
CHAMBERS GLOBAL PRACTICE GUIDES

Gaming Law 2024

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Belgium: Law & Practice

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Belgium: Trends & Developments

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Law and Practice

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broad regulatory expertise and wide experience in gaining and, if necessary, enforcing market entry. The team also provides day-to-day operations support to its gaming clientele. This covers a wide variety of areas, including sponsorship deals, advertising, due diligence, acquisitions and divestments, IP, joint ventures and partnerships, data transactions, and consumer complaints litigation. The gaming team is fully integrated into Edson's core practice areas.

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1. Introduction

1.1 Current Outlook and Recent Changes

Since 2011, it has been an essential characteristic of Belgian gambling policy that online gaming licences can only be obtained by a company holding an offline licence. In a noteworthy judgment of 28 February 2018 concerning Hungarian gambling legislation, the CJEU held that a restriction reserving access to the online gambling market to casino operators situated on national territory is disproportionate and therefore contrary to the EU freedom to provide services.

Amended Gaming Act

In 2019, the Belgian legislature substantially amended the country's most important piece of gambling legislation, the Federal Act of 7 May 1999 regarding games of chance, wagers and protection of the players (the "Gaming Act") (see **3.1 Key Legislation**). The Gaming Commission was given the power to prohibit bets if the fairness of the event cannot be guaranteed or where certain betting mechanics are considered prone to fraud.

The following are among the important new rules for betting shops.

- Betting shops must sign an agreement ("covenant") with the municipality in which they are established. That covenant must determine the address of the betting shop, its opening and closing hours, its opening and closing days, and the "conditions" under which it can be operated. The requirement to have such a covenant has also become a condition for obtaining an F2 licence (see **4.4 Types of Licences**).

- Betting shops are now obliged to keep all data related to their gaming machines in a permanent establishment in Belgium.
- An undertaking that wishes to organise bets on horse races must obtain the newly created F1P licence. Only the holders of an F1 licence can obtain an F1P licence. The F1P licensing conditions have been set in a Royal Decree.

In 2024, the Gaming Act was once again substantially amended. The main changes are as follows:

- A minimum age of 21 years has been established for participation in all games of chance, including betting.
- Different categories of games of chance (such as online casino games, online slots, and online bets, each offered under distinct gambling licenses) can no longer be offered on the same website; they must now be hosted on separate websites.
- It is now prohibited to use the same player account to play games of chance operated under different licenses ("split accounts").
- Transactions between different player accounts are also now prohibited.
- Redirecting players to or exposing them to games of chance under a different license is now forbidden.
- Offering bonuses for online games of chance has been banned. The Gaming Act now specifies that "free participation in games, gaming credits, and any form of incentive offered to influence player' gaming behaviour or to attract or retain players" can no longer be provided.

Powers of the Gaming Commission

The Council of State has had the opportunity to clarify the scope of the Gaming Commission's power. In a judgment of 12 March 2019,

the Council of State held that the Gaming Commission is not allowed to exercise “regulatory power”, which the Gaming Act reserved for the executive power. On this basis, the Council of State annulled the passage of two informal notices by the Gaming Commission, in which the term “newspaper shop” was defined as premises that are eligible to obtain an F2 licence.

Recent Changes

Following the amendments in 2019, the Gaming Act was amended twice in 2024. In addition, a Royal Decree of 27 February 2023 has introduced very strict rules on advertising for games of chance (see **9.3 Key Legal, Regulatory and Licensing Provisions**).

2. Jurisdictional Overview

2.1 Online

Offering online games of chance and bets requires a licence. There are three categories of online gaming licences:

- an A+ licence for online casino games;
- a B+ licence for online arcade (dice) games; and
- an F1+ licence for online bets.

As a general rule, the Gaming Act stipulates that an online licence holder (A+, B+ or F1+) can only operate games of chance “of the same nature” as those offered offline. An F1+ licence holder can offer online bets and an A+ licence holder has the right to commercialise online casino games. The National Lottery holds the monopoly on offering online lotteries.

2.2 Land-Based

Offering land-based games of chance and bets requires a licence. There are five categories of land-based gaming licences:

- an A licence for casinos;
- a B licence for gaming arcades;
- a C licence for bars;
- an F1 licence for organising bets; and
- an F1P licence for organising bets on horse races.

Holders of an A, B or C licence can offer explicitly enumerated games of chance and F1 licensees can commercialise all (sports) bets. But bets on horse races have been more strictly regulated. Certain bets are – or can be – prohibited.

Betting

As previously mentioned, the holder of an F1 licence can commercialise (sports) bets. Bets can be organised on sports events and non-sporting events. It is prohibited to organise bets on events or activities where:

- they are contrary to public order or morality;
- the outcome is known;
- most of the participants are less than 21 years old; or
- the uncertain act has already occurred.

The Gaming Commission can prohibit bets in two specific circumstances:

- where the fairness of the event on which a bet is organised cannot be guaranteed; and
- where it considers that specific bets are prone to fraud.

The Gaming Act explicitly lists which bets on horse races can be offered.

Live betting is authorised, insofar as the uncertain act has not already occurred.

Poker

The Gaming Act itself does not mention poker specifically. However, poker will usually qualify as a game of chance (see **3.2 Definition of Gambling** for the definition of a game of chance), unless it is a free poker game. Under specific conditions, two types of gaming establishments can offer poker:

- casinos that operate under licence A as a class I gaming establishment; and
- gaming arcades that operate under licence B as a class II gaming establishment.

Bingo

Bingo is a table game that may be offered in a casino (class I gaming establishment). In addition, bingo machines are also allowed in class III gaming establishments (bars) – for which C licences are required. Bars are premises where drinks are sold to be consumed on the spot and where no more than two automatic machines are allowed (bingo and one-ball).

Casino

A Royal Decree of 19 July 2001 lists the games of chance that can be offered in casinos (class I gaming establishments). These games are subdivided into two categories:

- table games (eg, baccarat, big wheel, blackjack, poker, chemin de fer, craps, mini punto banco, midi punto banco, maxi punto banco, French roulette, American roulette, English roulette, sic bo and bingo); and
- automatic games (eg, reel slot-type games, video slot-type games, Wheel of Fortune-type games, horse races with several terminals

where at least 12 players can play, keno-type games and interactive poker games).

Casinos can therefore offer poker both as a “table game” and as an “automatic game”. They also have the right to organise one poker tournament per year, in close co-operation with the Gaming Commission.

Gaming Machines

As previously mentioned, casinos have the right to commercialise certain gaming machines. In addition, a Royal Decree of 26 April 2004 lists the gaming machines that can be offered in gaming arcades (class II gaming establishments) and these can be divided into two categories – namely, automatic games without players’ cards and automatic games with players’ cards. The category of automatic games without players’ cards contains the following five types of games:

- blackjack;
- horse bets;
- dice games;
- poker games; and
- roulette.

