INSTITUTE FOR GAMBLING REGULATION

NEWSLETTER

summer/21

It could seem that during last summer weeks, people are thinking about or even actually are on vacation and that nothing significant is going on. The opposite is true – and this year is proof of that. Therefore, we can inform you about activities of public administration bodies, new statements, annual reports or decisions. Even abroad, the last weeks before the holidays have not been "boring", so we can inform you about interesting events from Finland, Great Britain and Malta.

Everyone will find something that they are interested in in this Newsletter. Enjoy reading!

EVENTS IN THE CZECH REPUBLIC

ISSUANCE OF MOF STATEMENTS CONTINUES

Recently, the Ministry of Finance has issued several new explanatory statements. It continued its activities in June, when it prepared another statement related to the area of transfer of basic and local licences. Specifically, it is about determining when the decision on licence or, conversely, on the revocation of licence takes legal force or effect. This is very important especially in the following situations:

- **operator wants to continue with the operation without having to interrupt it for a day,**
- **for the operator to know when they can start the operation in gaming premises or on the Internet,**
- **for the operator to know when they can no longer operate because the licence was revoked, and**
- **since when a game or a technical device will be considered permitted (decisive, for example, for the minimum partial tax).**

The Ministry bases its statement on the practice of the Supreme Administrative Court, the Administrative Procedure Code and discussions with the Ministry of the Interior as the main body responsible for this Act. According to them, *the decision becomes final only at the end of the last moment of the day on which it was delivered*. Unfortunately, a rather unfortunate vague legal term is used here - the last moment of the day. The Institute will contact the Ministry and ask whether it is possible to determine this time of day with, for example, a specific hour, or otherwise it will mean that it will be possible or impossible to operate only on the day after this moment (as Example 5 in the statement suggests). The MoF's interpretation of when a game or a device will be considered permitted should also be discussed.

Nothing should change for submitting applications in which the operator requests a postponed effect. If the operator wants to interconnect their operation, they should state the same date in the application for revocation as in the application for licence.

PLZEŇ PREPARES AMENDMENT TO THE REGULATION OF GAMBLING GAMES

The City of Plzeň has decided to update the currently effective generally binding decree. Fortunately, it is not issued in the presently regrettably popular method of banning technical games. The aim of the new decree is to update the annex to the permitted addresses for the operation of gambling, consisting in the elimination of defunct gambling establishments, and, conversely, the possible inclusion of new addresses on the basis of sub-

mitted applications. The City Council has therefore published the criteria (in the list of Resolution No. 21/0689 of 28 June 2021) which the places set out in the annex will have to meet. It shall mainly be a place that is not be a protected building, is **more than 100 meters away from a school or a school facility and has a valid licence under the law as of 30 September 2021**. The total number of permitted places in the city **may not exceed the limit of 100 gambling establishments**. A possible exceeding of this number can occur only in the case of applications for new places, in which case the distance from a school will be decisive.

At the same time, the Council's decision stipulates that it is possible to submit applications for the inclusion of a place among the permitted ones or, on the contrary, for the removal, until 9:00 of 30 September 2021. However, a request for the removal of a place may only be submitted by the last operator who is or was authorized to operate at the address. The good news is that according to the published criteria, **the decree should not contain time regulation**. However, the disadvantage so far is that we do not know the proposed effectiveness of the decree.

And what are the next steps? The Council has decided to prepare a draft decree by the end of November and to discuss it with the city districts. The decree should then be submitted to the local authority.

GDC AUTHORIZED TO REQUEST INFORMATION ABOUT WHICH SPECIFIC PLAYER HAS WHICH GAME ID

As part of the checking activities of IFGR members, we have repeatedly seen requests from customs offices, in which they **want to uncover which specific player has assigned which game identifier (HID)**. Under this identifier, the data on a player's game and their account are reported to the MoF and the Customs Administration according to the Reporting Decree. Although the Ministry states in the methodological instruction that these data are so-called pseudonymized, i.e., neither the MoF nor the CA knows the identity of the player under the assigned HID, this is not true in some cases. On the positive side, the CA is aware of the uniqueness of these own requests, which actually breach the MoF's guarantees set out in the methodological guideline. The CA bases its authority on the right to check compliance with the obligations of operators and the need to uncover the facts. **The situations when they will proceed in this way, are:**

- check of the obligation to identify each visitor to gaming premises upon entry, verification of their identity and age and registration of the player, by comparing the daily records of visitors and records from the monitoring device with data from the AISG system
- verification of a player's complaint - cases of cancellation or blocking of a player's account by the operator, non-compliance with the deadline for paying out winnings or unequal conditions between players of gambling games.

