



GAMES OF CHANCE LEGAL FRAMEWORK-SERBIA

JPM

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The specific feature of organizing the games of chance is the requirement to obtain consent, approval or license of the authority in charge, prior to beginning the business operations. This means that prior to commencing the business operations, the procedure shall be carried out, to demonstrate fulfillment of all necessary requirements, and in that respect specific procedure before the competent authority will depend on the specific game of chance type.

I INTRODUCTION

The games of chance are games in which participants, are given the opportunity to acquire a reward in money, in-kind, in services or in rights, in return for a payment, with a gain or a loss not being dependant on knowledge or skills of participants in a game, but on an uncertain event. Distinction shall be made between these games and all other types of competitions in knowledge or skills, in which the final outcome depends only on skills, knowledge and achieved results in a certain area, as well as entertainment games (games on simulators, computers, pinball, picadors, etc.) in which, one is not entitled to a reward in money, services or rights, except for the right to a free of charge game of the same kind.

Organizing games of chance falls under a general interest activity for the Republic of Serbia and amounts to an exclusive right of the Republic of Serbia. The right to organize the games of chance is assigned to legal entities or entrepreneurs with their respective headquarters in the Republic of Serbia, subject to a license, approval or consent.

The general interest includes (i) ensuring funds being the budget revenue of the Republic, and up to 40% of the funds is allocated to financing of the Red Cross, organizations of disabled persons and other persons requiring social aid, (ii) bringing games of chance into compliance with social and economical circumstances and (iii) avoiding the risk of criminal activities and deceptions.

Besides, the games of chance organizers shall be socially responsible and undertake certain activities directed towards protection of minors, prevention of addiction and personal data protection in the games of chance. In their business facilities, the organizers shall place the data on specialized health institutions dealing with prevention and treatment of gambling addiction. The Law also provides for certain specific prohibitions for the organizers. One of the prohibitions is that betting shop shall not be open in excess of 18 hours. Secondly, when advertising the games of chance it shall be specified that participation is forbidden for minors.

Finally, participation in the games of chance organized abroad is not allowed, furthermore no payment in Serbia for participation in the games of chance abroad is allowed. Organizing the games of chance in customs free zones, organizing the games of chance with pyramidal character, or the games of chance that do not guarantee equal conditions for all players are all prohibited. The words „kazino” or „casino” shall neither be used in the name of a legal entity or entrepreneur, nor shall they be placed on facilities, except in case of an organizer organizing the games of chance in a casino – gaming facility.

The games of chance are governed by the Law on the Games of Chance and the sub-ordinate acts rendered on the basis of the said Law. The Rulebooks and the Decrees govern in more detailed manner the requirements of engagement in activities of financial nature but there are also spatial, personnel and technical requirements which have to be met by an organizer, and which are specific for each type of the game of chance.

The latest amendments of the Law on the Games of Chance adopted in 2018 introduced the novelty that founder or the owner, as well as a member of the managing body of the legal entity which is considered as organizer of the games of chance, cannot be a legal person convicted by a final verdict for a criminal offense regarding law which regulates the liability of legal persons for criminal offenses, person legally convicted of criminal offenses against labor, business, property, judiciary, money laundering, terrorist financing, public order and peace, legal traffic and official duties.

The Governmental authority in charge of controlling the legality of operations of the organizer is the Department for exchange and foreign currency transactions and games of chance within Tax Administration Office at the Ministry of Finance (hereinafter referred to as: "Department for Games of Chance"). The Department for Games of Chance establishes the extent to which specified requirements are satisfied, grants the required approvals to organizers and supervises their observance of regulations governing this field. In addition, tax inspectors, when exercising control over the games of chance facilities, may render the resolution on temporary closure of a facility or a venue where the games of chance are organized, including temporary confiscation of equipment and items used or to be used in organizing the games of chance, should they establish that there are certain irregularities in terms of observance of the governing regulations. Should the inspector establish that there is a reasonable doubt that a criminal act has been committed in organizing the games of chance, or the criminal act of money laundering, he shall also be entitled to press criminal charges.