Interactive poker is currently the only game of chance that class II gaming establishments can offer as an automatic game with players’ cards.

Bars having a C licence (class III gaming establishments) can have a maximum of two gaming machines (bingo and one-ball) and two “automatic gaming machines with very limited stakes” (also called “Article 3.3 gaming machines”). A recent legislative proposal intends to change the above numbers, by limiting the overall number of gaming machines (bingo, one-ball or machines with very limited stakes) to two (as opposed to the previous four).

Lotteries

Article 1 of the Lotteries Act (see **3.1 Key Legislation**) states that all lotteries are prohibited. There are nevertheless certain limited exceptions to this general prohibition. Furthermore, the National Lottery has been granted a monopoly on offering public lotteries, which should be offered “in the general interest and in accordance with commercial methods”.

3. Legislative Framework

3.1 Key Legislation

The regulatory framework for games of chance and lotteries in Belgium consists of a number of laws:

- the Gaming Act – this is the most important law for private operators and was amended in 2010 to adopt a strict licensing regime for online games of chance and bets;
- the Federal Act of 31 December 1851 regarding lotteries (the “Lotteries Act”); and
- the Federal Act of 19 April 2002 to rationalise the functioning and the management of the National Lottery (the “National Lottery Act”).

3.2 Definition of Gambling

Article 2, Section 1 of the Gaming Act broadly defines a game of chance as “any game in which a stake of any kind is committed – the consequence of which is either loss of the stake by at least one of the players or a gain of any kind for at least one of the players or organisers of the game – and in which chance is an even ancillary element in the course of the game, the designation of the winner or the determination of the gain”.

A “game of chance” therefore requires the presence of:

- a game;
- a stake of any kind;
- a loss or a gain; and
- a minimal degree of chance that determines the outcome of the game, as well as the winner or the gain.

Article 2, Section 5 of the Gaming Act defines a “bet” as a specific subcategory of games of chance “in which each player wagers an amount that generates a gain or loss that does not depend on an act of the player, but depends on the realisation of an uncertain event happening without the intervention of the players”. The Gaming Act explicitly distinguishes between:

- “totaliser” or mutual betting (in which “an organiser acts as the intermediary between various players who play against each other and the bets are collected and distributed among the winners, after deduction of a percentage to cover the taxes on gambling and betting, the costs of the organisers and the profits they gain from it”); and
- “odds betting” (in which “a player places stakes on the result of a certain act, the amount of earnings is determined according to fixed or conventional odds, and the organiser is personally liable to pay winnings to players”).

Free games do not qualify as games of chance under the Gaming Act, as they do not involve any kind of stake.

The Gaming Act explicitly excludes the following games of chance from its scope of application:

- sports games;

- games in which the player can only win up to five additional plays (free of charge); and
- the following games with very limited stakes that can only result in a gain of low monetary value:
 - (a) card, board and parlour games played outside class I and II gaming establishments;
 - (b) games operated in attraction parks or by industrial fairgrounds – for example, in connection with carnivals and trade fairs; or
 - (c) games organised occasionally (ie, not more than four times per year) by:
 - (i) a local association in the context of a particular event;
 - (ii) an association with a social or charitable purpose; or
 - (iii) a non-profit association for the benefit of a social or philanthropic project.

In addition, the Gaming Act explicitly states that it does not apply to lotteries (within the meaning of the Lotteries Act and Articles 301-303 of the Belgian Criminal Code) or to public lotteries and certain games referred to in the National Lottery Act.

A lottery is any transaction offered to the public that is meant to procure a gain by means of chance (Article 301 of the Belgian Criminal Code). A lottery requires that the loss or gain is exclusively determined by chance and without any active involvement or intervention from the player, regardless of the player's skill. There is, however, no requirement that the player commit a stake. As a consequence, free transactions may also qualify as a lottery.

3.3 Definition of Land-Based Gambling

There is no separate definition of “land-based” games of chance. The general definition of a “game of chance” applies.

3.4 Definition of Online Gambling

Online games of chance are games of chance offered via an “instrument of the information society”. An instrument of the information society is defined in Article 2, Section 10 of the Gaming Act as “electronic equipment for processing (including digital compression) and storing data that is entirely transmitted, conveyed and received by wire, radio, optical means or other electromagnetic means”.

3.5 Key Offences

The Gaming Act contains a very broad prohibition clause. Not only is it prohibited to “operate in any place, in any form and in any direct or indirect manner, games of chance or gambling establishments without a licence” (Article 4, Section 1), but (as per Article 4, Section 2) it is also prohibited to:

- participate in illegal (ie, offered without a licence) games of chance;
- facilitate the operation of illegal games of chance or gaming establishments;
- advertise illegal games of chance or gaming establishments; or
- recruit for illegal games of chance or gaming establishments if it is well known that the game of chance or gaming establishment is not authorised under the Gaming Act.

Players are also banned from participating in a game of chance if they can have a direct impact on the result (Article 4, Section 3 of the Gaming Act).

All these acts are punishable with criminal sanctions.

3.6 Penalties for Unlawful Gambling

The operation of illegal games of chance or gaming establishments can be sanctioned with a criminal fine of between EUR208 and EUR960,000. Previously, a prison sentence could also be imposed. However, this provision was abolished by the Act of 7 May 2024, which came into effect on 1 June 2024. Since most violations are committed by legal entities, the legislature has decided to increase the maximum fine to EUR960,000 under the same Act.

A criminal fine ranging from EUR208 to EUR576,000 will be imposed on persons found guilty of:

- participating in and facilitating the operation of illegal games of chance or gaming establishments; or
- advertising or recruiting for illegal games of chance or gaming establishments.

In cases of recidivism or where the infringement involves a person younger than 21 years, these sanctions can be doubled.

Any person participating in any game of chance in which, by its nature, they could have a direct influence on the result could face a criminal fine of between EUR208 and EUR960,000 if found guilty.

Administrative Sanctions

The Gaming Act also contains an administrative sanctioning mechanism. Under certain conditions, if the public prosecutor decides not to bring a criminal case but does not question the existence of certain (serious) infringements, the Gaming Commission has the power to impose

administrative sanctions. If, however, the public prosecutor informs the Gaming Commission that it will prosecute the facts or that there are insufficient grounds to prosecute, the Gaming Commission cannot impose an administrative sanction.

The Gaming Commission can impose an administrative fine corresponding to the minimum and maximum amounts of the criminal fine. The administrative fine must be imposed based on reasoned decision. The notification of that decision prevents a criminal prosecution for the same facts. The Gaming Act contains a specific procedure to challenge an administrative fine legally.

