustrate the situation, a company with a concession for land-based gaming machines can obtain a licence for online gambling and offer betting on its website. The legislation is also silent on how many platforms/websites a single licence can cover, so this matter is instead regulated under a concession agreement between the operator and the gaming authority. Current practice is that the licence is tied to one website only.

6.2 B2B Licences (Suppliers, Software, Etc)

Business-to-business provision of services in the gambling sector is not a regulated activity in Montenegro. There is no licence required for providers of software or services to a licensed operator as long as the provider itself is not offering the games to customers.

6.3 Affiliates

Use of affiliate marketing has not been under the spotlight of the regulator and there are no particular statutory rules or restrictions in that respect.

6.4 White Labels

There are no particular licensing or regulatory requirements for white-label providers. The regulator's approach is generally neutral in this respect and any type of arrangement for the supply of online gambling platforms or services to operators is permitted.

6.5 Recent or Forthcoming Changes

The current gaming legislation merely permits online gambling, subject to a special licence, but falls short of regulating any other aspects of this gambling sector. Bearing this in mind, the new legislation that is being prepared is expected to regulate a number of matters related to an online offering, such as the technical conditions related to online platforms, the types of games one can offer under the licence, and separation of online licensing from the land-based concession.

6.6 Technical Measures

Under the current legislation, it is forbidden to participate in games of chance organised abroad when the stakes are paid in Montenegro or to collect stakes in Montenegro for games of chance organised abroad. These restrictions are interpreted to cover remote gambling as well, so online offering of offshore operators unlicensed in Montenegro is not permitted. However, the prohibition has so far not been enforced by the regulator, so there are no technical measures in place that would restrict access to websites or otherwise protect consumers from unlicensed operators.

7. Responsible Gambling

7.1 RG Requirements

Although the Games of Chance Act emphasises public interest in the prevention of negative effects of gambling, the provisions regulating responsible gambling are scarce and in practice limited to restriction of underage gambling. In that regard, minors under the age of 18 are not permitted to enter gambling venues of any type. The legislation is not explicit about online operations but a general interpretation is that online platforms are caught under the restriction of underage gambling as well. Pre-

vention of problem gambling is surprisingly still not regulated and there are currently no obligations imposed on operators in that respect.

7.2 Gambling Management Tools

Operators are not obliged to make available to players any gambling management tools, such as betting limits, timeouts or similar.

8. Anti-money Laundering

8.1 AML Legislation

The key AML regulation, which also applies to the gambling sector, is the Act on Prevention of Money Laundering and Financing of Terrorism (*Zakon o sprečavanju pranja novca i financiranja terorizma*, “Official Gazette of the Republic of Montenegro”, No 052/04; Official Gazette of Montenegro”, Nos 33/14, 44/18). Providers of gambling services (gambling operators) are regulated as obliged entities under this piece of legislation and hence are required to have in place policies, controls and procedures to mitigate and manage effectively the risks of money laundering and terrorism financing. When assessing the risk of money laundering and financing of terrorism, gambling operators are obliged to observe the list of indicators of suspicious transactions prescribed under the Rulebook on Indicators for Recognition of Suspicious Clients and Transactions (*Pravilnik o indikatorima za prepoznavanje sumnjivih klijenata i transakcija*, “Official Gazette of Montenegro”, Nos 50/14, 12/15, 65/18).

8.2 AML Requirements

Gambling operators (providers of lottery games, special games of chance, online games) are obliged to establish the identity of the customer upon collection of winnings, wagering of a stake, or when carrying out transactions amounting to at least EUR2,000 or more, whether the transaction is carried out in a single operation or in several linked operations. The operator must collect information on name, residence and date of birth of the customer, and verify the customer’s identity on the basis of documents, data or information obtained from a reliable and independent source. This obligation also applies to online gambling operators when opening customers’ accounts, and to casino operators when the customer enters the casino.

9. Advertising

9.1 Regulatory/Supervisory Agency

Advertising activity is not regulated in Montenegro in a general manner, and current regulations are limited to prevention of illicit advertising in the context of protection of consumers or

traders. There is no special regulatory authority established for advertising.

9.2 Definition of Advertising

The Illicit Advertising Act (*Zakon o nedozvoljenom oglašavanju*, “Official Gazette of Montenegro”, No 30/17) defines advertising as a communication that recommends an advertiser, or his or her professional or business activity, to encourage the sale of goods, services and real estate.

9.3 Key Legal, Regulatory and Licensing Provisions

Advertising is not a regulated activity and gambling operators are free to advertise their offering without any special licence or permission.

9.4 Restrictions on Advertising

General restrictions on advertising imposed under the Consumer Protection Act (*Zakon o zaštiti potrošača*, “Official Gazette of Montenegro” Nos 02/14, 06/14, 43/15, 70/17) apply to gambling operators as well. In that sense, Article 29 (1) prohibits advertising of products and services that mislead or may mislead the consumer, and advertising that discriminates against consumers on the basis of race, gender or nationality, that offends dignity, religious or political beliefs, or incites violence or behaviour that is detrimental to security and consumer health or the environment. Article 29 (2) prohibits advertising that threatens the health, psychological or moral development of minors. Also, Article 29 (3) provides that it is forbidden to use comparative, fraudulent and false propaganda and advertisement messages that deceptively promote the product or service, overstating the effects it has or the results that result from its use.

The Illicit Advertising Act prohibits misleading advertising and sets out conditions under which comparative advertising may be permitted (Article 5).

Finally, the Games of Chance Act forbids the advertising of foreign betting tickets in Montenegro (Article 7).

