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CHAMBERS GLOBAL PRACTICE GUIDES

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# Gaming Law 2022

Definitive global law guides offering comparative analysis from top-ranked lawyers

**Estonia: Law & Practice**  
**Estonia: Trends & Developments**  
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## Law and Practice

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## 1. Introduction

### 1.1 Current Outlook

#### Operators in the Estonian Market

Currently, there are around 30 licensed gambling operators in the Estonian market (both online and land-based). This number is not impressive but it needs to be seen in the context that Estonia is a small country (1.3 million inhabitants). Out of the licensed operators, there are some with a stable local presence (including land-based facilities), such as the listed Olympic Entertainment Group and Fenix Casino, but also some regional operators – such as Paf, Åland's (a partly self-governed part of Finland) publicly held organisation, NinjaCasino and CoolBet – with a strong focus on the Nordics and then, of course, the big international players. Out of the total of 25 online licences, ten have been issued to foreign legal entities.

#### Sector Developments

Carrying on from last year, the authors have noticed an increase in interest in Estonian online licences. The Estonian digital landscape attracts international companies due to the convenience of the e-residency programme, which allows for companies to be managed digitally from wherever there is an internet connection, and the wide range of digital services offered by the public authorities, as well as co-operation partners, including the regulator. The COVID-19 crisis hit the land-based business hard in the spring of 2020 and during the same period the online market grew more than the offline declined.

Professional advisers expect an increase in the online market in the upcoming years, following international trends. The land-based market is expected to remain the same, mainly due to the difficulties in achieving consent from the local municipalities.

#### Receipt of Gambling Tax

The receipt of gambling tax has increased significantly over the past year, the data for just the first half of 2022 being almost equal to that of the full year for 2021.

### 1.2 Recent Changes

#### Operators Returning to the Estonian Market

The number of issued licences in Estonia has varied greatly over the years. The reason has little to do with Estonian legislation but rather the legislation of competing jurisdictions. Some ten years ago, most operators located to Malta and left Estonia. Some of them are now looking into possibilities to return. The Nordic approach (straightforward and little fuss) of the Estonian regulator seems to be one important reason. International operators with Estonian licences are not only interested in the rather small market of Estonian players but, foremost, in the players from other EU countries where there is no local regulation in place yet, as well as unregulated markets. The Estonian digital level is also a factor that supports the attractiveness.

#### Increase in Sports Betting

During recent years, an increase in sports betting has been noticed. Of course, due to COVID-19, this line of business was on hold for a period of time, but it has revived. If, earlier, the main operating permit that was applied for was for games of chance, then now almost all operators in this market also have toto licences (sports betting). A significant trend that has made its way to the Estonian market is betting on esports and other virtual events. This has corresponded with the global rise in popularity for esports during COVID-19.

#### AML and Compliance Are Growing

Estonian banks are increasingly rigid in their KYC work and the gaming sector is looked upon

with some level of suspicion. As the AML laws and regulations become more and more strict, both for gambling operators and for banks, the compliance work at the operators requires more and more resources.

## Cryptogaming

Estonia is also known to be a crypto-friendly jurisdiction and there is an increasing international trend in cryptogaming. As long as the banking sector does not want to take part in the crypto business, the authors see no immediate development towards cryptogaming with Estonian licences. See also **12.5 Blockchain or Cryptocurrency**.

## 2. Jurisdictional Overview

### 2.1 Online

In Estonia, the following sectors are regulated and permitted: sports betting (defined as toto), bingo, casino, lotteries and poker. Please also see **3.2 Definition of Gambling** for types of gambling.

Social gaming and fantasy sports are not regulated by the law. Fantasy sports are mainly within a smaller group of friends for fun. There are no large platforms, such as those in the USA or the UK, where they can be played professionally for money.

Organising of gambling is prohibited if the prerequisite for determining the outcome of a game is to achieve a certain number of participants or bets, and the return of the full bet to the player is not guaranteed if the prerequisite is not achieved.

### 2.2 Land-Based

See **2.1 Online**.

## 3. Legislative Framework

### 3.1 Key Legislation

In Estonia, the following acts apply to the gambling sector:

- the Gambling Act;
- the Gambling Tax Act;
- the Advertising Act; and
- the Money Laundering and Terrorist Financing Prevention Act.

