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LUXEMBOURG

THE REGULATION OF GAMBLING IN LUXEMBOURG

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Michaël advises on a range of domestic and cross-border transactions, including acquisitions, disposals, exit strategy, formation of joint ventures, corporate organisations and reorganizations, mergers and acquisitions, recapitalisation, and migration. He also frequently counsels boards of managers and senior management on strategic and governance matters.

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In addition to his corporate expertise, Michael's area of practice also includes unregulated fund structuring and formation as well as a particular interest in assisting international clients in Luxembourg legal aspects for their social gaming, gambling and ICT projects. He has participated in many publications on gaming law, most notably with the co-operation of the Luxembourg authorities and he is author of articles aimed at explaining Luxembourg gambling laws and customs.

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Alessandro is a member of the Private Equity and Corporate M&A. He focuses on general corporate law, mergers and acquisitions, corporate governance and financing/refinancing transactions.

Prior to joining BSP, he served as a lawyer in Luxembourgbased and international law firms. He is a regular lecturer for the corporate law, commercial contracts and European law courses at the Luxembourg Lifelong Learning Centre of Luxembourg's Chambre des Salariés.

Definition of Gambling under Luxembourg Law

The legal framework of the Grand Duchy of Luxembourg adopts an implicit functional approach to the definition of gambling, without providing a single codified definition. The principal legislative source is the Law of 20 April 1977 on the operation of games of chance and betting on sporting events, as amended (the **Law of 20 April 1977**).

The scope of the notion of "game of chance" (*jeu de hasard*) can be inferred from the prohibitive structure of the law, which aims to regulate gambling activities in order to protect players from the



Luxembourg's gambling laws, rooted in the 1977 framework, tightly restrict games of chance to state-controlled authorisations, with Casino 2000 as the sole licensed casino. professional and personal risks inherent in such games. Although national case law on the subject remains limited, it has affirmed that gambling qualifies as a game where chance predominates over the physical or intellectual skill of the player and constitutes the determining element thereof (judgment of 13 November 1958).

This understanding aligns with the jurisprudence of the Court of Justice of the European Union (the **CJEU**), which has offered a functional definition of gambling. In *Schindler* (Case C-275/92, 24 March 1994, §27), the Court described services in the field of games of chance as those "provided by the operator of the lottery to enable purchasers of tickets to participate in a game of chance with the hope of winning, by arranging for that purpose for the stakes to be collected, the draws to be organized and the prizes or winnings to be ascertained and paid out".

Consistent with the EU case law, gambling in Luxembourg is thus generally understood to include any activity where the outcome is not predominantly determined by skill and where monetary value is at stake.

Right by you in Luxembourg

General Prohibition and Authorisation Regime

The Law of 20 April 1977 prohibits the organisation of games of chance within Luxembourg territory unless such activities are expressly authorised by law or regulatory act. Specific exceptions have been granted through targeted legislative or regulatory authorisations, resulting in a restrictive and monopolistic framework. This prohibition applies to both land-based gambling establishments and, by implication, to online gambling platforms, which are not currently subject to a formal authorisation or licensing regime, with the sole exception of the online portal operated by the *Loterie Nationale*.

Authorisation to operate games of chance is available only in narrowly defined circumstances and is always subject to State or municipal control. Aside from Casino 2000, which remains the only authorised casino in Luxembourg, private establishments may be authorised to provide gambling services under the strict conditions laid down in Articles 5 to 13 of the Law of 20 April 1977. These conditions were further tightened following the entry into force of the Laws of 25 February 2021 and 7 August 2023, which, *inter alia*, introduced requirements to assess the honourability of applicants and their employees as preconditions for authorisation.

Furthermore, small-scale lotteries for charitable or promotional purposes may be authorised by local municipalities, provided that the total ticket value does not exceed EUR 12,500. Games or lotteries exceeding this threshold must be authorised by Grand Ducal regulation or by the Ministry of Justice directly. In contrast with other EU jurisdictions, Luxembourg has not established an independent regulatory authority, such as a dedicated gambling commission, to oversee the sector, whether for land-based or digital operations.