In the case of an infringement, the stakes and other material will be confiscated. A court may order the definitive or temporary closure of the gaming establishment. In this case, the Gaming Commission must withdraw the gaming licence. Natural persons and directors, managers, decision-making bodies, employees and agents of legal entities are liable in civil law to pay any damages, fines, costs, confiscations and administrative fines issued for breaching the Gaming Act.

Prohibited Websites

For many years, the Gaming Commission has published a blacklist of “prohibited” websites on its website, and most Belgian ISPs have blocked access to these sites from Belgian IP addresses. The legal basis for this blacklisting mechanism was formally established with the Act of 7 May 2024, which amended the Gaming Act. Under the new provisions, the Gaming Commission is explicitly required to maintain a list of URLs for websites offering unlicensed games of chance in Belgium. This updated list is published in the Belgian Official Gazette, and the listed websites

are reported to internet service providers, who can then block access to these websites “as quickly as possible”.

Article 1 of the Lotteries Act stipulates that all lotteries are prohibited. Article 302 of the Belgian Criminal Code provides that organisers, entrepreneurs, directors, representatives and agents of lotteries that are not legally allowed will be punished with a prison sentence ranging from eight days to three months and with a criminal fine ranging from EUR50 to EUR3,000. In addition, the movable property staked in the lottery can be seized.

3.7 Recent or Forthcoming Legislative Changes

Advertising for games of chance is now generally prohibited, except where explicitly authorized. The Royal Decree of 27 February 2023 specifies the permitted forms of advertising (see **9.3 Key Legal, Regulatory and Licensing Provisions**).

It is now expressly prohibited to offer bonuses, online and offline, except in land-based casinos, where it is still allowed to offer bonuses up to EUR400 per player every two months.

Additionally, the minimum age to participate in games of chance, including betting, is now uniformly set at 21 years. The legislature has also prohibited online gaming providers from offering games of chance under different licenses (a joint offering) on one and the same domain name and URLs. This means that betting, online casino games and online slots can no longer be offered on one and the same website. Furthermore, players must maintain separate accounts for each type of license (eg, separate accounts for online casino games, online arcade games, and online bets). Transfers of funds or credits between players’ accounts are no longer per-

mitted. As a result, a player with money in their online betting account cannot transfer those funds to their online casino account.

Regarding taxation, the law passed on 28 December 2023 concerning various tax provisions has amended the Belgian Federal Code of Income Tax. As a result, starting in 2024, the regional tax on games of chance and bets will no longer be considered a deductible expense. This applies to the tax on online games of chance, currently set at 11% of Gross Gaming Revenue (with a potential increase mentioned in the coalition agreement of the Flemish government), as well as the regional tax on gaming machines. These taxes will now be included in the list of non-deductible business expenses.

New rules regarding deposit limits were introduced by the Royal Decree of 20 June 2022. The standard weekly deposit limit has been reduced from EUR500 to EUR200, meaning players can now top up their accounts by no more than EUR200 per week for each licensed website. Players have the option to set stricter limits immediately.

Players can request an increase in their deposit limit; however, they may only use this higher limit after a waiting period of three days. The online license holder must inform the Gaming Commission of these requests. The Gaming Commission will then determine whether the deposit limit can be increased after consulting the Central Individual Credit Register (CICR). Additionally, the Gaming Commission is required to check with the National Bank each month to ensure that players granted an increase in their deposit limit are not listed in the CICR. If a player is found in the CICR, the authorisation for the increased deposit limit must be revoked. These new rules took effect on 20 October 2022.

Three recent legislative proposals, if adopted, may come into effect in 2025:

- One proposal amends the Gaming Act to introduce additional Responsible Gaming obligations for operators, focusing on monitoring and preventing addictive behaviours among players.
- Another proposal aims to increase the number of members on the control committee of the Gaming Commission, suggesting greater enforcement powers for the Commission.
- The final proposal requires applicants for a C license to obtain a positive opinion (ie, agreement) from their municipality in order to secure their license.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The Gaming Commission is the regulatory authority for games of chance and essentially has a threefold task, whereby:

- it offers advice on legislative or regulatory issues;
- it is responsible for the granting of gaming licences; and
- it monitors compliance with the Gaming Act and the royal decrees implementing the Gaming Act.

The Gaming Commission can (or must) impose certain sanctions in the event of infringement.

4.2 Regulatory Approach

The regulation of games of chance and bets is based on a “channelling approach”. In order to satisfy the human need to play, the illegal offer of games of chance is countered by providing

a limited, strictly controlled and regulated – but attractive – offer of games of chance and bets. Hence, the Gaming Act contains a broad prohibition on offering (online and offline) games of chance and bets – that is, only companies that hold the required licence can commercialise games of chance and bets.

In a 2021 judgment, the Constitutional Court stated that the possibility of operating games of chance is, by definition, the exception and precarious. Furthermore, the Belgian legislature has limited the number of available gaming licences (numerus clausus).

4.3 Recent or Forthcoming Changes

The Act of 18 January 2024 has abolished the licence requirement for media games. As a result, the G1 and G2 licences are no longer in effect.

4.4 Types of Licences

The following land-based and online gaming licences are available:

- licence A – a class I gaming establishment (casinos);
- licence A+ – an online casino;
- licence B – a class II gaming establishment (gaming arcades);
- licence B+ – an online gaming arcade;
- licence C – a class III gaming establishment (bars);
- licence D – exercising a professional activity within class I, II or IV gaming establishments;
- licence E – sale, rental, supply, making available, import, export, manufacture, maintenance, reparation and equipment of games of chance;
- licence F1 – a class IV gaming establishment (organisers of bets);
- licence F1+ – offering online bets;

- licence F1P – allows the F1 licence holder to organise bets on horse races (only an F1 licence holder can obtain an F1P licence);
- licence F2 – licence to take on bets on behalf of an F1 licence holder; and
- licences G1 and G2 – media games.

4.5 Availability of Licences

The following licences are readily available:

- licence A – there are nine available licences and, as of October 2024, nine active licences;
- licence A+ – there are nine available licences (available for A licence holders only) and, as of October 2024, nine active licences;
- licence B – there are 180 available licences and, as of October 2024, 175 active licences;
- licence B+ – there are 180 available licences (available for B licence holders only) and, as of October 2024, 48 active licences;
- licence C – the number of licences is not limited and, as of October 2024, there are 4,332 active licences;
- licence D – the number of licences is unlimited and the number of active licences is unknown;
- licence E – the number of licences is unlimited and, as of October 2024, there are 173 active licences;
- licence F1 – there are currently 30 available licences and, as of November 2023, 30 active licences;
- licence F1+ – there are currently 30 available licences (available for F1 licence holders only) and, as of October 2024, 23 active licences;
- licence F1P – unknown; and
- licence F2 – there are 600 fixed and 60 mobile licences available and, as of October 2024, there are 444 active licences for betting shops and 28 for bookmakers.