### 3.2 Definition of Gambling

According to the Gambling Act, Section 2, Subsection 1, gambling is a game that meets all the following criteria:

- it is a precondition for participating in a game that the player makes a bet;
- the player may win a prize as a result of the game; and
- the outcome of the game is partly or fully determined by an activity based on chance or depends on the occurrence of a previously unknown event.

There are four types of games in Estonia.

- Games of chance (games organised on gaming tables and gaming machines) – games in which the outcome depends on chance and that are played by means of a mechanical or electronic device or by mediation of the organiser of the game.
- Lotteries (bingo, etc) – games in which the outcome depends on chance, the prize pool constitutes up to 80% of the selling price of the circulation of the lottery tickets, and the outcome of the game is not determined more than three times per 24 hours or it is determined by opening the ticket field on the lottery ticket.

- Totos – games in which the outcome depends on the occurrence, non-occurrence or manner of the event predicted by the player, where the event on which the player is betting is beyond the control of the gambling operator. The winning of a prize depends on whether the bet turns out to be true or not and the amount of the prize depends on the amount of the bet and the winning coefficient determined before the making of the bet (betting) or percentage of the total amount of the bets as determined by the gambling operator, the number of people who bet correctly and the amount of their bets (totalisator).
- Games of skill (poker, etc) – games in which the outcome depends predominantly on the physical skills or abilities or knowledge of the player, and that are played by means of a mechanical or electronic device.

### 3.3 Definition of Land-Based Gambling

Land-based gambling is not specifically defined but this is the starting point of the legislation.

### 3.4 Definition of Online Gambling

Online gambling is considered a way of organising gambling. According to the Gambling Act, Section 5, Subsection 1, remote gambling (online gambling) is the organisation of gambling in a manner where the outcome of the game is determined by an electronic device and the player can participate in the game by electronic means of communication, including telephone, the internet and media services. Gambling is not considered remote gambling where electronic means of communication are used only for receiving bets, providing information about the outcome of the game or transferring a prize amount to the account of a player.

### 3.5 Key Offences

All offences are covered in Section 5 of the Gambling Act. The key offences and penalties are as follows (one fine unit is EUR4).

#### Violation of the Age Limit Established for Players of Gambling Games

A person under 21 years of age being present in a gaming location for games of chance or enabling a person under 21 years of age to play a game of chance or a game of skill organised as remote gambling, or enabling a person under 18 years of age to be present in a gaming location for a toto or enabling such person to play a toto, or enabling a person under 16 years of age to play the lottery is punishable by a fine of up to 200 fine units or detention. If committed by a legal person, the same act is punishable by a fine of up to EUR2,600.

#### Violation of the Requirement for Identification and Registration of Persons Entering a Gaming Location

Failure to identify or register persons entering a gaming location for games of chance by the organiser of the game of chance or violation of the requirements established for registration is punishable by a fine of up to 100 fine units. If committed by a legal person, the same act is punishable by a fine of up to EUR2,000.

#### Violation of the Rules of the Game and Deceit of a Player

Violation of the established rules of the game, deceit of a player and failure to submit the rules of the game to a player at the player's request are punishable by a fine of up to 200 fine units or detention. If committed by a legal person, the same act is punishable by a fine of up to EUR2,600.

## Violation of the Restrictions on the Participation of Persons Under 21 Years of Age in Gambling

A person under 21 years of age is punished for playing a game of chance or a game of skill organised as remote gambling or for being present in a gaming location for games of chance by a fine of up to ten fine units.

### 3.6 Penalties for Unlawful Gambling

The organisation of prohibited gambling is punishable by a fine of up to 200 fine units or detention. If committed by a legal person, the same act is punishable by a fine of up to EUR2,600.

The organisation of gambling by a gambling operator holding an activity licence without an operating permit or at a location not indicated in the decision on the issue of the operating permit, as well as organisation of gambling not indicated in the decision on the issue of the operating permit are punishable by a fine of up to 300 fine units. If committed by a legal person, the same act is punishable by a fine of up to EUR2,600.

### 3.7 Recent or Forthcoming Legislative Changes

The Gambling Act entered into force on 1 January 2009 and there have been only minor changes made to it. There are no pending amendments to the legislation.