What we consider important is a CA's statement that the provision of the required player data will not violate the operator's confidentiality of player data (see the legal provision of Section 108i (a) of the Gambling Act, which states that there is no breach if this information is provided to supervisory authorities). Therefore, the CA should reject any complaints from players about the operator's confidentiality violation.

COMMENTS ON THE FINAL REPORT OF THE ARHA PROJECT SENT TO THE MINISTRY

In the last issue, we informed you about the publication of the final report on the Analysis of Gambling Regulation (ARHA) and its main outcomes. After our own research of the report, all its attachments and the processing of members' suggestions, we prepared in the given time for comments (only 20 working days) a document with a number of technical comments which we sent to the Ministry of Finance within the deadline. In the meantime, the director of the Institute, Jan Řehola, had a meeting with Deputy Kouba (MoF). At the meeting, they agreed

to complete our statement with comments of a general regulatory nature (excessive current regulation, disproportionate emphasis on player protection and paternalistic state approach to regulation, nonsensical solutions to protect players through tax increases for operators, etc.) a few days after the previously set date. **All comments prepared and sent by us can be found here in Czech**. Deputy Kouba promised to discuss and settle the comments by the representatives of the MoF at a round table where the IFGR should also be present. This course was confirmed by the Deputy during a telephone conversation with Director Řehola, which took place last week. Let us hope that this will really happen and that the representatives of the Ministry will give us the opportunity to comment verbally on the settlement of our comments.

Then, the whole analysis will be passed on to the government, where it will be discussed by members of the government in order to fulfil the policy statement before the end of the election period. **The main conclusions and proposals to amend the Gambling Act or the Tax Act will therefore be a key basis, especially for the new government, which will emerge from the results of the October elections.**

ANNUAL REPORT ON LAST YEAR'S GAMBLING HAS ALREADY BEEN PUBLISHED

National Monitoring Centre for Drugs and Addiction has already published the official version of the annual report on gambling in last year, the draft of which we sent you some time ago. The report is a traditional summary of statistical data concerning the Czech gambling market, which are collected by the centre and provided mainly by the Customs Administration or the Ministry of Finance. The report also includes surveys carried out by the Centre or by cooperating professional facilities and agencies.

OPC FINED ANOTHER CITY FOR BAD LOCAL REGULATION

The Office for the Protection of Competition (OPC) imposed a fine of CZK 280,000 on the city of Lysá nad Labem for violating the Act on the Protection of Competition. According to the Office, the city committed a mistake when, in the period from 2012 to 2019, it had generally binding decrees No. 6/2011 and 7/2011 for the regulation of gambling on its territory, which stipulated a list of address places where gambling operation is permitted. According to the Office, the selection of these places was not based on objective, *non-discriminatory and previously known criteria*, and, therefore, there was an unjustifiable distortion of competition in the territory of Lysá nad Labem. Operators who could operate at permitted addresses were favoured. **However, this is still not a legally effective fine as the city filed an appeal against the decision of the Office.**

NEW AUTHORIZED PERSON TO PERFORM EXPERT ASSESSMENT ON THE CZECH MARKET

As of 2 July, the Swedish company Gaming Associates Europe AB has expanded the number of persons authorized for expert assessment and certification and rounded their number to ten. Gaming Associates Europe AB is accredited by Swedac for the certification of online gaming systems. The company is only partially authorized by the ministry, with regard to its focus only on the expert assessment of online gaming systems and gambling games. An up-to-date overview of all authorized persons can be found on the Ministry's website. According to this overview, however, the new authorized person has not yet started its activities in the Czech Republic.

NEWS FROM ABROAD

FINLAND TIGHTENED DAILY LIMITS

Finland is another in a series of countries that have responded to changes in the lifestyle of their people during the pandemic and has permanently tightened daily loss limits for "quick games". The Finnish Ministry of the Interior informed about it, stating that the daily limits are newly set at EUR 500 from the original EUR 1,000. "Quick games" are mainly casino games and slot machines. Although the daily limit has been halved, the monthly limit of EUR 2,000 remains the same. Finnish players such as the Czech ones have the opportunity to set their own limits but these cannot be higher than those that are maximally allowed.

Interior Minister Maria Ohisalo expects from the limits lowering that not only will the possible emergence of pathological gambling be prevented, but it could also prevent problems with over-indebtedness or existential problems for players.

FINANCIAL WATCHDOG FOCUSED ON MALTA

Panic in Malta – this can be a simple summary of the situation after the **Financial Action Task Force (FATF) included Malta on the so-called grey list of countries reckoning it needs to be paid "particular attention" to.** This is due to its weak measures to address the issue of money laundering, but also other financial areas. **Therefore, Malta is the first EU member state to be included in this list.**

The step follows a series of scandals that have concerned high-ranking politicians, officials, fears of cryptocurrency regulation and Malta's refusal to adopt a Europe-wide definition of sports betting.