4.6 Duration of Licences

The duration of the available licences is as follows:

- licence A – a renewable period of 15 years;
- licence A+ – the same as an A licence;
- licence B – a renewable period of nine years;
- licence B+ – the same as a B licence;
- licence C – a renewable period of five years;
- licence D – unspecified in the Gaming Act;
- licence E – a renewable period of ten years;
- licence F1 – a renewable period of nine years;
- licence F1+ – the same as an F1;
- licence F1P – the same as an F1; and
- licence F2 – a renewable period of three years.

4.7 Application Requirements

The application requirements vary for each type of licence. All applications should be filed with the Gaming Commission.

Only EU citizens and EU/EEA-registered companies can apply for an A, B, E, F1 or F1P licence. In general, a licence applicant must submit fiscal and financial information, as well as demonstrate that it and its directors do not have a criminal history. There are solvency criteria to be satisfied and must be demonstrated by a Belgian certified auditor or accountant. A legal person must include additional information about its directors and shareholders, together with supporting evidence. Failure to meet any conditions set out in the application form or to submit the requested information will result in the application being denied.

For online games of chance (licences A+, B+ and F1+), two Royal Decrees of 21 June 2011 are noteworthy. The first Royal Decree lists the quality requirements to be met by an applicant for an online licence. The applicant must:

- have a solvency ratio of 40%;
- provide a plan that guarantees the security of all payments between the operator and the player;
- provide details about advertising policy; and
- provide proof that there are no tax debts.

The applicant is also responsible for a permanent data connection between the website and the Gaming Commission.

The second Royal Decree states that applications for an online licence must be submitted to the Gaming Commission either by registered post or electronically. It further specifies that the application must indicate “where the website will be managed”. This means that the Gaming Commission needs to be informed of the exact location in Belgium where the servers used to operate the website will be located.

4.8 Application Timing

The Gaming Commission is required to make a decision on applications for A, B, F1, F1P, and E licences within six months of receiving the application or the submission of a complete application file. Similarly, applications for an online licence must also be processed within six months from the date the application is submitted.

4.9 Application Fees

There are no fees associated with submitting a licence application; however, a guarantee deposit is required. This deposit must be paid to the Deposits and Consignments Fund (*Caisse des dépôts et consignations*, or CDC). Guarantee deposits are necessary for most licences and vary in amount: EUR250,000 for an A or A+ licence, EUR75,000 for a B, B+, or F1+ licence, and EUR10,000 for an F1 licence.

4.10 Ongoing Annual Fees

Additionally, licence holders are required to pay an annual fee, the exact amount of which is determined each year by Royal Decree.

5. Land-Based Gambling

5.1 Premises Licensing

A “casino” (class I gaming establishment) is defined as an establishment “in which are operated games of chance, whether or not automatic, that are authorised by the King and in which there are at the same time organised socio-cultural activities, such as shows, exhibitions, congresses and hotel and catering activities”. Only nine casinos are allowed on Belgian territory. The Gaming Act lists the territories of the communes/cities where a casino can be operated as Blankenberge, Chaudfontaine, Dinant, Knokke-Heist, Middelkerke, Namen, Oostende, Spa and Brussels. The casino must conclude a concession agreement with the council of the municipality or city.

A Royal Decree of 3 December 2006 contains the operating rules and additional requirements concerning the supervision and control of games of chance that can be offered in class I gaming establishments. A Royal Decree of 15 December 2004 provides that class I (and II) gaming establishments must have an access register. A Royal Decree of 23 May 2003 lays down the rules for the supervision and control of the games of chance offered in casinos, including control through an IT system. All casinos must have a local area network (LAN) that is connected to the LAN of the Gaming Commission.

“Gaming arcades” (class II gaming establishments) are “establishments in which only games of chance authorised by the King are operated”.

Gaming arcades may not be located in the vicinity of hospitals, prisons, schools, ceremonial places and places where young people regularly meet. The operating rules for the automatic games of chance that can be offered in class II gaming establishments are laid out in a Royal Decree of 8 April 2003. A Royal Decree of 23 May 2003 sets out the rules for supervising and controlling the games of chance offered in class II gaming establishments. This includes the control through an IT system, whereby the class II gaming establishment has a LAN that is connected to the LAN of the Gaming Commission.

The licensing system for bets distinguishes between the organisation of bets (F1 licence) and the acceptance of bets (F2 licence). Class IV gaming establishments are places exclusively permitted to accept bets on behalf of an F1 licence holder. It is prohibited to accept bets outside a class IV gaming establishment. There are, however, a limited number of exceptions to this prohibition.

A class IV gaming establishment can be fixed or mobile. A fixed class IV gaming establishment is a clearly demarcated permanent establishment where bets are offered. A mobile class IV gaming establishment is a temporary establishment – also clearly demarcated – where bets are offered during and at an event, a sports game or a sports competition. There must be a distance of 1,000 metres between each betting office. F2 licences may also be granted to newspaper shops, which can offer bets as an ancillary activity (see **5.2 Recent or Forthcoming Changes**).

5.2 Recent or Forthcoming Changes

Advertising for games of chance and land-based gaming establishments has become heavily restricted (see **9.3 Key Legal, Regulatory and Licensing Provisions**).

The Act of 7 May 2024, which introduces a new Article 54/1 to the Gaming Act, mandates that all land-based gaming license holders must identify individuals entering the gaming areas of their establishments or wishing to participate in gaming activities. This requirement now applies to all land-based casinos, gaming arcades, betting shops (including mobile betting shops), and race tracks where betting is offered. As part of this obligation, license holders must consult the Excluded Persons Information System (EPIS). The expanded scope of identity verification and EPIS consultation will take effect on 1 May 2025, with the exception of F2 license holders offering betting in mobile betting shops or operating outside type IV gaming establishments, for whom the obligations will apply starting 1 May 2016.

The Act of 7 May 2024 also introduces a specific identification requirement for newspaper shops permitted to offer sports betting as an ancillary activity (holders of an F2 licence). This identification must be conducted through an “appropriate IT system” that can verify the player’s age and check if the individual is listed in the EPIS. The IT system will require certification. This identification obligation will take effect on 1 May 2026.

6. Online Gambling

6.1 B2C Licences

Since 1 January 2011, the Gaming Act has contained a legal framework for offering online games of chance and bets in Belgium. Before that date, online games of chance and bets were not explicitly regulated.

The Belgian legislature has set up a closed licensing system. Offering online games of chance and bets requires an online licence (licence A+ for online casinos, licence B+ for online gaming

arcades and licence F1+ for online bets). The number of online licences available is limited to nine A+ licences, 180 B+ licences and 30 F1+ licences.