Luxembourg Permitted Gambling Operators a. The Loterie Nationale

The Loterie Nationale is operated under the auspices of the Œuvre Nationale de Secours Grande-Duchesse Charlotte, a non-profit public institution placed under the supervision of the Prime Minister of Luxembourg. Created by Grand Ducal decree of 13 July 1945, the Œuvre Nationale has historically played a central role in fostering solidarity within Luxembourg, with the net proceeds from the Loterie Nationale's gambling activities originally devoted primarily to charitable purposes.

The *Œuvre Nationale* benefits from an exclusive right to operate lottery games in Luxembourg and offers its services both in person (via a network of authorised retail agents) and online (through its official website). Its activities are governed principally by the Law of 22 May 2009 on the Grande-Duchesse Charlotte National Relief Organization and the National Lottery (the **Law of 22 May 2009**).

As a monopoly operator, the *Loterie Nationale* pursues publicinterest objectives, with profits regularly earmarked for cultural, social, and health-related projects. It is exempt from corporate income tax, and in accordance with its mission, net proceeds are redistributed for charitable purposes.

b. Casino 2000

Located in Mondorf-les-Bains, Casino 2000 is the only licensed casino in the Grand Duchy. No other private land-based or online casino operations are currently authorised under Luxembourg law. Casino 2000 operates under the legal regime established by the Grand Ducal Regulation of 12 February 1979, as amended. The current licence, most recently renewed in 2019, is valid for a twentyyear period. Casino 2000 offers a range of traditional casino games, including roulette, blackjack, and slot machines. It is subject to close regulatory oversight by both the Ministry of Justice and the Ministry of Finance, particularly with respect to anti-money laundering compliance, taxation, and operational integrity. The casino is taxed on a progressive scale applied to its gross gaming revenue, with rates reaching up to 80% for revenue exceeding EUR 8,100,000.

2. Online Gambling in Luxembourg and the European Union Framework

Absence of an Online Gambling Licensing Regime in Luxembourg

Luxembourg stands out among the EU jurisdictions for neither

having adopted, to date, a comprehensive legal framework for online gambling, nor established a distinction between online and offline gaming. The Law of 20 April 1977, while prohibiting games of chance in general, makes no express reference to digital formats and does not formally address remote participation via foreign-licensed platforms.

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Luxembourg's gambling landscape is dominated by the state-backed Loterie Nationale and Casino 2000, with no comprehensive online gambling licensing regime in place.

The only functional definition of such services can be found in the Law of 22 May 2009 describing them as "any form of lotteries and sports betting organised by means of information society services and tools" (Article 9).

Besides this, originally the Law of 14 August 2000 on electronic commerce provided that Luxembourg law would apply to gambling activities involving monetary stakes in games of chance, regardless of the establishment of the information society service provider. However, the European Commission later identified this provision as incompatible with the EU rules on the free movement of services under the Treaties.



This led the Luxembourg legislature to amend the law, excluding gambling activities (including lotteries) from its scope and replacing the contested provision with one that affirms the principle of non-restriction regarding the free movement of information society services from other Member States. As a result, online gambling services are provided exclusively through the *Loterie Nationale's* online portal, pursuant to the Law of 22 May 2009.

While various formal and informal policy discussions at government level have been held, no private or foreign operator can currently obtain a licence to offer gambling services via digital platforms under



Luxembourg's lack of an online gambling licensing regime, coupled with tolerance of EU-licensed foreign platforms, raises questions about EU law compliance and consumer protection. Luxembourg law. However, despite the absence of a licensing framework, Luxembourg residents retain access to foreignbased online gambling platforms, particularly those licensed in other EU Member States.

Compatibility with EU Law: A Delicate Balance

The absence of a dedicated licensing

procedure and competent supervisory authority may, in effect, exclude private operators from accessing the Luxembourg online gambling market, regardless of whether they are established in Luxembourg, elsewhere in the EU, or in third countries. This situation may conflict with Article 56 TFEU, which guarantees the freedom to provide services, including gambling services, across the European Union. According to the case law of the Court of Justice of the European Union (CJEU)—in particular *Gambelli* (C-243/01, 6 November 2003), *Liga Portuguesa* (C-42/07, 8 September 2009), *Stanleybet* (C-186/11, 24 January 2013), and *Sporting Odds* (C-3/17, 28 February 2018) restrictions on cross-border gambling services must cumulatively satisfy the following conditions: (i) they must be justified by overriding reasons in the public interest, such as consumer protection or the prevention of gambling addiction; (ii) they must be non-discriminatory; and (iii) they must be proportionate to the objectives pursued.

