INSTITUTE FOR GAMBLING REGULATION

# NEWSLETTER

may/21

Here is the new Newsletter issue. Even the month of May did not lack key meetings and news in our sector. We are pleased that our hard work and communication with key central authorities is in most cases bearing fruit. We are glad that we were able to discuss the issue of reopening the gaming premises with the Chief Health Officer and to be in contact with her colleagues. We appreciated this especially when verifying some of the hygiene measures that were introduced after the reopening. However, the past month did not only involve the reopening, although we know that for many of you, it was absolutely crucial.

You can read about everything that happened, who we talked to and what awaits us next on the following pages. Of course, we are including the most interesting articles from abroad. Enjoy reading!

## EVENTS IN THE CZECH REPUBLIC

### IFGR MET WITH THE MAIN HEALTH OFFICER OF THE CZECH REPUBLIC

**At the beginning of May, we met with the Chief Health Officer of the Czech Republic, Dr. Svrčinová. The topic was quite obvious: convince her of the safety of gambling establishments and casinos and ensure that they are opened as soon as possible. At the same time, there was the alternative to ensure non-stop opening.**

**The Chief Health Officer knew all the arguments we had already sent in official letters in the past very well and also demonstrated knowledge of our industry and most of the facts of gaming premises.**

**We reached the maximum possible during the meeting because there were also possible far less favourable outcomes for us. Thanks to this meeting, we established cooperation in setting the regime measures that would accompany gambling establishments and casinos, and we were in contact during the reopening of operations. Therefore, we were able to verify some ambiguities immediately.**

### THE LAST DAY OF MAY WAS MARKED BY REOPENING OF OPERATIONS

The government could not have maintained the situation for longer. Rulings of the Supreme Administrative Court (SAC) cancelled one measure of government after another and the government had no choice but to open the remaining operations earlier than originally planned. We were very pleased that the joint effort brought the desired result and the operations of gambling establishments and casinos returned to “normal” on 31 May. Although this is not an operation as it was known before the pandemic and there are still restrictions on the number of players present, the need for negative tests, respirators, etc., it is great news that after 164 consecutive days of forced closure, gaming premises could finally be reopened.

The fact that the government was displeased with the decision-making practice of the Supreme Administrative Court was evident from the statement of the old-new Minister Vojtěch. He said that the government would file a constitutional complaint against the ruling of the SAC. However, according to some lawyers, such a reaction is not possible because there is no justification for it. The Minister also admitted that the government will seek to

change the Pandemic Act so that it is possible to ban the operation of restaurants and similar facilities in the future, should the epidemiological situation worsen again.

According to Minister Vojtěch, the government is not planning compensation for the illegal closure of gambling establishments in order to avoid claiming damages from the affected entities. In his opinion, the earlier loosening of restrictions is that step towards avoiding possible lawsuits for damages for the government. It will be interesting to follow the further steps of the government, moreover, when there were disclosed information that top officials of the Ministry of Health had been previously informed by their subordinates that the procedure of the Ministry of Health had no basis in law and it was not possible to close restaurants and similar facilities.

## PRAGUE GAMING SUMMIT 2021 WITH THE PARTICIPATION OF IFGR DIRECTOR

Prague Gaming Summit was held for the fifth time at the end of May of this year, focusing on the effects of the pandemic and current issues in the Czech gambling market. The most discussed topics were **remote identification in the form of banking identity, which has been available to private entities since 1 June, or the illegal market and the fight against it**. Among the speakers were R. Skalina and J. Kolomičenko as well as the director of the Institute, Mr. J. Řehola, who pointed out the differences in the intensity of blocking illegal websites in the Czech Republic and in its neighbouring countries.