The IT Laboratory within the Military Technical Institute in Belgrade, which is the integral part of the Republic of Serbia Ministry of Defense, is the institution in charge of monitoring the accuracy of hardware, software and other equipment used for organizing the games of chance by e-communications, and it issues the required certificates on satisfaction of the IT requirements. In addition, the authorized laboratories and services establish the technical and functional characteristics of tables and machines and take care of necessary repairs. Each use or repair of tables or slot machines for the games of chance shall be reported to the Department for Games of Chance. The intention is to create a safe business environment for the organizers, but also to protect players from illegal organizers of the games of chance.

II TYPES OF THE GAMES OF CHANCE

There are three types of the games:

1. classic games;
2. special games and
3. games of chance with goods and services as rewards.

1. **Classic games of chance** (lottery, instant-lottery, sports forecast, keno, tombola, bingo, fonto, SMS lottery and similar games of chance) shall be organized only by the Governmental company "Državna lutrija Srbije". Having obtained the prior consent of the Government, "Državna Lutrija Srbije" (Serbian State Lottery) may engage certain legal entities to organize the classic games of chance and the operators organizing the games of chance on behalf and for the account of the Government.

The operators shall satisfy the special requirements in terms of the initial capital amount, providing the bank guarantee in favor of "Državna lutrija Srbije", having developed sale and payment network for accepting the payments and having organizational and professional capacities for high quality engagement in agreed activities.

"Državna lutrija Srbije" may also engage agents for the sale of lottery tickets. The agent for sale of lottery tickets shall have the title or the right to use appropriate premises in which the lottery tickets are to be sold and shall provide "Državna lutrija Srbije" with appropriate collateral, in the amount to be specified by "Državna lutrija Srbije".

The rights and obligations between "Državna lutrija Srbije" and operators or agents in connection with selling of the lottery tickets shall be governed by agreements.

2. **Special games of chance** include the games of chance organized in gaming venues, on slot machines and betting games.

2.1) **Games organized in gaming venues** include games in which players play against a gaming venue, or against each other, on playing tables, using balls, cubes or similar objects, organized only within the area of a gaming venue.

In order to organize this type of the games of chance and for opening of a casino – gaming facility, the organizer shall be granted the Republic of Serbia Government license, subject to a public tender. The public tender procedure shall be carried out by a special commission nominated by the Director of Department for Games of Chance, with the consent of the Minister of Finance.

The Law and associated sub-ordinate acts specify the requirements to be satisfied by the organizer. Some of the requirements being that a major founder of the organizer shall have a stake in at least one gaming facility and to have at least 5 years of experience in organizing the games of chance. Also, the organizer shall ensure initial capital in the amount of EUR 1,000,000 in RSD equivalent, the purpose deposit or bank guarantee in the amount of EUR 300,000 in RSD equivalent, the deposit risk of at least EUR 50,000, the offer for the license consideration in the amount of minimum EUR 500.000, etc.



Apart from the financial requirements, the organizer of the games in gaming facilities shall ensure appropriate conditions in terms of space, which shall be in a facility constructed for the purpose of or within a three or more star hotel. The gaming room shall have a separate cashier's office, exchange office and a room for safe-keeping of money and valuable documentation. For the purpose of increased security, the organizer shall ensure video supervision over the complete area of gaming facility.

The Government issues the license with 10 years validity period, with the possibility of extending it for another 10 years, should the organizer provide evidence on satisfaction of necessary requirements and pay the consideration in the amount of EUR 500,000 in RSD equivalent.

The legal entity which has been granted the license for organizing the special games of chance in the gaming facility shall execute the agreement with the Republic of Serbia on assignment of the rights on organizing the games of chance. That agreement, as well as its subsequent amendments and supplements, shall be executed by the Minister of Finance with prior consent of the Republic of Serbia Government.