The listing did not go unnoticed by local Prime Minister Robert Abel, who called the FATF decision "unfair" but insisted that the government fully respected the decision and would work with the FATF to address any shortcomings.

On the other hand, Finance Minister Clyde Caruana tried to alleviate the situation as he was convinced that there would be no shocking situations that could have any impact on the economy or public finances.

However, foreign economists have a different opinion. The fact that Malta is listed on the greylist and is expected to remain in it for at least a year **may lead to an outflow of investors and a shift of significant capital to investment-friendly and immaculate countries**. At the same time, it can have a negative impact on a number of areas, including gambling, especially in tarnishing its reputations. This is despite the fact that the regulator's representatives claim that gambling was not a reason for being included in the list.

Although significant harmonization has taken place in many areas, the example of Malta is also a warning to other Member States that the EU membership does not automatically mean avoiding certain sanctions. And if a country does not implement a proper and effective anti-money laundering regime, it may not avoid being sanctioned by the FATF.

Although the EU is considered successful in the fight against money laundering, it will also need to find a way to monitor the compliance and implementation of the AML by its members in accordance with FATF requirements in order to avoid further possible greylisting.

In order for Malta to get out of this situation, it has no choice but to "humble itself and go with the flow". In the case of gambling, it will probably be crucial for the country to abandon its veto on the definition of sports betting in the EU.

Malta opposed the definition in the Council of Europe's Convention on the Manipulation of Sports Competitions, also known as the Macolin Convention, which renders illegal *"any activity in the field of sports betting whose type or operator is not permitted under the applicable law of the jurisdiction where the consumer is loca-*

ted."

Malta argues that the above definition goes beyond the original scope of influencing the results of sports matches and fears that it could ultimately prevent all operators licenced by the Maltese regulator from operating games in other jurisdictions.

It is now entirely up to Malta how to approach this problem so that it is removed from the list as soon as possible.

MEASURES EASED IN ENGLAND

Prime Minister Boris Johnson announced the lifting of almost all restrictions and measures taken in connection with the Covid-19 pandemic. Among other things, the obligation to wear a mask or respirator in certain places or means of transport and to observe mandatory distances in England is cancelled. On the contrary, the measures will remain in force in Scotland, Wales and Northern Ireland, that is in Scotland at least until 9 August, and the governments of Wales and Northern Ireland will be debating a possible easing of measures in July.

The easing of measures is generally welcomed, especially by the organizers of motor racing and racing as there will be a massive increase in the number of spectators in the auditoriums. Nevertheless, representatives of associations and organizers do not rule out the need to maintain certain measures to ensure the safety of all visitors, employees as well as participating athletes.

The report on the easing was also welcomed by the Executive Director of the Betting and Gaming Council (BGC), Michael Dugher, who perceives it as a much-needed support for the economy.

In his opinion, this is particularly good news for gambling establishments and casinos and their employees, who have had to survive long months of forced closure and restricting measures. Although all remaining measures will be lifted, operators will continue to use sanitation, anti-Covid tools and solutions, in which they have already invested millions of pounds during the pandemic to ensure the safest environment for customers and employees.

Dugher believes that the British government should consider easing travel restrictions to help kick-start tourism. Secondly, it would also support gambling establishment and casino operators and economic recovery in this sector as well. And, as Dugher adds, *"London casinos alone contribute £ 120 million to tourism in the capital."*

BGC REQUESTS ESTABLISHMENT OF BRITISH OMBUDSMAN

The Betting and Gaming Council (BGC) has formally called on the government to set up, as part of the ongoing revision of the Gambling Act, an independent body to deal with consumer complaints, the so-called ombudsman for gambling.

This requirement highlights the commitment of BGC and its members to raising standards in our sector; they understand that the common denominator of all legal operators is to provide great entertainment to their customers, while ensuring an ever-safer environment and possible protection. BGC's activities in this regard have been publicly supported by Conor Grant, CEO of Flutter UK and Ireland, for whom the "customer first" commitment means ensuring that the customer could turn to someone independent in the event of something going wrong.

However, this is not the first attempt to establish an ombudsman. Already in 2019, the former deputy of the Labour Party, Tom Watson, tried to establish it. However, the professional public, especially the legal one, strongly questioned the usefulness of the Ombudsman, and, therefore, it was not established in the end. It will be interesting to see whether, in the current state and focus on self-regulation and greater consumer protection, the Ombudsman will eventually be set up.