## 4. Licensing and Regulatory Framework

### 4.1 Regulatory Authority

State supervision over the organisation of gambling is exercised by the Tax and Customs Board, which decides on issuing, refusing and revoking activity licences for the organisation of gambling and operating permits for gambling.

### 4.2 Regulatory Approach

The Estonian regulator, the Tax and Customs Board, is approachable and co-operative.

### 4.3 Recent or Forthcoming Changes

There are no recent or upcoming changes.

### 4.4 Types of Licences

In Estonia, licensing is a two-step process: first, the intended operator will be scrutinised when applying for the activity licence and then follows the application for an operating permit, whereby the actual organising of the gambling will be examined and assessed. The activity licence and operating permit must be applied for with regard to each type of gambling separately. See the types of gambling in **3.2 Definition of Gambling**.

Gambling must be the sole activity of the gambling operator. The organiser of gambling may engage in ancillary activities related to the organisation of gambling at the gaming site, including catering, currency exchange and the organisation of leisure and cultural events (only for land-based).

### 4.5 Availability of Licences

Both licences are issued by the Tax and Customs Board and are readily available after complying with the requirements of the law and submitting the documents and information necessary.

### 4.6 Duration of Licences

Activity licences are issued for an unspecified term and are not transferable.

An operating permit is issued for up to 20 years and it is not transferable. Operating permits for remote (online) gambling are issued for five years.

## 4.7 Application Requirements

The key application requirements are as follows.

- Activity licence – the purpose of the activity licence is to ensure that the company and the people related to the company are experienced in this field and have the funding needed to organise gambling. Documents proving the reliability and competence of the persons involved must be submitted (shareholders, management board members, supervisory board members, etc). All shareholders who own at least 10% in the gambling operator must disclose additional information and documents.
- Operating permit – the purpose is to assess whether the games to be provided are in compliance, all the necessary systems are up and running, and the documents comply with the provisions set by the law. This includes AML/KYC procedures, consumer protection and gaming rules, as well as the technical solution. A gambling operator must ensure that it has access to the list of persons that have self-restricted their playing of games, with the help of the Tax and Customs Board. Also, an electronic record-keeping and control system must be adapted to the gaming operator system.

The electronic record-keeping and control system is an electronic communications network connecting the gaming machines of the gambling operator or additional games of chance, or gaming equipment used for the organisation of remote gambling or toto. The gambling operator shall ensure the possibility of connecting the electronic record-keeping and control system with the information system of the Tax and Customs Board. This system shall ensure the registration and recording of data in a manner that enables calculation of the turnover of the

gambling operator and the percentage of the distributions made to players in the total amount of all bets for each gaming machine, each gaming table connected with the system and remote gambling at any moment of time. This is important from a gambling tax perspective.

## 4.8 Application Timing

The decision to issue an activity licence, or refuse to, must be made within four months of the receipt of all the necessary documents and information but not later than six months after receipt of the application. From the authors' practice, a well-prepared application may secure the licence within one month only.

As to step two, the operating permit, the decision shall be made within two months but not later than four months after receipt of the application for the operating permit. Again, a well-prepared application will result in a fast process.

## 4.9 Application Fees

The state fee for applying for an activity licence is set at EUR47,940 (games of chance), EUR31,960 (toto/sports betting) and EUR3,200 (games of skill).

The state fee for an operating licence is EUR3,200 (regardless of type).

The state fee for reviewing a lottery operating permit is EUR640.

## 4.10 Ongoing Annual Fees

There are no annual fees. Once the licence needs to be renewed, the same fees apply as for a new one.

## 5. Land-Based Gambling

### 5.1 Premises Licensing

For a land-based casino, you must obtain the written consent of the local municipality government for opening at a certain location. Such a location may not be situated together with preschools and childcare institutions, schools, youth organisations, etc. A gaming location for games of chance may only be situated in a separate building, a hotel, conference centre or recreational establishment, or in a business building or shopping centre and if there are no residential parts in the same building.

The consent for opening a gaming location for a game of skill is granted for up to 20 years, and the consent for opening a gaming location for a game of chance or toto is granted for 5 to 20 years.

### 5.2 Recent or Forthcoming Changes

As the local government must give its consent to the location, it is vitally important to have competent local advisers who know how to approach it in the best way. This topic can be sensitive and needs to be handled diligently.