9.5 Sanctions/Penalties

Infringement of advertising restrictions prescribed by the Consumer Protection Act can trigger a fine of between EUR1,500 and EUR20,000, while breach of the restriction under the Gaming Act can trigger a fine of between EUR1,100 and EUR20,000. The Illicit Advertising Act does not prescribe fines for illicit advertising but rather introduces the possibility of class-action lawsuits against infringers.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

Disclosure requirements in the case of acquisition of companies, where applicable, are not sector-specific, in that there are no special requirements applicable to gambling companies only, but general requirements that apply to any type of business. However, disclosure is required only in the case of mandatory or voluntary takeover of joint-stock companies (which are subject to capital market and securities regulations), and not in the case of acquisition of, or change of control in, limited liability companies. A limited liability company is a corporate form of choice for most businesses in Montenegro, and the vehicle type currently utilised by all operators in the games of chance sector.

10.2 Change of Corporate Control Triggers

If the operator is registered as a joint-stock company, acquisition of direct or indirect control of at least 30% of shares would trigger an obligation for launching a mandatory takeover bid by the acquirer.

10.3 Passive Investor Requirements

There are no particular passive investors requirements in the case of acquisitions or changes of control of companies in general.

11. Enforcement

11.1 Powers

The Games of Chance Administration, as the regulatory body, has broad power to control compliance of operators with the Games of Chance Act. This is exercised through the regulator's authorised officers and inspectors, who are entitled, among other things, to enter the premises of operators and perform inspections, issue orders or impose specific measures to cure non-compliance; prohibit disposal of funds at bank accounts; temporarily stop the operations; or prohibit usage of the premises or equipment. They are also authorised to fine the company and issue a so-called misdemeanour order, which is a decision on a fine that becomes effective only if the fined entity does not challenge it and requests the court decision on the misdemeanour, or they can file a motion for starting misdemeanour proceedings before competent courts.

11.2 Sanctions

Most of the infringements of the Games of Chance Act are considered as misdemeanours and trigger monetary fines. The monetary fines are regularly imposed by inspectors, through issuing misdemeanour orders, or by the courts in misdemeanour proceedings. The latter can be the case if the fined company

opted to challenge the misdemeanour order and have the case heard before the court, or if the inspector filed the motion for starting misdemeanour proceedings instead of issuing the misdemeanour order.

The most severe infringements are penalised with criminal sanctions. Providing games of chance without a proper concession or licence is punishable by either a monetary fine or imprisonment for up to three years, while selling betting tickets or accepting payment for games organised abroad can trigger a monetary fine or imprisonment for up to two years.

11.3 Financial Penalties

When a financial penalty is imposed on a company and not paid within the provided deadline, it will be enforced by the competent authority that imposed the fine, which would be either the regulatory body or the court. The primary means of enforcement against companies is blocking their bank accounts and seizing any available funds. If the funds in those bank accounts are not sufficient, the fines will regularly be enforced against other assets of the company, through their seizure and public sale.

12. Recent Trends

12.1 Social Gaming

A game qualifies as a game of chance only if it has all three mandatory features: consideration; outcome determined by chance; and prize in money, goods or services. Hence, social gaming is not considered a game of chance and is not regulated, and, despite the trend of rising concern of regulators in many jurisdictions over the potential risks this activity bears, it has not been under the spotlight of the Montenegrin regulator so far.

12.2 Esports

The current regulatory regime permits betting on esports, as the definition of betting is open enough to cover any type of uncertain event.

12.3 Fantasy Sports

Betting on fantasy sports is permitted and is regularly offered in the market. The definition of betting is not restricted to real sports and can cover all sorts of virtual events, such as fantasy sports.

12.4 Skill Gaming

Skill gaming, as such, is not regulated. When making a distinction between games of chance and skill games, one should apply the "any chance" test in that if the outcome of the game is, to any extent, determined by chance, it would fall under the games of chance category, on the condition that two other elements

– consideration and a prize in money, goods or services – are present as well.

12.5 Blockchain

Blockchain technology and its application in the games of chance sector has not been under the scrutiny of the regulator so far, but the current legislation does not provide for any restrictions related to the underlying technology of online gambling platforms.

12.6 Reform

The upcoming new legislation is expected to bring novelties in the casino, lottery and online gambling sectors. The current regulatory approach to online gambling is obsolete, as the online licences are issued only to holders of land-based concessions, so the key expected reform is to introduce a new concept of independent licences for the provision of online games of chance.

13. Tax

13.1 Tax Rate by Sector

Gambling winnings in Montenegro are not taxable, regardless of the type of game or the amount of a win.

Gambling revenues are taxed through the system of fixed and variable concession fees (see **4.9 Ongoing Annual Fees**).

MONTENEGRO LAW AND PRACTICE

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BDK Advokati (BDK) is a full-service law firm with offices in Belgrade (Serbia), Podgorica (Montenegro) and Banja Luka (Bosnia and Herzegovina). With three offices in the region, distinct practices and industry sectors, BDK can offer clients top expertise and premier-service standards. BDK's gaming industry team provides legal support to gaming companies operating in the region and to tech companies, advertisers and other third-party service suppliers connected with the gaming sec-

tor. BDK is advising one of the leading European casino operators, Merit Casinos, in its expansion in the Balkan area. BDK is a member of the South East Europe Legal Group (SEE Legal), an organisation assembling leading independent law firms from 12 jurisdictions, which allows BDK to assemble quickly regional teams for cross-border matters involving jurisdictions outside the firm's direct coverage.

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