Purchase of a stake or change of capitalstructure of a legal entity – organizer, requires prior consent of the Minister of Finance. If the organizer wish to relocate the gaming facility, consent of the Department of Games of Chance shall be necessary.

During the validity term of the license, the organizer shall pay a monthly consideration for organizing each special game of chance at the gaming facility, in the percentage and on the specified basis.

2.2) **Games of chance on machines** include all those games of chance which are played on slot machines, set in such a manner that on the total number of the programmed combinations, the slot machine pays at least 80% of the value of payments.

One can become the organizer of such a game of chance subject to the Department for Games of Chance approval with 10 years validity period, with the possibility of granted extensions. The minimum initial capital shall amount to EUR 150,000 in RSD equivalent, and the organizer shall ensure the purpose deposit with a bank in the amount of EUR 300 per machine. Should the organizer have more than 2000 slot machines, the purpose deposit shall not be below EUR 600,000 in RSD equivalent. The risk deposit shall be EUR 100 per slot machine.

The slot machines club shall be located at least 200 meters from a primary or secondary school. The distance shall be measured as the shortest pedestrian path from the closest edge of the educational institution until the entrance to a slot machines club, and the certificate in that regard shall be issued by the Republic Geodetic Bureau, the Real Estate Cadastre Department. The club shall contain at least 5 slot machines, while granting of the approval requires the ownership over (or lease of) at least 100 slot machines.

The slot machines shall be equipped with the device ensuring exchange of data with the Department for Games of Chance server, and the device shall have the Military Technical Institute certificate on satisfaction of technical and functional characteristics. The slot machines used for the first time shall not, at the time of purchase, be older than one year from their production date.

The consideration for the approval is EUR 25 per month, per a slot machine, and the consideration for organizing amounts to 5% on the basis, comprising of the difference between the total amount of in payments and the total amount of out payments, but shall not be below EUR 35 per slot machine, per month. Should the organizer have the annual turnover per slot machine in excess of the RSD equivalent of EUR 18,000, it shall be obliged to pay the 10% consideration for the turnover above the specified amount.

2.3) **Games of chance - betting** are the games in which the amount of gain and the quota are specified at the moment of payment and shall not be subsequently changed, and the player is betting on results of individual or group sports competition and certain events in the course of a sports competition or on other events. Betting on horse races results shall be organized only by a legal entity having a racetrack. The amount of the organizer's initial capital shall not be below EUR 150,000, and the purpose deposit shall be ensured in the amount of at least EUR 3,000 in RSD equivalent per the cashier's booth, as well as the risk deposit of at least EUR 150. The number of the cashiers' booths shall not be below 30, and in one betting house there shall be one or more cashier booths.

The approval for organizing such game of chance is valid for 10 years, with the possibility of an extension. The consideration for approval is EUR 100 per month per betting house, while the consideration for organizing is 15% comprising of the difference between total in payments and total out payments, but shall not be below EUR 500 per betting house.

The betting house shall be located at least 200 meters from a primary or secondary school. The distance shall be measured as the shortest pedestrian path from the closest edge of the educational institution and the entrance to the betting house, and the relevant certificate in that regard shall be issued by the Republic Geodetic Bureau, the Real Estate Cadastre Department.

3. **Games of chance with goods and services as rewards** are the games of chance organized for advertising and other purposes, in which the participant is given an opportunity to win a reward in goods or services, which shall be specified in advance. By purchasing certain products or using certain services, the participant becomes entitled to participate in the game. The organizer shall be entitled to organize maximum two games of chance during one year, upon previous consent of the Department for Games of Chance for each game separately, and the game shall last maximum 30 hours. The rules of the game shall be announced in at least one daily newspaper distributed on the whole territory of the country. The consideration for organizing of the game amounts to 25% of the total value of the rewards fund.

III E – GAMES OF CHANCE

Eligible for organizing e-games of chance are "Državna Lutrija Srbije" and the organizers to which the Department for Games of Chance has assigned the organization rights by granting them the required approval. The validity period of the approval is 10 years.