## 6. Online Gambling

### 6.1 B2C Licences

A gambling operator is engaged in the organisation of gambling and needs a licence in order to engage in its activities. In practice, it means that Estonia does not regulate B2B licences, only B2C ones.

A gambling operator may transfer its activities aimed at organising gambling to another person only upon the written consent of the regulator. The Tax and Customs Board shall decide upon

granting the consent or refusing to grant the consent within 30 working days after receipt of an application.

### 6.2 B2B Licences (Suppliers, Software, Etc)

Please see 6.1 B2C Licences.

### 6.3 Affiliates

Please see 6.1 B2C Licences.

### 6.4 White Labels

The company that is organising the gambling and offering it to the Estonian market is the one that needs licensing. In the case of white labels operating under the licence of the white-label provider, there is no additional licensing; however, the licensee needs to keep the regulator informed regarding the trade marks and websites used by the operator.

### 6.5 Recent or Forthcoming Changes

There are no recent or upcoming changes.

### 6.6 Technical Measures

For gambling operators that have no activity licence or operating permit in Estonia, the Estonian Tax and Customs Board implements measures to restrict gaming. There is a list of domain names for blocked illegal remote gambling servers ([HAMPI](#)). There are over 1,600 sites listed and the list is constantly updated.

## 7. Responsible Gambling (RG), Also Known as Safer Gambling (SG)

### 7.1 RG Requirements

HAMPI contains a list of persons that have self-restricted their playing of games. The purpose of maintaining the list is to provide persons with

an opportunity to limit their gambling in order to mitigate the potential negative social and economic consequences of gambling to the persons themselves and to society. A person may choose which type of game they are going to restrict. It is not possible to file a request for setting restrictions for others: for example, a family member or a friend. It is possible to set restrictions on games of chance (land-based and online), toto and classical lotteries. The restrictions do not apply to instant lottery (ie, scratch lottery tickets). The holder of the list of persons with restrictions on gambling is the Estonian Tax and Customs Board.

Before allowing a player to play a game for the first time, the gambling operator shall conspicuously present the opportunity to set an upper limit for the amount that the player will be ready to lose as a result of gambling with the given operator during a week or month. An operator is prohibited from accepting bets that may increase the loss to a player beyond the limit set by the player.

The gambling operator must ensure that a clear warning is presented to the player regarding the addictive nature of gambling and that a reference is made to the contact details of organisations that assist gambling addicts.

The player must be constantly shown clear information about how long they have been playing and must be able to see the details of their bets and winnings.

## 7.2 Recent or Forthcoming Changes

There are no recent or upcoming changes.

## 7.3 Gambling Management Tools

In addition to HAMPI (see 7.1 RG Requirements), the gaming operators may also propose

precautionary measures. Some of the key management tools used by the gambling operators are as follows:

- timers;
- reality checks;
- timeouts;
- self-assessment tests; and
- supportive insurance (developed to prevent problem gaming by helping customers to get the professional counselling they need).

## 8. Anti-money Laundering (AML)

### 8.1 AML Legislation

The relevant legislation is the Estonian Money Laundering and Terrorist Financing Prevention Act from 2017 with amendments. The legislation has implemented the Fifth Anti-Money Laundering Directive.

The supervisory authority in this respect is the Financial Intelligence Unit, which is a governmental authority under the Ministry of Finance. There are no guidelines issued specifically for the gambling sector.

The Financial Intelligence Unit has the right to forward data that it has registered, as well as analyses and assessments, to the Tax and Customs Board for proceedings related to a gambling activity licence.

### 8.2 Recent or Forthcoming Changes

There are no recent or upcoming changes.

### 8.3 AML Requirements

Following the Fifth Anti-Money Laundering Directive, the Money Laundering and Terrorist Financing Prevention Act requires gaming operators as obligated entities to be diligent, to know

the identity of their customers, to identify politically exposed persons (PEPs), to map their own risk appetite and implement procedural rules for KYC and AML, including monitoring obligations and to report suspicions or unusual transactions.

In addition to the general rules, a gambling operator is required to apply due diligence measures at least upon the payment of winnings, the making of a bet or on both occasions where the sum given or receivable by the customer is at least EUR2,000.

## 9. Advertising

### 9.1 Regulatory/Supervisory Agency

The supervisory agency is the Estonian Consumer Protection and Technical Regulatory Authority.