In addition, an online licence requires a mandatory physical connection to Belgian territory. Only those operators licensed to operate in the real world (and holding a principal A, B or F1 licence) can obtain a licence to offer the same games of chance and bets online (an additional A+, B+ or F1+ online licence). The Gaming Act thus introduces a parallel between the offline and online licences.

6.2 B2B Licences (Suppliers, Software, Etc)

B2B operators should hold an E licence. The following activities are subject to an E licence requirement: sale, rental, supply, making available, import, export, manufacture, maintenance, reparation of and equipment of games of chance. The Gaming Act does not distinguish between land-based games of chance and online games of chance. It follows that all undertakings providing one of these services to an A+, B+ or F1+ licence holder should obtain an E licence.

It is prohibited for a natural or legal person to hold an A, A+, B, B+, C, D, F1, F1+ F1P or F2 licence and an E licence at the same time – either directly or indirectly, or through another natural or legal person. An infringement of this prohibition can give rise to criminal sanctions.

6.3 Affiliates

The Gaming Act does not specifically regulate affiliates but certain activities of affiliates – eg, marketing – fall within the scope of application of the Gaming Act. Pursuant to Article 4, Section 2 of the Gaming Act, for example, it is prohibited for anyone (including affiliates) to:

- facilitate the operation of unlicensed games of chance;
- advertise for unlicensed games of chance; or
- recruit players for unlicensed games of chance.

6.4 White Labels

The Gaming Commission publishes a list of all licence holders (except D and F1P licence holders) on its website. All “licensed” websites can be found on the Gaming Commission’s website.

6.5 Technical Measures

Advertising for online games of chance has become heavily restricted (see 9.3 Key Legal, Regulatory and Licensing Provisions).

The blacklisting mechanism was given an explicit legal basis with the Act of 7 May 2024. The Gaming Commission is now explicitly required to maintain a list of URLs for websites offering unlicensed games of chance in Belgium. This updated list is published in the Belgian Official Gazette, and the listed websites are reported to internet service providers, so that they can “block access to them as soon as possible”.

The joint exploitation of different classes of online gaming licences on the same domain name and the related URLs is now prohibited by the Gaming Act.

6.6 Recent or Forthcoming Changes

In Belgium, there are currently no legally binding technical requirements for online games of chance and bets.

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

7.1 RG Requirements

Persons below the age of 21 are prohibited from participating in games of chance and bets. The same age restrictions apply for online games of chance and bets. The Gaming Act contains additional prohibitions on particular persons (eg, magistrates) accessing casinos and gaming arcades.

The EPIS is a database containing the names of excluded and self-excluded persons. Online operators must consult the EPIS database before allowing customers to play. Online licence holders must impose compulsory deposit limits and offer the option of temporary self-exclusion. They must also use notifications and pop-up windows to inform players of the potential risks of participating in online games of chance. All advertising for games of chance and bets must also include a warning message and the minimum legal age to participate in games of chance and bets. Online licence holders must also refuse any intervention by electronic payment systems authorising the use of a credit card by the player as a transfer method.

Giving credit or a loan and engaging in a financial or other transaction in casinos to pay for a stake or a loss is prohibited, except via credit and debit cards. However, payment by credit card is not allowed in class II, III and IV gaming establishments or for online games of chance and bets. It is also prohibited to have Automated Teller Machines in class I, II, III and IV gaming establishments.

7.2 Gambling Management Tools

In 2024, several amendments to the Gaming Act introduced additional restrictions and prohibitions to protect players. A minimum age of 21 years has been established for participation in all games of chance, including betting. It is now prohibited to use the same player account to play games of chance operated under different licenses (“split accounts”). Transactions between different player accounts are also now prohibited. Offering bonuses for online games of chance has been banned.

7.3 Recent or Forthcoming Changes

There is a wide variety of measures that aim to create a safe and responsible gambling environment. For gaming machines, there are detailed rules on maximum stakes, losses and gains. The average hourly loss is also regulated – for example, gaming machines in casinos must have a theoretical redistribution percentage of at least 84%. Only gaming machines with an average hourly loss not exceeding EUR25 are allowed in class II gaming establishments.

Other essential measures to protect players are EPIS and mandatory age requirements. Some of these measures are discussed in **7.1 RG Requirements**. Other measures include the following:

- all advertising for online games of chance must mention the minimum age requirements to participate; and
- online licensees must offer the option of self-exclusion and use notifications and pop-up windows to inform players of the potential risks of participating in online games of chance.

A recent legislative proposal that has yet to be adopted is introducing additional responsible

gaming obligations for operators to monitor and prevent addictive behaviours from their players.

8. Anti-money Laundering (AML)

8.1 AML Legislation

The key legislation is the Law of 18 September 2017 on preventing money laundering and terrorist financing (“AML Law”). The Act of 20 July 2020, which amends the AML Law, implements Directive (EU) 2018/843 (the Fifth Anti-Money Laundering Directive) into Belgian law. The amended AML Law took effect on 15 August 2020.

8.2 AML Requirements

Most Belgian banks continue to use AML as grounds to terminate agreements or refuse licensed Belgian operators as clients. Such a practice is known as “de-risking”. In January 2022, the European Banking Authority published an opinion on de-risking, wherein it was confirmed that “gaming operators” are faced with these practices. The National Bank of Belgium issued a circular on the same topic in February 2022.

8.3 Recent or Forthcoming Changes

The AML Law applies to “all natural and legal persons operating one or more games of chance, except those natural and legal persons meant in Articles 3 and 3bis of the Gaming Act”. All gambling operators are subject to due diligence obligations, which consist of:

- the identification and verification of players and financial beneficiaries;
- monitoring suspicious transactions; and
- other vigilance obligations in co-operation with the Belgian Financial Intelligence Pro-

cessing Unit, the police and the Public Prosecutor’s Office.

The gaming operator is required to identify clients who either place bets or withdraw winnings of EUR2,000 or more. The AML Law also imposes limits on the use of cash money – that is, no gift or payment in cash can be made or accepted when the amount exceeds EUR3,000 (or the equivalent amount in another currency). A Royal Decree of 30 January 2019 exempts C licence holders from the application of the AML Law.

9. Advertising

9.1 Regulatory/Supervisory Agency

There is no specific agency responsible for gaming advertising. Instead, the Gaming Commission monitors compliance with the Gaming Act and its implementation of Royal Decrees, including the advertising restrictions that can be found therein.

9.2 Definition of Advertising

The Gaming Act broadly defines “advertising” as “any form of communication intended, directly or indirectly, to promote or encourage games of chance, regardless of the location, communication methods used, or techniques employed. The display of a brand name or logo, or both, is also considered advertising.” Similarly, the Royal Decree of 27 February 2023, which establishes the advertising conditions for games of chance, offers a comparable definition.

