

Gambling and fiscal security

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Abstract

The gambling industry is one of the fastest growing. Gambling is associated with illegal activities such as money laundering, tax evasion, drug distribution, terrorist financing and others that directly affect the national security of each country.

The study is theoretical in the context of the NRA's recently imputed powers to control gambling activity and is a study of the obligations of gambling promoters in relation to compliance. The article pays attention to the control carried out by the National Revenue Agency (NRA) over gambling activities, including through the implementation of anti-money laundering measures.

The purpose of the article is to acquaint the public with the powers of the revenue authorities in the NRA in their control actions in the performance of the obligations of the organizers of gambling games and to indicate the most common violations leading to a threat to the fiscal security of the country.

This article launches a study of judicial and administrative practice and limitation of the prerequisites for tax evasion or money laundering as a threat to the fiscal security of the state.

This study is the first of its kind and pays attention to effective tax control as a prerequisite for protecting national security.

In view of scarce court law and administrative practice, this material allows for future research on the subject.

Key words: gambling, fiscal security, income evasion.

Introduction

Among the world's economic sectors, the gambling industry is one of the fastest growing. This justifies the flexibility of companies and the speed with which they perceive and apply all developments in the technology. The industry will continue to develop, with expectations of even greater penetration of artificial intelligence.

Results and Discussion

Gambling – regulation, development and threats

In the European Union (EC), the incomes generated from gambling operators since 2021 are close to €100 billion. €26.3 billion. this year is expected to be 30 billion euro. Gambling incomes from online gambling was 23.2 percent regarding the whole gambling in all 27 countries part from the EU and income up from 49.2 percent from the global market.

In recent years, the gambling industry has evolved greatly. This is also felt by the budget income. According to data of the National Revenue Agency (NRA) in 2021 income from corporation tax amount to BGN 6 926 359 compared to amount BGN 976 809 for the previous year (increase of almost 7 times), and those from fees amount to BGN 165 484 565 compared to BGN 123 681 093. The proceeds from gambling fees are BGN 985.4 million. An important clarification is that gambling operators operating in Bulgaria on the one hand pay fees under the Gambling act, and those who are also registered in Bulgaria pay together with the fees and corporation tax (Business news).

Gambling is associated with illegal activities such as money laundering, tax evasion, drug

distribution, terrorist financing and others that directly affect the national security of each country. Strict regulation of this activity is necessary. Gambling can also lead to serious consequences, including the risk of addiction. In this direction, pursuant to Article 10a (2) of the Basic Regulation, the commission shall, in accordance with Article 10a (1) of the Basic Regulation, 4 of the budget of the Ministry of Youth and Sport provides funds to finance approved projects for youth activities. (Division No 1 of 29.09.2020).

The increasing number of commercial advertisements in the media and on video-sharing platforms promoting gambling activity are alarming the creation of gambling dependency among real and potential gamblers, especially in the so-called gambling industry. Regarding this, the NRA and the Electronic Media Council (EMC) signed a Memorandum of Cooperation on gambling advertising due to the need for cooperation and exchange of information between the NRA and the EMC, with a view to complying with the Gambling Act (GA) in the 'gambling advertising' section. which supervises under the Radio and Television Act. The regulatory operator and the NRA will monitor and identify negative practices and risks associated with media coverage of gambling activities (NRA and EMC).

Pursuant to Art. 13a, para 1 of the Gambling act may organize a traditional lottery, numerical lottery games, instant lottery, betting on the results of sports competitions and horse and dog races, betting games on random events and betting related to knowledge of facts and games organized online in a gaming casino through the Governance Enterprise "Bulgarian Sports Totalizer" to the Minister of Youth and Sports, in which the country hold the rights.

Gambling games, with the exception of charitable raffles, are services that can only be provided by persons who have the status of "trader", or by the country through the country enterprise "Bulgarian sports totalizer" (Art.14, paragraph 1 Gambling act). The country may carry out such activity only to support sports, culture, health, education and social affairs (Art. 4, para 1, item 3 H Gambling act). It follows that the organization of games of chance, including lottery games, is a specific commercial activity carried out by economic operators. Due to the inability in principle to conduct them by private persons in their capacity as GA and the related provisions affect only the economic activity of traders operating on the relevant market and those wishing to enter it. The Constitutional Court has noted in its case-law that the control of respect for social and economic rights, including the right to a free economic initiative, should consider their specificities and differences in civil and political rights. The rules on social and economic rights entail a wider margin of discretion in view of the country's available resources and the need for increased control over certain economic activities bearing economic, social, health and other risks, such as gambling. Regarding this account should be taken of the link between the regulation of social and economic rights with the state policy defined by the legislator and the legislative discretion in the allocation of public resources should be respected (Division No 1 of 29.09.2020 of the Constitutional Court of the Republic of Bulgaria, C.D. No. 8 / 2020).