### 9.2 Definition of Advertising

Advertising means information that is made public in any generally perceived form for a charge or without charge for the purpose of increasing the provision of services or the sale of goods, promoting an event or directing the conduct of a person in the public interest (Advertising Act, Section 2 (1), Subsection 3).

### 9.3 Key Legal, Regulatory and Licensing Provisions

Following the Advertising Act, Section 292:

- the advertising of gambling shall not contain an incitement to participate in gambling or visit a gaming location or information that may suggest that gambling contributes towards social success; and
- the advertising of gambling shall include the textual warning (in Estonian): “*Tähelepanu! Tegemist on hasartmängu reklaamiga. Hasartmäng pole sobiv viis rahaliste probleemide*

*lahendamiseks. Tutvuge reeglitega ja käituge vastutustundlikult!*” (“Attention! This is advertising of gambling. Gambling is not a suitable means for solving financial problems. Examine the rules and behave responsibly!”) The warning shall, given ordinary attention, be noticeable, understandable and clearly distinguishable from other information.

### 9.4 Restrictions on Advertising

The following restrictions stipulated in the Advertising Act are relevant.

Advertising of gambling, a gaming location or an organiser of gambling (“advertising of gambling”) is prohibited if the organiser of gambling has no operating permit required under the Gambling Act.

Advertising of games of chance is prohibited except:

- on the premises where a game of chance is organised;
- on board a watercraft or aircraft used for international carriage of passengers;
- in the building of a passenger terminal of an airport or port that provides regular international services;
- in a hotel where gaming premises for games of chance are located;
- on the website of an organiser of games of chance; and
- advertising communicated by post, email or phone, provided that the client has subscribed to it, it is communicated only to the client’s own postal or email address, or the telephone number used by the client and the client is able to terminate the communication of advertising at any time by notifying the organiser of the games of chance of one’s wish.

Advertising of toto is prohibited:

- in and on the buildings and territories in the use of preschool childcare institutions, basic schools, upper secondary schools, vocational educational institutions, hobby schools, permanent youth camps and youth project camps, and in close proximity thereof; on websites directed at children; and at a place and during the time of holding an event that is mostly directed at children, and on the tickets for such event;
- on television and radio programmes;
- on the front and back covers of newspapers or magazines, unless published together with the sponsor's announcement; and
- as outdoor advertising, unless published together with the sponsor's announcement.

Advertising of games of skill is prohibited:

- in and on the buildings and territories in the use of preschool childcare institutions, basic schools, upper secondary schools, vocational educational institutions, hobby schools, permanent youth camps and youth project camps, and in close proximity thereof; on websites directed at children; and before or during television and radio programmes that are mostly directed at children;
- on the front and back covers of newspapers or magazines, unless published together with the sponsor's announcement; and
- as outdoor advertising, unless published together with the sponsor's announcement.

Advertising of lotteries is prohibited in and on the buildings and territories in the use of preschool childcare institutions, basic schools, upper secondary schools, vocational educational institutions, hobby schools, permanent youth camps and youth project camps, and in close proximity

thereof; on websites directed at children; before or during television and radio programmes that are mostly directed at children; and at a place and during the time of holding an event that is mostly directed at children, and on the tickets for such event.

## 9.5 Sanctions/Penalties

### Advertising Act, Section 33 – Violation of General Requirements for Advertising

The placing, producing or publicising of advertising that violates the general requirements for advertising is punishable by a fine of up to 300 fine units. If committed by a legal person, the same act is punishable by a fine of up to EUR10,000.

### Advertising Act, Section 34 – Violation of Prohibition on Advertising of Goods and Services

The placing, producing or publicising of advertising that ignores the prohibition on advertising of goods and services is punishable by a fine of up to 300 fine units. If committed by a legal person, the same act is punishable by a fine of up to EUR50,000.

## 9.6 Recent or Forthcoming Changes

There are no recent or upcoming changes.

# 10. Acquisitions and Changes of Control

## 10.1 Disclosure Requirements

A qualifying holding in a gambling operator is any direct or indirect holding in the share capital of a company organising gambling that represents 10% or more of the share capital of the company, or all rights related thereto, or of the voting rights in the company, or that makes it possible to exercise a significant influence over the man-

agement of the company in which that holding subsists. Before acquiring a qualifying holding in a gambling operator, or increasing such holding so that its proportion in the share capital of the gambling operator, or all rights related thereto, or votes represented by shares will exceed 20, 30 or 50%, a person shall submit to the Tax and Customs Board data about the size of the holding to be acquired and additional information and documents regarding the acquirer.