9.3 Key Legal, Regulatory and Licensing Provisions

Advertising land-based and online games of chance and bets is prohibited if it is known that those games of chance or gaming establish-

ments are not authorised (not licensed) under the Gaming Act. Violating this prohibition may result in criminal sanctions.

For licensed games of chance, both land-based and online, the Gaming Act and Royal Decree of 27 February 2023 state that all advertising is generally prohibited, except when expressly authorised. All other forms of advertising for licensed games of chance are not allowed.

Incidental advertising in connection with the coverage of sports competitions and events is authorised. Sports sponsorship is authorised for non-professional sports associations and for professional sports associations (until 1 January 2028).

Sports sponsorship is permitted only through the display of the brand name and/or logo in the following ways: (i) on the sports clothing of players, excluding underage players, and sports teams; and (ii) at the location where the sport is practiced (until 1 January 2025).

9.4 Restrictions on Advertising

License holders may broadcast sports sponsorship messages using their brand name and/or for (i) international and European sports competitions and (ii) Belgian sports competitions, but only until 1 January 2025. Any broadcast of sports sponsorship messages must adhere to the following conditions:

- the duration of each sports sponsorship message may not exceed five seconds;
- no more than two sports sponsorship messages may be broadcast per hour; and
- the sports sponsorship message must air during the fifteen-minute period before and the fifteen-minute period after the live coverage of the sports competition, specifically

from the actual start to the actual end of the event.

Online licence holders can only advertise on their own website and their own social media accounts, provided that:

- no interaction is permitted in connection with this advertising;
- no compensation is offered to a third party for advertising; and
- the duration of any advertising using moving images does not exceed five seconds.

Furthermore, a number of general restrictions have been laid down for all explicitly authorised forms of advertising for games of chance. Advertising may not be directed specifically at socially vulnerable groups. All “personalised” advertising is prohibited. Advertising can no longer involve physical persons or fictitious characters. All forms of advertising must contain an indication of the minimum age for participation and contain a preventive message.

9.5 Sanctions/Penalties

An infringement of the prohibition on advertising unlicensed games of chance and unlicensed gaming establishments can lead to criminal sanctions – ie, a fine of between EUR208 and EUR576,000. Under certain conditions, the Gaming Commission can also impose an administrative fine of between EUR208 and EUR576,000.

In addition, the Royal Decree of 27 February 2023 does not contain sanctions for violation of the restrictions and prohibition on advertising. However, it refers to Article 64 of the Gaming Act, which states that any violation will be subject to a fine up to EUR576,000.

9.6 Recent or Forthcoming Changes

An amendment to the Gaming Act in 2024 established a general ban on advertising for games of chance, unless explicitly authorised.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

Transferring gaming licences is prohibited. The Gaming Commission must be notified scrupulously of any changes to the shareholding structure of the A, B, E and F1 licence holder at all times and it must be able to verify the transparency of the exploitation. Whereas the Gaming Act only refers to the identity of the “shareholders”, it is the Gaming Commission’s practice to extend this to all persons or entities that directly or indirectly exercise control over the company (including the ultimate beneficial owner).

10.2 Change of Corporate Control Triggers

The Gaming Act does not contain any specific triggers for notifying the Gaming Commission. Instead, the Gaming Act requires that A, B, E and F1 licence holders notify the Gaming Commission of any changes to the shareholder structure.

10.3 Passive Investor Requirements

There are no specific passive investor requirements mentioned in the Gaming Act. As explained in **10.1 Disclosure Requirements**, the Gaming Commission must be informed of all changes in the shareholder structure of an A, B, E and F1 licensee.

10.4 Recent or Forthcoming Changes

There have been no recent changes on this topic.

11. Enforcement

11.1 Powers

The Gaming Commission is the administrative authority that monitors compliance with the Gaming Act and its implementing decrees. The Gaming Commission’s Control Unit has been given broad investigative powers. It can carry out inspections in gaming establishments and IT systems, conduct investigations, make any findings it deems useful and request to be handed all documents that may be useful for its investigation. It can also seize all documents, gaming machines and exhibits that may be used to demonstrate an infringement of the Gaming Act. The Control Unit has the power to draft an “official report”, which will be sent to the public prosecutor. Under certain conditions, the Gaming Commission can impose administrative sanctions.

11.2 Sanctions

Whenever the Gaming Commission finds that there is an infringement of the Gaming Act or its implementing Royal Decrees, it must make a reasoned decision to:

- issue a warning;
- suspend or withdraw a gaming licence for a certain period; or
- impose a temporary or final ban to operate one or more games of chance.

For specific infringements of the Gaming Act (eg, offering unlicensed games of chance or advertising unlicensed games of chance), the Gaming Commission may issue administrative fines under certain circumstances. In 2023, the Gaming Commission decided to initiate 137 formal sanctioning procedures, and 123 decisions were issued. Of the decisions issued, 48 of them originated from procedures open in 2022, and 75 from procedures started in 2023. In 2023, the

Gaming Commission took 85 sanctioning decisions (56 of which were fines).

The Gaming Commission blacklists websites that offer unlawful games of chance in Belgium. The blacklist is also published on the Gaming Commission's website.

11.3 Financial Penalties

There is no established method to calculate penalties. The Gaming Act merely stipulates that an administrative sanction must be proportional in light of the seriousness of the infringement. More recently, the Gaming Commission has begun to effectively impose administrative sanctions on companies offering unlicensed games of chance. One of the criteria used to calculate the fine is the length of time for which the games have been available to players resident in Belgium.

11.4 Recent or Forthcoming Changes

Since 1 June 2024, the amount of the fines that can be imposed has been amended, and violations of the Gaming Act are no longer punishable by imprisonment.

A legislative proposal that has yet to be adopted seeks to increase the number of members of the control committee of the Gaming Commission and police officers working for the Gaming Commission, which is expected to lead to an increase in enforcement actions in the future.

12. Tax

12.1 Tax Rate by Sector

A gaming tax is applied to all types of games of chance and bets (ie, all transactions characterised by the fact that the participants wager a sum, with the risk of loss, in the hope that it will

benefit in specie or in kind). The way participation takes place – whether verbally, in writing, by telephone, internet, email, text or via the internet – is of no importance. The tax on games and bets is also payable for games of chance and bets that are unlicensed and for which the organisers are subject to criminal sanctions. It is therefore not necessary for a transaction to be permitted by law for the tax to be due.

Betting

In the Flemish Region and the Brussels-Capital Region, bets on horse races, dog races and sports events taking place in Belgium or in a European Economic Area (EEA) member state are taxed at a rate of 15%, which is calculated on the actual gross margin realised with that wager. Bets on horse races, dog races and sports events taking place outside the EEA are taxed at a rate of 15% on the gross amount of the sums or stakes involved. In the Walloon Region, bets are generally taxed at a rate of 11% on the actual gross margin realised upon the bet.