Control activity of the revenue authorities in the NRA

With amendment of the Gambling act (SN number 69 of 04.08.2020) the legislator has inserted country supervision in the field of gambling and related activities to be carried out by the Executive Director of the NRA or an assistant executive director authorized by him.

From the analyze of Art. 17, paragraph 1 and paragraph 2 of the Gambling act, which govern the powers of the NRA and the Executive Director of the NRA, it can be concluded that the NRA has been entrusted with control functions over the activities of the organizers of games of chance, and the Executive Director of the Agency in his capacity as supervisory authority – powers of issue, withdrawal and termination of licenses for these activities.

The National Revenue Agency keep registers under Art. 20 of the Gambling act, available to all organizers of gambling activities and citizens on the agency's online website.

When carrying out the inspection, it should be considered that each license issued entitles to organize only the game or activity explicitly specified in it (Art. 13a, paragraph 1 of the Gambling act Gambling), a separate license is required for each type of gambling/object.

The revenue authorities of the NRA in carrying out checks on gambling operators monitor in addition to strict compliance with gambling legislation, but also carry out a full economic inspection and analysis of the activities of gambling companies in the field of tax legislation, to pay in full, the taxes and fees due to the country, as well as social security and contributions of employees in the industry (Judgment No 5175/31.05.2022 along Adm. D. No 1861/2022, V dep. on Supreme Administrative Court).

The control activity is carried out by signals and regularly – the organs of the NRA carry out on-the-spot and on documents of the persons who have been licensed under this law at the end of the first and every third year of the term of validity of the license.

The casino organizer is obliged to keep detailed records on paper and/or electronic form and to store information necessary for the state supervision of gambling carried out by the Executive Director of the NRA. The information shall be stored on paper and/or on a technical medium or as electronic documents.

To pay out profits over BGN 5,000 the participant requires a bank account to which the payment will be made. Documents certifying the payment made by bank transfer are stored in the gaming hall/gaming casino or in the organizer's accounting.

Next, a qualitatively new one is the control performed by the NRA over gambling activities, including through the implementation of anti-money laundering measures, in close interaction with the authorities of the State Agency "National Security" and the Ministry of Interior, complemented by the revenue agency. The instruction provides that the National Revenue Agency and the Specialized Administrative Directorate "Financial Intelligence" (SADFI) of the Government Agency for National Security (GANS) will together check the organizers of gambling games and the purpose is not to prevent attempts to launder money.

The verification of compliance with the requirements of the Anti-Money Laundering Measures Act and the Anti-Terrorist Financing Measures Act shall be carried out within the scope of the control procedure for compliance with the Gambling Act or, where not determined, the inspection shall cover the previous 3 months before the date of its assignment.

The most common violations by the persons checked are in the register under Art. 74, paragraph 1 of the Gambling act is not carried out correct identification of persons or do not maintain an up-to-date database.

Pursuant to Art. 74 paragraph 2 of the Casino's organizer is obliged to provide a system for continuous video control of the gaming tables, slot machines, staff, and participants in the games.

Conclusions

Future of gambling revenues, especially online bets, are certain to grow because online bets have many advantages and opportunities for consumers. All this leads to greater dangers of concealing revenue from gambling promoters, violations of the Anti-Money Laundering Act and the Anti-Terrorist Financing Measures Act and a threat directly to national security.

In view of the experience gained by the NRA in relation to the activity of licensing and supervision of gambling, it can be concluded that the changes made in 2020 are insufficient regarding the taxation of games of chance. Al. 6 and Art. 30, para. 7 of the ZS are vague and mutually exclusive (Judgment № 5125/31.05.2022 to Adm. № 2148/2022, V dep. on Supreme Administrative Court).

Therefore, legislative changes should be made concerning the taxation of gambling revenues, considering the overall economic situation in the country, digitalization in the financial sphere (Petev, B., pp. 56-59), as well as the expectations for economic development (Kolev, V., p. 33-36) of Bulgaria in the coming years.

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