## 10.2 Change of Corporate Control Triggers

Please see **10.1 Disclosure Requirements**.

## 10.3 Passive Investor Requirements

Passive investors are treated the same way as active ones.

## 11. Enforcement

### 11.1 Powers

The Tax and Customs Board may revoke an activity licence if the gambling operator and its platform do not meet the requirements set by the law. For example:

- the holder of the activity licence has organised gambling without an operating permit for organising gambling;
- the holder of the activity licence has committed an intentional violation of tax law; or
- incorrect information has been knowingly submitted upon the application for the activity licence.

The invalidity of an activity licence renders all the operating permits, issued to the same gambling operator for organising gambling of the same type, invalid. The person whose activity licence has been revoked shall close down all gaming

locations of the same type of gambling and stop making the same type of gambling available within three days after the day of revocation of the activity licence.

An operating permit can be revoked if, for example:

- the gambling operator has not engaged in organising gambling at the location indicated in the decision for over a whole running year without good reason; or
- the gambling operator has repeatedly violated the regulation governing the advertising of gambling or the gaming location.

### 11.2 Sanctions

Please see **11.1 Powers**, **3.5 Key Offences** and **3.6 Penalties for Unlawful Gambling**.

### 11.3 Financial Penalties

The proceedings in the Estonian Tax and Customs Board are not open to the public and they do not publish statistics.

The public statistics available for 2021 in Estonian Consumer Protection Board (consumer protection and marketing) does not reflect gambling disputes at all, which means that there are very few of them, if any. They also keep a “blacklist” of companies that do not comply with decisions made by the Consumer Protection Board: as of the beginning of October 2022, no licensed gambling operator has been entered on that blacklist.

### 11.4 Personal Sanctions

Please see **3.5 Key Offences** and **3.6 Penalties for Unlawful Gambling**.

## 12. Recent Trends

### 12.1 Social Gaming

More and more companies are organising consumer games online, mainly on Facebook. Consumer games are aimed at promoting the goods and/or services of a company and usually a prize or a certain type of credit can be won by the consumer. Consumer games are not regarded as gambling. However, compliance with consumer protection and advertising legislation is important, as the Estonian Consumer Protection and Technical Regulatory Authority exercises supervision over this. Special attention should be paid to when consumer games are directed at children, elderly people or other more vulnerable groups of people.

Recently, the Estonian Consumer Protection and Technical Regulatory Authority has drawn more public attention to the threats related to social gaming. In particular, the Authority has pointed out that when social gaming is organised in Facebook or other social media channels, the organisers often breach advertising and consumer protection obligations. The most common violations include the following:

- incomplete game rules;
- making amendments to game rules in the middle of the game without giving notice;
- not giving awards to winners; and
- not communicating in Estonian with Estonian consumers.

### 12.2 Esports

Esports are trending among Estonian players. Since this area is not clearly regulated (esports are regarded mainly as games of skill), there have been discussions as to whether it needs separate legislation, and if esports should be considered as games at all or rather as sport.

This is therefore a new and interesting industry where the authors expect changes in the legislation in the near future.

### 12.3 Fantasy Sports

Betting on fantasy sports has become very popular in recent years and continues to grow rapidly. It is expected that more operators will offer this service and therefore there will be changes to the regulation as well.

### 12.4 Skill Gaming

No information is available in this jurisdiction.

### 12.5 Blockchain or Cryptocurrency

Cryptogaming is growing internationally and probably also on the Estonian market. However, there is no gaming operator licensed in Estonia that offers cryptogaming, the reason being that the Estonian banks are very reluctant to onboard companies with crypto in their business model. As Estonia is considered a crypto-friendly market and there are many fintech start-ups that have identified these problems, the market should soon be able to handle AML/KYC with crypto players so that the AML laws can be upheld and thereby allow for licensed cryptogaming in Estonia.