## 2020 ANNUAL REPORT ON GAMBLING

The annual report on gambling, which is traditionally prepared by the National Monitoring Centre, focuses in its latest, seventh edition, mainly on changes in the market during the pandemic. Due to the limited operation of casinos for much of 2020, **the rise of the Internet gambling** is no surprise. In addition to traditional statistics, the report deals to **a large extent with the riskiness of Internet games and gambling advertising.**

Mr. Mravčík, who is the main author of this report, organized a discussion on the whole report and its conclusions, which took place unconventionally online for epidemiological reasons. We are pleased that the IFGR was able to take part in this discussion again. In this way, we were able to hear the comments of both the Customs Administration, which did not provide the correct data in the report, and the opinions of Director Šabo who briefly presented the topics and conclusions stated in the final report of the Ministry of Finance on the ARHA project.

## OPERATING RESULTS FOR THE FIRST QUARTER OF 2021

The operating results in 1Q this year were again significantly affected by government measures that prevented parts of the market from doing business. Therefore, it should come as no surprise that the operating results follow the trend that we witnessed last year at the time of lockdowns, with the difference that this quarter was the first in which the operators of gambling establishments and casinos could not open their premises during its entire period. And though fixed-odds betting offices opened a little earlier, they still decreased by 70.5% GGR.

In contrast, online games increased by tens of percent compared to 1Q 2020: technical game by 89% GGR, live game by 27.5% GGR, fixed-odds betting by 25% GGR and lottery by 55%. However, the comparison with 4Q 2020 is not so great: technical game increased by 3% GGR, live game decreased by 6% GGR and the lottery decreased by 6% GGR.

**In a direct comparison of the achieved GGR for 1Q in 2021 with 1Q 2020, there was a cumulative decrease of 25% in GGR for all types of gambling.**

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## IFGR NEGOTIATIONS WITH REPRESENTATIVES OF OPC AND MINISTRY OF THE INTERIOR

A meeting initiated by the IFGR was held at the end of May with representatives of the Office for the Protection of Competition (OPC) and the Ministry of the Interior (MoI), where we discussed two key areas that, from our experience, bother not only operators and municipalities but also public administration bodies.

The first of the discussed areas concerned the impacts of the current decision-making practice of the Office on the increasingly frequent occurrence of generally binding decrees, which generally prohibit the operation of gambling in the municipalities and cities concerned. We are of the opinion that in the case of the adoption of all-ban GBDs, competition is made impossible and in such a case, this must be justified by serious effects of gambling on life in that municipality. Unfortunately, both authorities agree that the legitimate and totally sufficient goal of such regulation is the general elimination of gambling and that there is no need to consider anything else. However, the Ministry agreed that the current system was complicated, complex and legally uncertain for operators and municipalities and would welcome a legislative change. Therefore, the body will support the IFGR in the efforts at the Ministry of Finance, which may initiate the legislative change.

We drew attention to the recent CJEU ruling on the need to apply European law to local regulation, as well as the May Supreme Administrative Court ruling on the obligation of administrative authorities to make an ex officio judgment on whether the source decree on the revocation of a licence in administrative proceedings is in accordance with European law, which they have not done so far. In this context, the MoI stated that it was preparing an update of the methodological recommendation for municipalities, which it would also send to the Office for comments and to the IFGR for possible comments. The Office will also update its statement of 2014 in the future, but is awaiting a ruling of the SAC in its ongoing court proceedings.

## ARHA IS GETTING ITS SHAPE, FINAL COMMENTS ARE FOLLOWING

Ministry of Finance published a few days ago the results of the Analysis of Gambling Regulation (ARHA), which dealt with the assessment of the current gambling legislation effective from 1 January 2017. The project also included an analysis assessing the risk of individual gambling games (ASTERIG).

The final report shows that the current regulation of gambling is fully functional and fulfils its purpose, however, the analysis also proposes certain changes. These are mainly parametric changes of the regulation not only in the field of online gambling, but also in the licencing procedure and in some other areas, especially where the need for changes has followed from practice. Self-restricting measures, the regulation of advertising or the information obligation of operators should also undergo partial changes.