These games of chance are organized through the Internet, telephone, television, or other means of e-communication. These are the games in which winners are drawn by random information system number generator, the accuracy of which is established by an appropriate certificate issued by a laboratory authorized by the Minister of Finance.

The e-games of chance are type of games of chance, introduced into Serbian legislation by the Law on the Games of Chance, effective as of December 2011. In 2013 the sub-ordinate acts were rendered, which govern in more detail the procedure for obtaining the approval. Since 2014, the requirements were satisfied that the authorized laboratory – the IT Laboratory within the Military Technical Institute in Belgrade, may officially initiate the procedure for acceptating games of chance organizer's applications for obtaining the certificates for organizing the games of chance.

The organizer of the e-games of chance shall ensure the initial capital of minimum EUR 250,000. For ensuring payment of the gains to players and settlement of public revenue charges, the organizer shall ensure the purpose deposit in the amount of EUR 150,000 and the risk deposit of at least EUR 10,000.

The organizer shall ensure the e-equipment - "hardware" and "software" through which the players participate in the games, and shall also ensure the automatic exchange of data with the Administration server. The technical and functional characteristics which shall be satisfied relate to the accuracy of hardware and software through which the games are organized. Besides, the organizer shall report to the Department for Games of Chance any change of the devices, and the IT Laboratory within the Military Technical Institute in Belgrade shall issue the certificate on satisfaction of requirements for operation of e-gaming devices.

Consideration for the approval covering all types of e-games of chance amounts to EUR 2,500 per month. Consideration for organizing of the games is 15% per month for betting, and for all other games 5%, comprising of the difference between the total in payments and total out payments, but shall not be below EUR 7,500 per game.

The consideration for the e-communication services in organizing the games of chance shall be paid by the organizer to the service provider. When, on account of the nature of the game of chance (fonto, SMS etc.) the e-communication consideration is paid by the participant in the game, the price for the participant shall not exceed the regular price of appropriate service.

IV GAMES OF CHANCE AND MONEY LAUNDERING

Organizers of the games of chance shall act in compliance with the new Law on prevention of money laundering and terrorism financing came into force as of 1 April 2018, as well as with other regulations governing this field. The acts and measures they are obliged to undertake have the role of prevention, but they shall be exercised, should it be noticed that an act which shall be deemed the money laundering is in progress or has been committed.

The important novelty is that organizers of special games of chance in gaming facility and organizers of games of chance through means of electronic communication are now obliged to determine the identity of the customer as well as the identity of the actual owner of the customer which includes a natural person.

Administration for the Prevention of Money Laundering, a body of the Ministry of Finance, shall supervise application of the provisions of the Act on the Games of Chance in compliance with the regulations on prevention of the money laundering and terrorism financing. Besides that, the Administration has provided certain indicators on the ground of which the organizers may in an easier way notice money laundering activities.

When a client enters a gaming facility, an organizer of the special game of chance at such gaming facility shall check and recheck the identity of the client. The client's refusal to provide an ID document shall be deemed as an indicator of dubious activities, or providing of a false document or a document issued in a foreign country. Special attention shall be paid if a client places the minimum bet, if several clients play in a manner in which they reduce each others risk to a minimum, if a client takes care that the amount of his gain does not exceed the amount specified by law, EUR 15,000, which shall be reported to the Administration for the Prevention of Money Laundering.

The organizers of the games of chance shall, through telecommunication networks, pay attention as to whether the participants have credit cards in countries in which there is no strict sanctioning of money laundering, whether a participant conceals his ID and IP address or whether he has expressed the intention to transfergaining a special bank account. It should be noted that money laundering is a criminal act subject to the laws of the Republic of Serbia, with relevant provisions stipulating maximum 12 years imprisonment sentence and a fine. The act of concealing a criminal act is the act of assistance, which may also be subject to the sentence, but may also form basis for mitigation of the sentence.

Bet



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