## 13. Tax

### 13.1 Tax Rate by Sector

Estonian gambling tax is paid by the gambling organiser. The period of taxation is a calendar month. The tax rates of gambling tax are the following:

- EUR300 per gaming machine used for the organisation of games of chance and 10% of the amount received from the bets made on the gaming machines used by the gam-

- ing operator for the organisation of games of chance, less winnings;
- EUR1,278.23 per gaming table and EUR31.95 per gaming machine of skill;
  - when organising a lottery, the gambling tax rate is 18% of the amount received from the sale of lottery tickets;
  - when organising a commercial lottery, 18% of the prize fund of the commercial lottery, if the value of the prize fund exceeds EUR10,000;
  - in the case of remote gambling, toto and games of chance and skill, the rate of the gambling tax is 5% of the amount received from the bets made, less any winnings;
  - when organising a gambling tournament as a tournament, the gambling fee rate is 5% of the amount received from the participation fees of the gambling tournament, from which the part of the prize fund received has been deducted;
  - when organising a gambling tournament as a round game, the gambling tax rate is 5% of the amount received from the participation fees of the gambling tournament; and
  - when organising a gambling tournament as a tournament and a round as a remote gambling tournament, the gambling tax rate is 5% of the amount received from the participation fees of the gambling tournament.

Gambling tax is paid into the state budget, where it is distributed among ministries in accordance with the Gambling Tax Act. Declarations are submitted electronically. As of writing this guide, there is a draft law in the Riigikogu that would change the distribution of the revenues from gambling tax to be more flexible. Whereas previously the law directly stated what proportions of the tax would be allocated to specific cultural institutions, the proposed changes would mean that the tax is distributed directly to the general revenues of the Estonian state.

## 14. Anticipated Reform

### 14.1 Anticipated Reform

Currently, no reforms are expected.

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## Trends and Developments

### Contributed by:

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### General Thoughts

The gambling sector in Estonia has enjoyed a relatively calm period over the past number of years from a regulatory point of view. The general rules and laws surrounding gambling in Estonia have not changed, with the only amendments being to the use of the revenues from collecting gambling tax. However, this obviously has no effect on the day-to-day operations of gambling operators.

A relative calm is not always what is needed, though. The Estonian Gambling Act has been in place with essentially no changes for well over a decade now. Whilst the status quo works for traditional casinos (online or land-based) and betting sites, it inevitably completely fails to take into account any innovation that may bring about new ways consumers interact with the gambling sector.

If, or when, novel ideas, such as online casinos in a virtual world, make their way to the Estonian market, it will certainly be a challenge for the gambling operators, the regulator and professional advisers to find a way to fit new ideas into the existing framework. As of now, we are unaware of any proposals or lobbying with the legislator in Estonia for updating the gambling regulations.

All that being said, the regulative landscape seems to be acceptable for the traditional market players (mostly) providing online gambling opportunities. The possibly outdated laws are at the same time quite laconic and do not restrict mobile gambling or betting on esports, for exam-

ple. Therefore, there might not be much impetus from the current stakeholders to demand any substantial change.

### Emphasis on Combating Financial Crime

The main regulator for gambling operators in Estonia is the Tax and Customs Board. However, gambling operators are also under the supervision of certain other public institutions. Most notably, in recent times, that includes the Estonian Financial Intelligence Unit (FIU).

The FIU is the supervising body in Estonia responsible for making sure that obliged entities follow the necessary anti-money laundering rules and guidelines. Estonia has been saddled with certain money laundering scandals in the not too distant past and ever since then the FIU and the Financial Supervision and Resolution Authority have taken a step forward in combating financial crime in the Estonian market. This all includes supervision over gambling entities which are considered obliged entities under Estonian and European AML laws.

The FIU in Estonia has increased its attention towards the gambling operators licensed in Estonia. This means that the internal rules and procedures of gambling operators are reviewed more closely to make sure that the due diligence and risk assessment measures are sufficient to effectively combat financial crime that is undoubtedly present in the gambling sector. Gambling operators are expected to identify and verify their clients and data presented to them, monitor the business relationship and understand their clients' profiles; and, of course,

report any possible cases of money laundering or terrorist financing to the FIU.

It is safe to say that AML has not been a priority for the majority of gambling operators in the past. At best, the operators rely on information gathered by their respective payment service providers for customer identification but truly monitoring their clients and understanding their profiles as players is something that requires a lot of resources.