According to earlier promises of the MoF, confirmed at the recently held meeting of the National Monitoring Centre of Mr. Mravčík regarding the Annual Report on Gambling for 2020, ARHA was sent to the external comment procedure for comments, even to entities from our sector, not excluding the Institute. We have sent you the analysis, including all its 14 annexes, and we are currently working hard to comment on the published conclusions. The comments should be sent to the Ministry by 12 July 2021.

## MINISTER SCHILLEROVÁ OPENLY TALKS ABOUT THE NEED TO INCREASE ONLINE GAMBLING TAXATION

Minister Schillerová touched during latest talks upon the topic of gambling, its regulation, and above all the direction in which its future taxation should develop. Although she has no proposal, she could imagine higher taxation of online gambling. The reason, in her opinion, is the rapid growth of online gambling, which has risen from 10% of the market volume to 50% since 2017. In addition, according to a new analysis by the Ministry of

Finance, called ASTERIG, Internet games are also considered to be more risky, due to their quickness and availability 24 hours a day. Therefore, the higher riskiness of online games could be offset by higher tax rates in the future.

Although the Minister is revealing her intentions with the increase in gambling taxes, on the other hand, she does not hide her concerns about the political reality, which is often far from what one imagines. According to her, raising gambling taxes, even by only one to two percentage points, is a very relentless struggle in the Chamber of Deputies every year. For two years now, the Ministry, led by Minister Schillerová, has been proposing partial changes to the tax package, namely the increase in the rate from 23% to 25% for fixed-odds betting, totalizator games, raffles and small-scale tournaments, and from 23 to 30% for bingo and live games. *"This increase would bring some hundreds of millions of crowns a year to the public budgets, which now need it after the pandemic,"* says Schillerová. Nevertheless, these proposals have not yet met with understanding in the Chamber of Deputies.

## CONSTITUTIONAL COURT REJECTED A PROPOSAL OF CERTAIN MEMBERS OF PARLIAMENT TO REPEAL THE AMENDMENT TO TAX ACTS

The Constitutional Court rejected a proposal of certain MP's to repeal the amendment to tax acts, which introduced, for example, the taxation of player winnings over CZK 1 million. The ruling of the plenum was announced by the President Judge of the Constitutional Court, Pavel Rychetský.

The proposal, submitted by 41 MPs led by Marek Benda (ODS), criticized especially the procedure for adopting the amendment. The debate was closed prematurely at third reading and opposition MPs allegedly did not have enough room for discussion. At that time, 96 MPs of the government parties YES and ČSSD and the opposition party KSČM voted for the tax package.

In the event that the entire act was not repealed, certain opposition MPs proposed at least the repeal of its individual parts or the deletion of amended tax norms. In addition to other areas, such as the taxation of insurance companies' technical reserves, the amendment also created, in the opinion of MPs, an inequality in the taxation of gambling winnings, that is to the detriment of lotteries and raffles. The entire income from each win over one million crowns is taxed at once, while in the case of other games, deposits can be deducted from the tax base.

## ÚSTÍ NAD LABEM PROHIBITED TECHNICAL GAME IN GAMBLING ESTABLISHMENTS AND CASINOS

In the past, several coalitions dealt with the regulation of gambling, always with a contradictory result. Unfortunately, there was a majority in the Ústí nad Labem city council which recognized the long-term efforts to reduce gambling in the city this year. A new GBD was approved, which banned technical games. Only live casino games, small tournaments and bingo remain allowed. Even the argument of the part of the opposition, which drew attention to the loss of income of the city, did not changed minds of the 24 votes. Last year alone, it amounted to CZK 49 million from the technical game. According to City Mayor Martin Hausenblas from movement PRO Ústí, the loss will be covered by, for example, the reintroduction of a waste collection fee. Unfortunately, other arguments did not change the deputies' minds, and the negotiations turned out the way they did.

