

WHSIMION
& PARTNERS

ROMANIA: REMOTE GAMBLING REGULATORY HIGH-LEVEL OVERVIEW

Under the Romanian law, the activity of games of chance is defined as follows: "the activity which cumulatively meets the following criteria: material winnings are offered, usually of pecuniary nature, following the public offer of an organiser for a potential winning and the acceptance of such offer by a participant, where a participation fee, direct or dissimulated, is perceived, where winnings are given based on game rules priorly approved by the National Gambling Office, by a random selection of the results to the events which make the object of the game, irrespective of the method in which such are produced."

Further on, the Romanian law lists the games of chance which may be subject to licensing requirements which include lotto (exclusive monopoly of the National Lottery), betting activities - mutual, fixed betting (i.e. sports betting) and exchange betting, casino games (which includes poker), poker clubs, slot-machines, bingo, keno, tombola, as well as any other type of games, respectively new games or combination of games previously listed.

LICENSES REQUIRED UNDER ROMANIAN LEGISLATION FOR THE DEVELOPMENT OF REMOTE GAMBLING ACTIVITIES IN ROMANIA:

According to the provisions of the gambling legislation in force, in order to operate gambling activities in Romania, an operator must apply for and obtain: (i) a license to organize games of chance (1st class license) valid for a 10 (ten) years period, renewable for identical periods of time, and also (ii) an **authorization** for the operation of games of chance (authorization), which is valid for one year since issuance and is renewable for identical periods of time. The operator applying for a 1st class gambling license and authorization must prove, among others, that the following **main general requirements** are met:

- to be set up as (i) a Romanian legal person established under the Romanian law; (ii) a legal person duly established in a Member State of the European Union, a Contracting State of the Agreement on the European Economic Area or the Swiss Confederation having a registered permanent establishment for tax purposes in Romania;
- have as **main object of activity** the “organisation of games of chance” and a minimum value of the **subscribed and paid-up share capital** of RON 1,000,000 (approx. EUR 200,000).

In addition, the operator must prove that the following **main specific requirements** are met:

- the equipment used for communications as well as the main location of the central IT system are in Romania (mandatory for companies that are incorporated in Romania) or in EU, EEA or Swiss Confederation.
- in case the main location of the central IT system is not in Romania, the operator has the obligation to prove that both a safe server and a mirror server have been established on the Romanian territory.

Note: In case the central IT system is located on the Romanian territory, the operator must ensure direct access to such server for the Romanian regulator, where the safe server is no longer necessary.

- **bank accounts** are opened with a bank in Romania in view of creating a fund to deposit and guarantee the amounts/deposits held in players' accounts;
- in case of foreign entities, the operator must appoint a local **authorized representative** to act as its appointed attorney/agent in relation with the competent Romanian authorities, as well as other relevant Romanian state authorities or other entities; (please note that SIMION & ASOCIAȚII has set up an affiliated company which fulfills this role for its clients);
- certification of the entire IT system used by the remote gambling organizer applying for a 1st class license, as well as certification of the gaming software and platform used (including for the RNG and RTP of the games) from specialized licensed laboratories such as GLI, eCogra, BMM etc., must be provided to the Romanian regulator.
- a **guarantee fund** to cover the risk of non-payment of the **obligations to the general consolidated Romanian budget** must be set up. Alternatively, insurance or a bank letter of guarantee for the equivalent value must be issued to the Romanian state, where its value varies depending on the particular type of game to be licensed, as follows:

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- for online games of chance, except casinos, starting from January 1st, 2025, the guarantee level is EUR 2,000,000, irrespective of the operator's GGR
 - for online casinos, starting from January 1st, 2025, the guarantee level is EUR 5,000,000, irrespective of the operator's GGR

Operating under a 1st class license is subject to taxes and fees. More specific, for organizing gambling activities (i.e. for the 1st class license), an operator of online games of chance must pay an annual tax of EUR 300,000.

The taxes related to the **authorization** to operate online gambling activities are also paid on an annual basis and amount to **21%** of the incomes obtained from gambling activities (**GGR**), but not less than EUR 400,000 per year.

