INSTITUTE FOR GAMBLING REGULATION

NEWSLETTER

may/20

WHAT'S UP IN THE INSTITUTE

HOW THE STATE OF EMERGENCY CONTINUES

Since the publication of the Easter Newsletter, **several fundamental facts have occurred that have changed the planned procedure of our government** in the current coronavirus situation. The first such event was the decision of the Municipal Court in Prague (MC in Prague), which annulled governmental and ministerial measures restricting the movement of persons and the entrepreneurial environment in our country. You can find out more about this decision on the other page of our Newsletter. The government therefore lost the right to restrict the movement of persons and to restrict the right to conduct business only through a decision of the Minister of Health.

The second event could be the improvement of the epidemiological situation, as a result of which the original five-phase schedule for the loosening of entrepreneurial activities was shortened to only four phases ending on 25 May 2020 instead of the original 8 June 2020. You can find the schedule itself here.

The last event was the approval of the extension of the state of emergency only until 17 May 2020 instead of the extension requested by the government until 25 May 2020. This date corresponded to the end of the fourth phase of the updated schedule.

The government has decided to resolve the situation by preparing an amendment to the Public Health Protection Act, which should clarify the powers of the Minister of Health so that after the end of the state of emergency, it is still possible to restrict specific business activities through his decision, only those really objectively high-risk, according to government members. Therefore, after the state of emergency ends, the government will no longer be able to proceed in accordance with the crisis act and will therefore lose the right to restrict constitutional rights.

WHAT ELSE

On 1 May 2020, a new Government Resolution No. 493 was published in the Code (its text can be found here), which repealed the previous Resolution No. 453. **The new resolution updates the list of activities and establishments that must remain closed since midnight 11 May 2020**. The ban on the operation of gambling establishments and casinos is no longer mentioned in the text of the new resolution. In its second part, the resolution sets out a set of hygiene measures that must be observed in the open premises.

WHAT'S NEXT

Due to the current situation, the postponed conference call with Director Šabo and his colleagues regarding the implementation of the Register of Excluded Persons (REP) took place on Monday. The topic was the frequency of player verification in the REP, outages of the verification service and possible future malfunction of REP, the discrepancy between the newly emerging Register of Players who are not in the RER and the GDPR regulation and other topics sent by you. We will inform you about the results of the negotiations as soon as possible.

INSTITUTE FOR GAMBLING REGULATION

THE CONSTITUTIONAL COURT HAS RULED ON THE GENERALLY BINDING DECREE OF THE CITY OF BÍLINA

Recently, the practice of the Constitutional Court in the field of gambling regulation has been expanded by a new verdict. Specifically, the CC ruled on the **proposal of the Ministry of the Interior (MoI) to repeal the decree** of the city of Bílina, which had **previously been found by the Office for the Protection of Competition to be in violation of competition and a fine of CZK 270,000 was** imposed on the city.

The Court found the decree to comply with the constitutional order and **rejected the proposal of the Ministry**. The Court stated several interesting conclusions in its justification:

- The compliance of the decree with the Act on the Protection of Competition is also subject to the supervision of the MoI.
- If the conditions of permitted addresses are not formulated in the decree, then this can be done additionally, e.g. in court proceedings.
- It is not the total number of offences that is important, but their connection with gambling.
- If a previous violation of the law is the reason for not including in the permitted addresses, then this violation must be related to the gambling operation.

You will find a more detailed legal analysis that we have prepared for you here.

EVENTS IN THE CZECH REPUBLIC

Financial Analytical Office Has Published A New Model of The System of Internal Principles

The FAO has published on its website a new model of the System of Internal Principles (SIP) valid from 1 May 2020. There are several changes in the model, and it is intended for obliged persons who are obliged to prepare their SIP according to Section 21 of the AML Act. The SIP will therefore have to be adjusted according to the new FAO instructions. More detailed information can be found here.

Municipal Court in Prague Cancelled Extraordinary Measures of The Minister of Health Restricting Entrepreneurship

As we have already informed you in our regular summary of information, the Municipal Court annulled by its verdict four extraordinary measures of the Minister of Health concerning restrictions on the movement of persons as well as closed establishments, stating that the Ministry of Health was not competent to issue them and they are therefore illegal. In addition to the method, the MC cites insufficient justification among the reasons for their cancellation. In addition, the Court stated that the Ministry exceeded its competence when such fundamental issues were not decided directly by the government pursuant to Act No. 240/2000 Coll., The Crisis Act, the application of which the Czech legal system presupposes when declaring the state of emergency. Restrictions on fundamental rights must be adopted in states of emergency in a method legally foreseen, by the government under the said act, and not just by one member of the government. The Court put the government under pressure when the government was forced to replace the original illegal measures of the Ministry of Health by new government resolutions by 27 April 2020 based on the Crisis Act.

