

Draft Ukrainian Gambling Law – First reading edition

This alert (“**Alert**”) is intended to provide a brief overview of the outline of the gambling regulations in Ukraine, which are soon to be introduced together with the lifting of an existing gambling ban that was established in 2009.

This Alert is based on the existing draft of the Ukrainian gaming law (“**Draft Law**”) that was adopted in the first reading in the Verkhovna Rada 16 January 2020.

PLEASE BE ADVISED THAT THE CONCLUSIONS MADE IN THIS ALERT MAY CHANGE UPON THE ADOPTION OF THE FINAL VERSION OF THE DRAFT LAW.

REGULATED ACTIVITIES

The Draft Law provides for the following seven areas that will become regulated upon adoption of the Draft Law:

1. Land-based casinos;
2. Online casinos;
3. Land-based sports betting;
4. Online sports betting;
5. Slot machine halls;
6. Online poker;
7. Lotteries.

Each activity should be carried out on the basis of the respective license, issued by the Ukrainian gaming regulator (which is yet to be created) (“**Regulator**”) to the gambling organizer (“**Operator**”) for a certain amount of time.

The Draft Law establishes 11 types of licenses that may be obtained for the purposes of carrying out the activities mentioned above.

The list of activities and corresponding licenses can be found in Annex 1 to this Alert.

HOW TO OBTAIN A LICENSE

Auction mechanism that was introduced in the previous draft laws did not make its way into the draft law that was adopted in the first reading (except for the auctions for ancillary slot machines license). All main licenses (as well as almost all ancillary ones) are granted without any auction proceedings and their number is unlimited (subject to restrictions described in the Annex 2 below).

Entity wishing to obtain a license should apply for it, provided that the applicant (i.e. the entity that will be the Operator upon obtaining a license) is in compliance with the requirements that are established for Operators by the Draft Law, *inter alia*:

1. Legal entity that is applying for a license should be incorporated and act under the laws of Ukraine;
2. Legal entity that is applying for a license, should not be:
 - (i) a resident of a foreign state recognized as a state by the occupier or aggressor¹,

¹ Status of the occupier or aggressor is determined by the Ukrainian legislation.

- (ii) directly or indirectly controlled by residents of such states, and
 - (iii) UBO of such residents;
3. The amount of the applying entity's charter capital at the moment of application should be no less than 30,000,000 hryvnia (approx. EUR 1,100,000);
 4. Charter capital of the applicant should be paid in cash; it is forbidden to use for the payment of charter capital funds that are:
 - (i) from the budget;
 - (ii) loaned;
 - (iii) secured by mortgage; or
 - (iv) of unknown origin.

Together with the application for a license, the applicant should provide the following documents and information, *inter alia*:

1. Information about the UBO of the applicant;
2. Information about the amount of the charter capital and the date of completion of its formation – please note that the Draft Law establishes that the formation of the charter capital should be confirmed by an independent auditor;
3. Documents confirming the origin of the funds used for the payment of charter capital;
4. Information about the brand of the Operator, which is defined as trademark, corporate style, name, logo and other means allowing for the individualization of Operators – please note that the Draft Law establishes that only one brand may be used under one license;
5. Information and documents confirming rights to domain names (for online licenses);
6. Information in respect of the rights of the Operator to the software and hardware;
7. Other standard documents and information – confirming the absence of criminal liability of the management of the applicant, extracts from the relevant registers etc.

Please also see two Annexes attached to this Alert neatly summarizing the following:

1. Annex 1 – Regulated activities and corresponding licenses;
2. Annex 2 – Particulars of the licenses.

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ANNEX 1 – REGULATED ACTIVITIES AND CORRESPONDING LICENSES

No.	ACTIVITY	“MAIN” LICENSES	“ANCILLARY” LICENSES
1.	LAND-BASED CASINOS	License for land-based casinos	<i>License for casino gaming tables and roulette tables²</i>
			<i>License for slot machines</i>
2.	ONLINE CASINOS	License for online casinos	
3.	LAND-BASED BETTING SHOPS	License for sports betting activities	<i>License for land-based betting shop</i>
4.	ONLINE SPORTSBETTING		
5.	SLOT MACHINE HALLS	License for land-based slot machine halls	<i>License for slot machines</i>
6.	ONLINE POKER	License for online poker	
7.	LOTTERIES	License for lotteries	
8.	GAMBLING SERVICES	License for the provision of gambling services ³	
9.	CASINO / POKER INVESTMENT PROJECTS	Investment license ⁴	

² Please note that the licenses in italics may be considered ancillary ones as they may be (i) obtained only under the “main” license (i.e. land-based casino license) and (ii) used only together with the “main” license (e.g. an “auxiliary” license for slot machines can be obtained both under the “main” license for a land-based casino and a “main” license for land-based slot machine halls).

³ For example, the supply of software used by Operators to determine the outcome of gambling.

⁴ This license is issued free of charge for 10 years in relation to the investment projects that are approved by the Cabinet of Ministers of Ukraine.