In this context, the lack of a licensing regime in Luxembourg could raise concerns if the prohibition were actively enforced against foreign service providers. To date, however, and to our knowledge, Luxembourg authorities have not taken any such enforcement measures, such as IP blocking, restrictions on payment services, or advertising bans.

This policy of relative tolerance may reflect a pragmatic respect for EU internal market rules, insofar as foreign online gambling operators comply with the legal requirements of their home Member State, and advertising is limited to what is strictly necessary to channel consumers towards regulated platforms. The relative success of this regulatory posture appears to be confirmed by the fact that, thus far, and to our knowledge, no infringement procedure or Luxembourg-specific CJEU case has directly addressed the issue.

However, as an increasing number of Member States adopt regulated licensing frameworks for online gambling, Luxembourg's regulatory vacuum may become increasingly difficult to defend. This not only on grounds of legal certainty but also considering the practical disconnection with the reality of unrestricted access to foreign digital operators, some of which may fall short of the consumer protection, anti-addiction, or integrity standards inherent in the logics of the Law of 20 April 1977 and similar non-Luxembourg national regulations.



3. Other Legislation significant vis-à-vis Gambling Regulation

Anti-Money Laundering Obligations in the Gambling Sector

Although Luxembourg maintains a narrow and tightly controlled gambling landscape, the entities authorised to operate – principally Casino 2000 and the *Loterie Nationale* – are subject to stringent AML obligations. These obligations derive primarily from the Law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended (the **Law of 12 November 2004**), which transposes successive EU directives in this field, and the Grand Ducal Regulation of 1 February 2010, which sets out the applicable due diligence measures.

The Law of 12 November 2004 designates gambling service providers as "obliged entities". As such, Casino 2000 is directly subject to a full suite of AML obligations, including customer due diligence, suspicious transaction reporting to Luxembourg's *Cellule de renseignement financier* and record-keeping, risk assessment, and internal control requirements.

The *Loterie Nationale*, while formally a gambling operator, functions under public law and is often treated with functional adaptations in its AML risk classification, owing in part to the lower money laundering risks typically associated with lottery ticket sales and limited prize amounts.

Absent a dedicated gambling regulatory authority, in contrast with other EU jurisdictions, AML supervision is embedded within a broader ministerial framework, without a specialised body overseeing gambling-specific compliance. The Ministry of Justice may cooperate with the *Commission de Surveillance du Secteur Financier* (CSSF) in cases where gambling activities intersect with financial services provision (e.g., digital wallets or payment processing platforms).

Gambling and Consumer Law Protection

Luxembourg's domestic framework provides limited but notable protections within its Consumer Code, adding to the CJEU's recognition of consumer protection as a legitimate justification for restricting the cross-border provision of gambling services. For instance, Article 122-4 of the Luxembourg Consumer Code classifies as an unfair commercial practice any claim that a product increases the chances of winning games of chance. This provision, though general in scope, serves to limit misleading promotional strategies related to gambling and chance-based contests.

Gambling and Unfair Competition

In addition to the Consumer Code, the Law of 30 July 2002 on certain commercial practices and unfair competition contains provisions that intersect with gambling-like activities, particularly in the context of free promotional games such as lotteries, contests, and raffles. The law permits these activities, provided they are conducted exclusively for advertising purposes and comply with

specific transparency and fairness requirements.

Such conditions include: (i) the establishment of clear rules governing the contest prior to any publicity, and file these with the competent ministry; (ii) the availability of rules free of charge to any person requesting them; (iii) advertising material must not mislead or confuse 66

Luxembourg's gambling operators face stringent AML obligations and consumer protections, with criminal penalties for unauthorised activities under a tightly controlled regime.

recipients, particularly regarding the number, nature, or value of prizes and the conditions of their allocation; (iv) participation in promotional games must be free of charge and not conditional on any purchase obligation; and (v) if an advertisement creates the impression that the consumer won a prize, the advertiser must honour it.

Gambling and Criminal Law

Criminal penalties relating to gambling and lotteries are expressly considered in Luxembourg's Criminal Code (Articles 301-308). Article 305 therein punish in particular unauthorised operators of gambling houses, as well as bankers, administrators, employees, or agents of such houses by imprisonment for eight (8) days to six (6) months and a fine of EUR 251 to 25,000.