# NEWS FROM ABROAD

## THE EUROPEAN COMMISSION HAS COME UP WITH A NEW PROPOSAL FOR UNIFIED IDENTIFICATION

With the phenomenon of the Internet and the increasing use of online services, the ideal tool to enable people to use online services in a practical and secure way without compromising their data is needed. **At the beginning of June, the European Commission presented a proposal for a pan-European electronic identity (e-ID)**, which amends the Commission's previous proposal, the so-called eIDAS. It is an electronic identity card that would give EU citizens access to public as well as private online services anywhere in the EU.

The introduction of a European electronic ID could have a significant impact on how players' identity is verified in online gambling. **Strengthening of existing processes to prevent minors from accessing online gambling and a fight against fraud and money laundering could be the positives.** What could be the other positives of the unified verification?

- The customer could **easily and securely verify their identity in each EU country** and also have control over what information they share about themselves.
- For operators, **a standardized verification should, in particular, reduce administrative costs and costs** associated with complying with different regulations if they operate in more than one European country.
- **Regulators could also welcome** a standardized pan-European solution. A single unified method for identifying customers could help operators to comply with it and could also have a positive impact on the EU's fight against crime and fraud.

In addition to these advantages, the adoption of e-ID should also have certain economic benefits, according to the European Commission The commission estimates these at € 9.6 billion and expects that up to 27,000 jobs will be created over five years.

Currently, 14 EU countries have electronic identification systems, of which only 7 include mobile applications. The European Commission has set a target of 80% of EU citizens using the electronic ID by 2030.

## OPERATORS IN THE GB ARE EXPECTING AN INCREASE IN LICENCE FEES

As part of the ongoing revision of the act, the British government is also looking for new financial resources that could cover the Gambling Commission's growing costs to control the existing regulation, protect consumers and industry from black market "interventions", and develop new solutions.

The British government presented a few days ago its solution, which is **to increase annual licence fees**. This will be the case for **online gambling operators as early as 1 October and that is by the incredible 55%. The increase in fees will also apply to gambling establishment and casino operators**. This fee increase, however, will not apply to them immediately. The government wants to give these operators time to catch a break and "heal wounds" after the pandemic closure. Therefore, the increase will not take place **until 6 April 2022**. Even the increase will not be as big as in the case of online operators – **it will be 15%**.

However, that is not all. All application fees will also increase, that is by 60%, and the existing multilicence discount will be cancelled.

As mentioned above, the Gambling Commission expects from this first fee increase since 2017 that it will be able to make greater and faster progress in improving gambling safety and consumer protection in the coming years.

## LITHUANIA IS FURTHER RESTRICTING ADVERTISING AND PREPARING TAX CHANGES SIMILAR TO THE MINIMUM PARTIAL TAX

Earlier this year, the Lithuanian regulator said it was following current market developments and was ready to "respond to the conduct of operators during this critical period in order to protect both legal operators as well as vulnerable groups". All entities in the market were impatiently looking out for what further restrictions and regulatory changes would be adopted.

It did not take long for the government to submit an **amendment to the local Gambling Act** to parliament on 6 May. In addition to the current restriction on advertising, it added a ban on all forms of bonus offers and other promotions (test games, discounts, gifts, etc.).

There was no opponent in parliament at any reading, and the amendment was adopted with 105 votes in favour of it. The changes will take effect on 1 July.

According to Lolita Sumskaite, Head of the Insurance and Special Financial Activities Division at the Ministry of Finance, these changes are aimed at further "reducing the negative social impacts of gambling, the attractiveness of gambling and the amount invested in it".

It might seem that the adoption of this amendment would lead to a ban on gambling advertising in Lithuania. According to Sumskaite, this is not the case, as operators are still allowed to use their company name, trademark and types of gambling for promotion.