ANNEX 2 – PARTICULARS OF THE “MAIN” LICENSES⁵

No.	TYPE OF LICENSE	LICENSE FEE ⁶		MAIN LIMITATIONS
1.	LAND-BASED CASINOS	in Kyiv	more than 200 rooms: EUR 10,800,000 150 – 200 rooms: EUR 21,600,000	<ul style="list-style-type: none"> This activity may be carried out only within special gaming zones, namely: <ul style="list-style-type: none"> FOR KYIV: 5-star hotels, no fewer than 150 rooms; FOR OTHER CITIES: 5-star hotels, no fewer than 100 rooms. The casino should have the following minimum amount of gaming equipment: <ul style="list-style-type: none"> FOR CITIES WITH POPULATION ABOVE 500,000: (i) 10 gaming tables (2 of them being roulette tables) and (ii) 50 slot machines; FOR CITIES WITH POPULATION BELOW 500,000: (i) 5 gaming tables (1 of them being a roulette table) and (ii) 20 slot machines. The minimum number of workers is 50. The minimum area of casino premises is 500 sq.m. The gambling software and hardware must be tested and certified by an entity authorized by the Regulator for certification and testing. <p>Additional comment: Holders of this license are able to hold poker tournaments in their casinos upon additional permission of the Regulator.</p>
		in other cities	more than 150 rooms: EUR 5,400,000 100 – 150 rooms: EUR 10,800,000	
2.	ONLINE CASINOS	EUR 11,250,000		<ul style="list-style-type: none"> It is possible to accept both Ukrainian and non-Ukrainian players for online casinos. The gambling software and hardware must be tested and certified by an entity authorized by the Regulator for certification and testing. The domain name used for online casinos should be in the .UA domain zone. <p>Additional comment: It is forbidden for holders of this license to hold an online poker tournament without the relevant license.</p>
3.	SPORTS BETTING	EUR 21,600,000		<ul style="list-style-type: none"> Betting shops should be located in special gaming zones, namely: <ul style="list-style-type: none"> FOR KYIV: <ul style="list-style-type: none"> 3, 4, и 5-star hotels, no fewer than 50 rooms; FOR OTHER CITIES: <ul style="list-style-type: none"> 3, 4, и 5-star hotels, no fewer than 25 rooms; The minimum area of the premises where the betting shop could be located is 50 sq. m. The software and hardware used to accept bets (online and offline) must be tested and certified by an entity authorized by the Regulator for certification and testing. It is possible to accept both Ukrainian and non-Ukrainian players. The domain name used for online sports betting should be in the .UA domain zone.
4.	SLOT MACHINE HALLS	EUR 135,000 + starting bid in the amount of EUR 180		<ul style="list-style-type: none"> This activity may be carried out only within special gaming zones, namely: <ul style="list-style-type: none"> FOR KYIV: <ul style="list-style-type: none"> 3, 4, и 5-star hotels, no fewer than 50 rooms; the minimum area of the slot machine hall should be 300 sq. m. FOR OTHER CITIES: <ul style="list-style-type: none"> 3, 4, и 5-star hotels, no fewer than 25 rooms; the minimum area of the slot machine hall should be 150 sq. m. The maximum number of slot machines in Ukraine should not exceed 40,000⁷ units (or 1 slot machine per 1,000 people in the corresponding administrative - territorial unit of Ukraine); as the number of licenses is limited, they are distributed as follows: <ul style="list-style-type: none"> FOR KYIV, ODESSA AND KHARKIV REGIONS: <ul style="list-style-type: none"> for Kyiv, Odessa and Kharkiv: 60% of licenses; for each region: 40% of licenses. FOR OTHER REGIONS OF UKRAINE: <ul style="list-style-type: none"> for regional centers: 40% of licenses; for each region: 60% of licenses. The number of licenses is limited to 1,600 licenses⁸ The gambling software and hardware must be tested and certified by an entity authorized by the Regulator for certification and testing. One Operator has the right to obtain no more than 35% of all licenses for slot machines in the administrative - territorial unit of Ukraine, and no more than 35% of all licenses in Ukraine.
5.	ONLINE POKER	EUR 450,000		<ul style="list-style-type: none"> The gambling software and hardware must be tested and certified by an entity authorized by the Regulator for certification and testing. It is possible to accept both Ukrainian and non-Ukrainian players. The domain name used for online poker should be in the .UA domain zone.

⁵ Please note that this chart does not include (i) the general requirements for Operators or standard requirements for premises akin to Russian ones or (ii) information on lotteries (as they are state-controlled), (iii) information in respect of the investment license (which is issued in relation to the investment projects that are approved by the Cabinet of Ministers of Ukraine), and (iv) information on license on gambling services (the current version of the Draft Law does not contain a clear description of what activities are regulated by this license).

⁶ License fees are calculated on the basis of the level of minimal wage amount set by the Ukrainian budget law for each year. Starting from 1 January 2020 equals to 4,723 hryvnia (approx. EUR 180); licensee fees are calculated on the basis of a 5 year term. For instance, the price of the casino license for Kyiv (hotel with more than 200 rooms) is calculated in the following way: EUR 180 * 60,000 (number of minimum wage amounts for such license according to the draft law) = EUR 10,800,000.

⁷ Slot machines located in casinos are on top of this 40,000 number.

⁸ One license = 25 slot machines.

ANNEX 2.1. – PARTICULARS OF THE “ANCILLARY” LICENSES

No.	TYPE OF LICENSE	LICENSE FEE
		NUMBER OF LICENSES
1.	CASINO GAMING TABLES AND ROULETTE TABLES ⁹	EUR 315,000 – one roulette table; EUR 157,500 – one casino gaming table.
		Unlimited
2.	SLOT MACHINES	EUR 10,800 – one slot machine.
		No more than 40,000 out-of-casino slot machines in Ukraine
3.	LAND-BASED BETTING SHOP	EUR 72,000
		Unlimited