Casino Games

In the Brussels-Capital Region, casino games are taxed as follows:

- roulette without zero – at 2.75% on the gambler's winnings;
- other casino games – at 33% on the gross gaming revenue and at 44% on the part of the gross gaming revenue that exceeds EUR1.36 million; and
- machines – at a percentage (ranging from 20% to 50%) per bracket of gross revenue (eg, 20% on the bracket up to EUR1.2 million).

In the Flemish Region, all casino games are taxed on the gross amount of the stakes. Casino games are taxed at 33% on the gross gam-

ing revenue up to EUR865,000 and 44% on the part of the gross gaming revenue that exceeds EUR865,000.

In the Walloon Region, casino games are taxed as follows:

- roulette without zero – at 2.75% on the gambler's winnings; and
- other casino games – at 33% on the gross gaming revenue up to EUR1.36 million and at 44% on the part of the gross gaming revenue that exceeds EUR1,360,000.

Gaming Machines

Gaming machines are subject to a gambling tax in the form of a fixed amount per machine per year. This also varies depending on region, type of gaming machine, and whether class A, B, C, D or E.

Online Games of Chance and Bets

The three Belgian federated regions (the Walloon Region, the Flemish Region and the Brussels-Capital Region) have the ability to determine the tax rates applicable to online games of chance and bets. Although these regions could have set different tax rates, in practice they have set the same tax rate (11% of the actual gross margin realised with the game of wager – that is, the gross amount of the sums staked minus the profits that have actually been distributed).

Lotteries

Winnings from lotteries are exempt from taxes. The National Lottery pays gambling taxes on its sports betting activities.

VAT

Under Article 44, Section 3, paragraph 13 of the Belgian VAT Code, offline and online games of chance, bets and lotteries are VAT-exempt. This

is subject to the conditions and limitations specified in a Royal Decree.

12.2 Recent or Forthcoming Changes

Starting in 2024, the regional taxes mentioned above will no longer be deductible expenses. The Flemish government, in its coalition agreement for 2024-2029, has expressed its intention to raise the tax on gambling and betting, subject to approval by the other two regions.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

There are no specific personal authorisations or licences for individuals (see 4.7 Application Requirements).

13.2 Application Process

See 4.7 Application Requirements. Directors and shareholders of B2C licence applicants cannot have a controlling interest in a B2B licence, and vice versa. A controlling interest has been defined by the Gaming Commission as either having a certain shareholding power (classically set at 20% of the shares of the company) or as having a mandate in said company. Directors of licence applicants cannot have a criminal history and must provide their criminal records to the Gaming Commission.

13.3 Ongoing Annual Fees

See 4.10 Ongoing Annual Fees.

13.4 Ongoing Requirements

Change of directors or shareholders of licence applicants (see 4.7 Application Requirements) and licence holders must be notified to the Gaming Commission.

13.5 Personal Sanctions

Licences can be refused, suspended or revoked.

13.6 Recent or Forthcoming Changes

There are no foreseeable changes with regard to personal authorisations and licences.

Trends and Developments

Contributed by:

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Edson

Edson is an independent law firm based in Brussels. Edson is truly unique in the marketplace, owing to its integrated approach across four crucial pillars in the life cycle of any business – namely, data, markets, technology and innovation (DMTI). The firm supports businesses, entrepreneurs and governments in all areas of Belgian business law and EU law matters. Edson is one of very few Belgian law firms with in-depth gaming expertise. Of note is the firm's

broad regulatory expertise and wide experience in gaining and, if necessary, enforcing market entry. The team also provides day-to-day operations support to its gaming clientele. This covers a wide variety of areas, including sponsorship deals, advertising, due diligence, acquisitions and divestments, IP, joint ventures and partnerships, data transactions, and consumer complaints litigation. The gaming team is fully integrated into Edson's core practice areas.

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Introduction

Land-based games of chance have been regulated in Belgium since 1999, whereas online games of chance have been regulated in the country since 2011. Belgian gambling policy is premised on a strict channelling policy. Instead of prohibiting the commercialisation of games of chance, the Belgian legislature chose to ensure that players resident in Belgium have access to a limited, safe and strictly regulated offer of games of chance – both offline and online.

At the same time, channelling comes with a certain and limited commercial freedom for the licensed operators. As was emphasised in a judgment by the Council of State in a case concerning gaming law, “according to one of the principles governing a democratic state, everything that is not prohibited is permitted”.

That balancing act requires constant fine-tuning and turns out to be more challenging than many would have predicted in 1999 or 2011. This is illustrated by several recent trends and developments – some of which are discussed here.

Fragmentary Regulation of Online Games of Chance

Even though online games of chance have been allowed under Belgian gambling law since 2011, they remain to a large extent unregulated. In an opinion published in March 2022, the Belgian Gaming Commission acknowledges that the regulation applicable to online games of chance is very fragmentary, even ten years after they became regulated.

The Belgian Gaming Act allows the government to issue rules regulating online games of chance – for example, to impose the conditions under which the games can be offered, the rules of the game, payment methods, and which games

can be offered online. The government can also determine the maximum amount of the stakes for each participation in an online game of chance, as well as the loss and the gain of the players. More than ten years after the government was given this power, no use has been made thereof. That explains why the regulatory framework applicable to online games of chance remains very fragmentary.

This is in sharp contrast to land-based games of chance, which are regulated in detail. A Royal Decree enumerates the games of chance that can be offered in a casino (A licence) and a gaming arcade (B licence). Other Royal Decrees contain detailed “operating” rules for those games of chance. The Belgian Gaming Commission has published “protocols” with detailed information on the gaming machines that can be commercialised in casinos and gaming arcades. Betting shops can have a maximum of two gaming machines and are also extensively regulated – for example, the legislature decided that the average hourly loss cannot exceed EUR12.50.

In March 2022, the Belgian Gaming Commission published a “preliminary opinion” with recommendations that should be taken into account by the government when regulating online games of chance. An essential characteristic of the Belgian gambling policy is that there exists a certain degree of parallelism between the regulation of land-based and online games of chance. The Gaming Act provides that only those operators licensed to operate in the real world (and holding a principal A, B or F1 licence) can obtain a licence to offer the games of chance and bets online (an additional A+, B+ or F1+ online licence) and an online licence holder can, in principle, only offer the “same” games of chance that are offered offline. Noteworthy in the March 2022 opinion is that the Gaming Commission suggests that the

“offline regulations” should not be blindly made applicable to online games of chance, as they have become outdated or are simply unsuitable to be applied to online games of chance.