Nevertheless, experts do not hide their concerns about how difficult the operators' situation is due to the amendment; they will have to find a solution that will help them remain competitive with illegal operators. On the contrary, these could take advantage of the situation.

All the news from Lithuania is not only negative though, there is an interesting thing that could be an inspiration, for example, for the Czech Ministry of Finance. Operators of technical games operated in gabling establishments and casinos are obliged to pay tax in Lithuania in the form of mandatory annual fees. And, as was the case in the Czech Republic, the operators here **were forced to pay this tax for the period when their establishments were closed for epidemiological reasons**. However, the Lithuanian Ministry of Finance is now working hard to change the taxation so that the fixed annual fees are replaced by a new system based on gross revenues from gaming (GGR), so that in the future, there would be no such unfairness and no increase in the taxation, said Sumskaite.

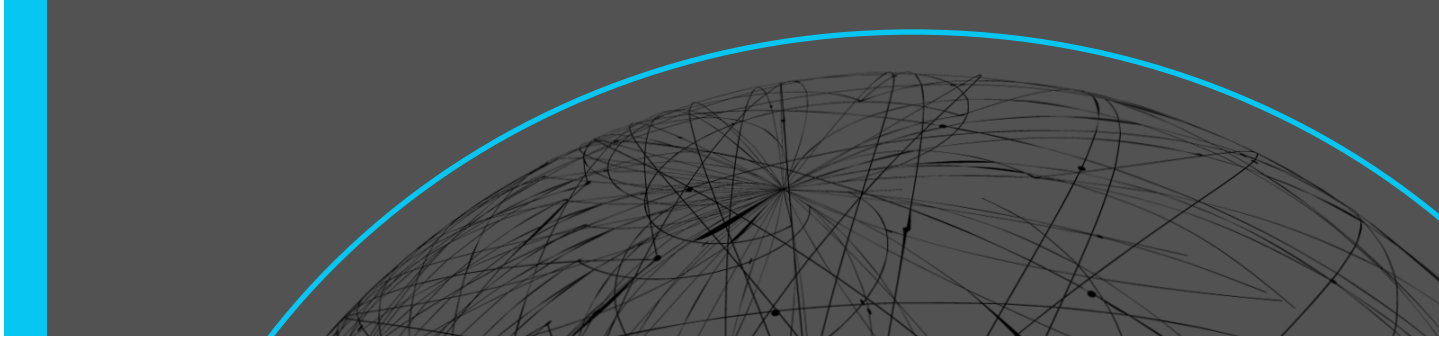
## CHAIRMAN OF THE NETHERLANDS REGULATOR DEFENDED THE BENEFITS OF ADVERTISING

Although the current European trend is seen in the restriction or ban of advertising, there are also regulators who do not share this view. One of them is the Netherlands Gambling Authority (KSA), despite the fact that advertising in online casinos in the Netherlands was banned between 6:00 and 21:00.

It was **KSA Chairman René Jansen** who has recently **defended the need for gambling advertising**. He is of the opinion that permitted advertising helps the Netherlands to meet its goal of directing players to play safely with reliable legal operators. It is quite clear from his statement that **he finds the advertising of legal operators helpful in the fight against illegal offers, which endangers the players themselves**.

In connection with the planned October opening of the Dutch online market, Jansen said he hoped that the opening would not lead to a marketing "bombing" of the public. However, it will depend on a responsible approach of the whole sector to ensure that no operator tries to gain an advantage by advertising in an "inappropriate and irresponsible" way.

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## GAMBLING ADVERTISING SHOULD HAVE WARNINGS, SAID IN MALTA

Maltese doctor Simon Attard Montalto condemned in the latest issue of Maltese Medical Journal the continued presence of gambling advertisements at sporting events and demands that gambling ads on the island include mandatory health warnings, similar to those found on tobacco products or alcoholic beverages. This is the first sign of advertising restrictions in Malta. We will see whether, following the example of other European countries, the number of restrictions on gambling advertising will increase.

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