Remote gambling operators must also pay a **2% tax applied on players' deposits**.

As per an amendment enacted in November 2022 which changes the legislation in the field of cultural activities, "economic operators active in the gambling domain" must pay a **contribution of 0,5%** from their revenues (understood as GGR) to the National Cultural Fund. Note that this obligation applies only to B2C operators.

The **administrative taxes** for applying and obtaining the 1st class license are as follows: (i) EUR 3,500 for analysis of the file; (ii) EUR 10,500 for the issuance of the license.

In addition to this, operators with a 1st class license will also have to contribute with EUR 500,000 annual **contribution** to the fund for the **prevention of gambling addiction**.

Furthermore, for the annual **renewal of the authorization** to operate online gambling activities, an administrative tax of EUR 250 for documentation analysis will be applicable at the moment of submitting the renewal request and documentation.

Each request/application regarding the **integration of new games** on the online gambling platform or **recertification of games** will be subject to a documentation analysis tax of EUR 250, applicable at the moment of submission of the request/application.

The operators must pay an **advertising fee of 5%** of the value of the advertising agreements concluded for TV and outdoor (sport sponsorships or online advertising are not included).

This advertising fee must be paid to the state budget by the 25th of the month following the month in which the advertising agreement was concluded or, in the case of agreements providing for periodic payments, the obligation to pay the fee becomes due on the last day of the month in which the contractual instalment is due. If the gambling operator is not a party to the agreement, the advertising fee shall be paid by the advertising service provider.

In order to pay the taxes applicable under Romanian law, the applicant for the 1st class license needs to also apply for the fiscal registration procedure in Romania, a separate process which must be conducted in parallel with the license application, having the purpose to obtain a fiscal registration number for the foreign entity. Such is necessary for the proper allocation of payments made to the Romanian state budget.

Finally, all B2B suppliers that the B2C gambling operator is using need to be declared to the Romanian regulator as part of the licensing process and thereafter whenever a new supplier is added to the list. Such suppliers need to have previously applied for and obtained a 2nd class license from the Romanian regulator. The categories of B2B suppliers for which the Romanian regulator has issued a 2nd Class license are:

- software providers
- providers of platform management and integration services
- providers of platform hosting services
- providers of data center services
- providers of live casino games
- certifiers and auditors
- payment processors
- marketing affiliates

The process for applying for a 2nd class license is significantly less cumbersome, license is issued for a 10 years period, subject to payment of an administrative fee for the issuance of the license of EUR 10,500/license and an annual license fee amounting to EUR 20,000 plus an additional EUR 15,000 annual contribution to the fund for the **prevention of gambling addiction**.

The list of B2C operators currently holding a 1st class license and authorization to offer online gambling in Romania, as well as the list of B2B providers who already obtained a 2nd class license can be consulted on the official website of the Romanian regulator (which might have a delay of approximately 1 month, but otherwise is fairly up to date). See relevant links below:

<http://onjn.gov.ro/approved/> - licensed B2C operators

<http://onjn.gov.ro/lista-licentiati-clasa-a-ii-a/> - licensed B2B providers

TAXATION FOR PLAYERS REVENUES

In terms of the tax regime applicable for the revenues obtained by the players from online gambling, the Romanian fiscal legislation provides that online operators are required to withhold and pay the taxes owed by the players from each withdrawal of funds from the online platform. The fiscal legislation imposes the following thresholds for taxation of players revenues from online gambling:

Gross Revenue	Tax
Up to 10,000 RON (including)	3%
over 10,000 RON – 66,750 RON (including)	300 RON + 20% for the amount exceeding 10,000 RON
over 66,750 RON	11,650 RON + 40% for the amount exceeding 66,750 RON

POTENTIAL RESTRICTIONS ON ADVERTISING

At the end of 2022 and beginning of 2023, several legislative proposals have been lodged with the Romanian Parliament aimed to further restrict or even entirely prohibit any form of advertising for games of chance. While these legislative proposals are still in their initial stage, the current context on the Romanian market seems to be that political stakeholders along with the gambling regulator intend to change and further restrict the advertising regime, since online gambling operators intensively rely on OOH and TV advertising.

For more information please contact:



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