Seemingly, under the watchful eye of the FIU, gambling operators must now join the general struggle against financial crime together with all other financial institutions, banks, payment service providers, etc. It is completely undeniable that the gambling sector has attracted those hoping to take advantage of its occasionally lax approach to combating financial crime. This is especially the case in unregulated jurisdictions.

Gambling operators in Estonia must now be ready for their practices to be more closely scrutinised and understand that their tasks and obligations deriving from AML laws are there for a reason and are not to be taken lightly. Even if this has an effect on gambling operators' profits, it will be a small price to pay for a more secure and robust approach to financial crime.

It remains to be seen what impact this will have on the gambling sector in Estonia. It is unlikely that any market players will be forced to leave Estonia or even significantly change their business practices. But everyone should be ready for more oversight from the regulator and a requirement for more diligence from the companies themselves.

Potentially what this could lead to is a more risk-averse approach in accepting players and

payment methods. Geographical risk is very real, and it would be naïve to think that gambling operators should or even can treat different players from different countries equally. Additionally, there have been attempts to introduce new methods for accepting payments. Certain operators have allowed players to make deposits in virtual currencies in the hope of diversifying payment streams for their clients, with the underlying goal, as always, being bringing new players on board. Now with the everlasting, perhaps eternal, crypto winter upon us, there is the very real question of whether it makes sense on a business level to allow crypto payments.

On the one hand, cryptocurrency is a very different type of payment solution, which means that it requires a different type of IT infrastructure or an additional third-party service provider to manage. Both options obviously mean substantial additional investments. A downturn in the popularity and hype surrounding cryptocurrencies will inevitably lead to less players wanting to use them for payments, raising the question of the economic feasibility of maintaining the option for allowing payments in virtual currencies.

If you add to that the additional risk that virtual assets have failed to shed, then the thought process of whether to accept virtual currencies may lean even more to one side. Risk mitigation is always expensive and sometimes it just makes sense to not introduce certain risks in the first place.

### **More Thorough Background Checks**

On a similar vein, the regulator in Estonia has increased its diligence efforts when it comes to vetting and conducting background checks on the persons involved with gambling operators. This includes the management board members/directors, shareholders and UBOs.

Persons who wish to enter the Estonian gambling market have to be ready to show their capability and trustworthiness to manage a company operating in a regulated field. The regulator also conducts its own more thorough background checks.

In practical terms, this means that the timeframe for applying for a gambling licence in Estonia has increased slightly.

## Market Trends

Certain conclusions can be made from looking at the statistics of gross gaming revenue, bets and gambling tax summarised from the reports submitted by gambling operators.

Firstly, there is a continued increase in the number of licensed online casinos on the Estonian market. That number had been fairly stagnant for a number of years but suddenly in 2021 there was a significant uptick that has continued in 2022. We speculated last year that this was due to Malta making its way onto the grey list of jurisdictions under increased monitoring by the Financial Action Task Force (FATF). This made it quite complicated for Maltese gambling operators to engage with payment service providers and caused them to look for alternative jurisdictions in which to set up shop. It is possible that the continued increase of online casinos in Estonia in 2022 is an aftershock of companies leaving Malta and it remains to be seen if this continues, especially given that Malta is no longer on FATF's grey list.

The bets received by online casinos from players almost doubled from 2020 to 2021. The data for just the first half of 2022 is almost equal to that of the full year of 2021. In other words, it is likely that bets made with Estonian gambling operators will double year-on-year for the second time in a row. This shows that there was significant room for growth on the Estonian market, which is now being properly tapped into.

At the same time, traditional land-based casinos have not reached the levels shown in pre-COVID times. During the COVID-19 restrictions, it was understandable that the revenues of casinos decreased as they were either completely shut or had to limit their operations significantly. Now that the restrictions have been raised, it seems that players have not found their way back into the casinos and are potentially preferring online gambling options.

In terms of totems (ie, sports) betting, the sum of bets made steadily increased in the years leading up to 2019. In 2020, the sum of bets fell quite drastically. Now the numbers are slowly crawling back to pre-COVID levels, with the preliminary data from the first half of 2022 showing that the year 2022 will most likely surpass 2019 in that regard. The data for totems includes both online and traditional betting, which means that the COVID-19 pandemic certainly had an effect as casinos were limited in their operations and, of course, also the actual games the betting was made on.

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