Some of the policy proposals made by the Gaming Commission to regulate online games of chance are:

- strengthening the registration and identification of players and establishing a link with reliable financial data;
- imposing individualised and obligatory playing limits;
- introducing a duty of care for licence holders;
- introducing stricter rules for licence holders to deal with players’ complaints;
- introducing stricter obligations for operators to pay out winnings and refund money on player accounts;
- ensuring players are better informed by introducing quality labels;
- introducing additional protection measures for younger players (particularly those between the ages of 21 and 25), whereby any bonuses are banned and maximum playing limits are introduced; and
- having the same minimum age for participating in any category of online games.

General Amendments to the Gaming Act

In early 2024, the Belgian legislature made several major amendments to the Gaming Act:

- prohibition of advertising for licensed games of chance and bets, except when expressly authorised by Royal Decree;
- prohibition of joint offering (“cumul”) of games of chance of different licences on one domain name and URL, and requirement to have separate player accounts (split wallets);

- setting the minimum age for participating in all games of chance and bets at 21; and
- official ban on bonuses for land-based and online operators, with a limited exception for land-based casinos.

Strict Regulation for Advertising Games of Chance

The Belgian government introduced very strict advertising rules for licensed games of chance, both land-based and online, in a Royal Decree of 27 February 2023. The Royal Decree stipulates that all advertising of games of chance is, in principle, prohibited (except when expressly authorised). In 2024, the Belgian legislature introduced this prohibition in the Gaming Act. The Royal Decree also introduces horizontally applicable restrictions on advertising for games of chance. Personalised advertising, for example, is prohibited. All advertising should mention the minimum age for participation and contain a prevention message.

The advertising rules apply to all games of chance and bets offered by Belgian licence holders, both land-based and online. The adoption of the Royal Decree has been criticised, as it was not preceded by a wider discussion within the Belgian government. The government has also suggested that no specific studies were conducted in relation to the strict advertising restrictions. As was reported in the Belgium press, it appears that the National Lottery, which enjoys a monopoly when it comes to lotteries, has lobbied for stricter advertising rules for games of chance and bets. In return for its monopoly, the National Lottery pays a monopoly interest to the government. When the Belgian government called for a higher monopoly interest, the National Lottery insisted that stricter advertising rules for games of chance should be imposed in

return, as this would prevent a “further erosion” of its lottery monopoly.

Many licence holders have challenged this Royal Decree before the Belgian courts. Several annulment cases are pending before the Belgian Council of State. Another case is pending before the Belgian Constitutional Court. These cases may ultimately lead to the annulment of the strict advertising rules.

De-risking of Licensed Gaming Operators by Belgian Banks

To fulfil their role as an instrument in Belgium’s channelling policy, licensed gaming operators need access to essential banking services. In fact, Belgian law requires all companies to have a bank account with a credit institution “established in Belgium”. However, licensed gaming operators are finding it increasingly difficult – and often impossible – to open or maintain bank accounts with Belgian banks, secure financing for new investments, or obtain necessary guarantee letters. Licensed gaming operators are increasingly shown the door by Belgian banks – a practice referred to as “de-risking”.

Some banks justify this approach as the logical consequence of legitimate risk management under applicable AML legislation. In a noteworthy opinion of 5 January 2022 on de-risking, the European Banking Authority (EBA) recalls that de-risking of entire categories of customers – without due consideration of individual customers’ risk profiles – can be unwarranted and a sign of ineffective risk management in the fight against money laundering and financing of terrorism. The National Bank of Belgium (NBB) has followed suit. On 1 February 2022, the NBB published a circular detailing the “prudential expectations in relation to de-risking”. The NBB clearly states that it is neither appropriate nor consist-

ent with legal and regulatory AML requirements for a financial institution’s customer acceptance policy to exclude by rule all business relationships with potential or existing clients on the basis of general criteria, such as the fact that these clients belong to a “particular industry”. There are several procedures pending before Belgian courts where it is argued that banks infringe AML legislation, given that they exclude as much as possible all companies active in the gambling industry.

But there is more. Another trend is that banks also rely on ESG considerations to terminate agreements with licensed gaming operators or to refuse to deal with them. One major Belgian bank, for instance, has set a policy whereby all companies deriving a certain percentage of their total revenues from ownership or operation of gambling-related activities are “excluded” from all investment products, loans and other non-investment-related activities. If all banks adopt the same or similar policies, access to (essential) banking services will become virtually impossible for licensed operators and the question arises whether they can still play their instrumental role – as desired by the legislature – in Belgium’s channelling policy.

Stricter Enforcement

Since the regulation of online games of chance in 2011, the Belgian Gaming Commission has blacklisted websites offering games of chance and bets without the required licence. Most Belgian ISPs block access to the blacklisted websites. In March 2022, the Gaming Commission agreed on a co-operation with the Belgian telecommunications regulator, which will provide its expertise and technical assistance and raise awareness among ISPs through different information campaigns.

As of September 2024, 434 websites are black-listed. In the past, the companies were generally not fined; however, this has recently changed. The Gaming Commission is initiating sanction proceedings against these operators and also imposing fines. The fines can amount to several hundred thousand euros. Some companies are challenging the lawfulness of these fines before the Belgian courts. The outcome of these pending proceedings will help determine the scope of the Gaming Commission's sanctioning power and, therefore, the effectiveness of Belgian gaming policy.

Land-Based Presence as a Condition for Obtaining an Online Licence

It is an essential characteristic of Belgian gambling policy that online gaming licences (A+, B+ and F1+) can only be obtained by a company holding an offline licence (respectively A, B and F1). In a remarkable judgment of 14 July 2011, the Constitutional Court held that the requirement to hold an offline licence as a condition for obtaining an online licence did not infringe the EU internal market freedoms. Examining the proportionality of this licensing requirement, the court observed that offline presence can be kept to a strict minimum.

That is, in the author's view, a questionable position. A company that wishes to offer online games of chance in Belgium must first obtain an offline licence and effectively operate it in the real world. Such operations come with costs and investments. Given that the number of offline licences is limited (*numerus clausus*), it is not possible to apply for an offline licence when all the available offline licences are granted. That is the case, for example, with casinos (A licence) and organisers of bets (F1 licence). In these cases, the two remaining options are to acquire the licensed company or to enter into a co-operation agreement with that company. Both options are not always obvious and may be costly.

In a noteworthy judgment of 28 February 2018 concerning Hungarian gambling legislation (Case C-3/17), the CJEU clarified that a restriction that reserves access to the market for online games of chance to casino operators situated on national territory is disproportionate and therefore contrary to the EU freedom to provide services. If a similar logic were to be applied in Belgian online gambling legislation, this EU judgment suggests that the requirement to have and operate an offline licence as a condition for obtaining an online licence is at odds with EU law.

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