Further Verdict on The Constitutionality of The Government's Action on The Restriction of Fundamental Rights

The Constitutional Court rejected the first of several constitutional complaints against the government resolution on declaring the state of emergency, on the adoption of the crisis measure and several extraordinary measures of the Ministry of Health. Although the Court dismissed the individual proposals in the constitutional complaint

on procedural grounds, due to the lack of jurisdiction to its consideration, due to it being submitted by someone apparently unauthorized or because the proposal was inadmissible, it admitted the possibility that the Court could examine the state of emergency declaration on the basis of the proposal of a political minority and could assess whether the state of emergency was declared properly, whether it had the intended constitutional effects, and subsequently decide on the legality or constitutionality of subsequent implementing acts, with reference to Article 1 para. 1 and Article 9 para. 2 of the Constitution, possibly also to Articles 10 and 10a of the Constitution. The act of declaring a state of emergency could be repealed by the CC if it is in conflict with the basic principles of a democratic state governed by the rule of law and if it represents a change in the essential requirements of a democratic state governed by the rule of law. The resolution text can be found here.

The Ministry of Finance's Answers Regarding The Taxation of Players' Winnings

Some time ago, the Institute sent a set of questions to the Ministry of Finance regarding the administration of players income tax that mainly concerned the method in which players should keep records of their bets and winnings, which they will then submit to the tax administrator. The ministry stated in the answers that **it is possible for an operator to always give a player an annual summary of their bets and winnings from a gambling game, that is for each relevant type of a gambling game**. Such a summary report could have the form of an export from the player's user account. The full text of the MoF questions and answers can be found here.

NEWS FROM ABROAD

USA

US President Donald Trump has set up an **advisory body** of dozens of representatives of the country's largest companies to fight the Covid-19 virus. The newly appointed council is to advise the head of the world's largest economy primarily on the analysis of the effects of social distancing on the US economy and on the economic recovery. Interestingly, **a representative of a gambling business is on the council, specifically Shledon Andelson**, who is the chairman of the board and CEO of Las Vegas Sands. President Donald Trump himself said that the main goal is the health and wealth of the United States and that the advisory body will create a more independent, self-sufficient and resilient nation.

GERMANY

"Under the existing rules of loosening of economy, there is a possibility to safely re-open gambling establishments," said attorney of the association of operators of gambling in Bavaria and Baden-Württemberg Tim Hilbert. It is precisely gambling operations that are relatively successfully able to implement the requirements of the central government to loosen the economy. "Initially, it will **be necessary to limit the number of gambling devices to 12, with each having a protective space of 12m²**. At the same time, protective shields will be installed, the use of slot machines to exchange money for chips will be limited, as will be the offer of meals so that contact between players and staff is minimized."

Trade associations, as well as the German government's drug commissioner, point to the **increase in illegal online gambling** caused by the closure of land-based establishments, which they believe are under greater "social control". The German Gaming Association (DSbV) has called on the government to consider adding casinos to

the list of establishments that could be reopened. Similarly, the German Slot Machine Association (DAW) has approached the relevant authorities with plans to reopen with increased preventive measures. The proposed measures include limiting the number of guests, providing a hand sanitizer and a special cleaning of the equipment.

CYPRUS

The Cypriot regulator responsible for betting offices (NBA) wants to introduce **comprehensive regulatory measures to protect players, including the establishment of the national register of excluded players**. It is a universal exclusion platform that, based on the player's will, prevents them from betting at all legal betting offices. The offices "should provide remote customer service" which is available 24/7, in both Greek and English. It must ensure that players could set "any" deposit, betting and losing limits and must automatically inform players when they exceed 50, 75 and 90% of the limit. The total balance of players shall be displayed in a visible place on the website in bold. In addition, betting terminals will have to display the duration of the gambling to players.

Under the new rules, the NBA will have the right to establish a **"Player Support Service"**, either as an independent body or as part of a regulatory body responsible for investigating complaints and resolving disputes. At the same time, the betting offices were advised that any ambiguous conditions will be interpreted in a way that is "most advantageous to players".

GREAT BRITAIN

The British advertising regulator called on company TVBet and its parent company ASTOK to refrain from misleading advertising. The investigation began on the initiative of rival company BetGames.tv, which complained that TVBet advertised at the fall odds-betting tarde fair an unprovable claim that it offered the biggest jackpots. Not only did the regulator agree with the complainant, but it also found another misconduct, as TBet advertised on its website that it was the number 1 live betting provider in the world. Its subsequent argument that it was named the best provider by website logincasino.com did not stand up, as even in this case it is not possible to prove according to which criteria this decision was made.

FINLAND

Finnish company Veikkaus, which has a monopoly on gambling operation in the country, was forced to explore the possibility of temporary lay-offs due to the ongoing pandemic. It was announced at the beginning of last week, calling on 675 employees from the affected areas to act together. It should be noted that the negotiations will relate exclusively to a temporary reduction in the number of employees, that is for a maximum of 90 days and at the earliest from 1 May 2020. At the same time, employees were assured that the company's management was intensively reviewing its internal accounting and that the temporary reduction in the number of employees would be undertaken only in the situation where it would be totally necessary.

INSTITUTE
FOR GAMBLING
REGULATION

NORTHERN IRELAND

We regularly inform you about the political pressure across Europe, where there is an effort to ban the use of credit cards (or all cards that allow withdrawing funds in the red) for gambling deposits. Kellie Armstrong, a member of the Legislative Assembly (MLA) and a spokeswoman for the Alliance Party of Northern Ireland, said in a public statement that one of the party's priorities is to fight gambling addictions. It was also said that the need to ban credit cards is greater than usual, as the popularity of virtual and casino games is higher than ever, and at present, in the context of quarantine, the situation is much more difficult for pathological gamblers because they are "trapped" at home.

INSTITUTE
FOR GAMBLING
REGULATION