

Romanian Online Plans Hit EC Bump

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Romania is the latest country to see its gambling regulation picked apart by a European Commission detailed opinion, with plans to regulate online gambling now on hold at least until November.

The European Commission issued a detailed opinion yesterday on Romania's draft legislation extending the standstill period until 3 November, during which time Romania cannot adopt its draft legislation.

After the standstill period ends the government can decide to take into account the Commission's objections or press ahead with the laws at the risk of prosecution.

Complicating the matter is that submitted legislation includes both amendments [providing for remote gambling](#) and elements covering last year's Ordinance 77/2009, which substantially increased taxes for Romanian casino and slot operators and bypassed EU scrutiny when originally introduced.

Bogdan Mararu, a senior partner at the Bucharest-based gaming specialist law firm Mararu & Mararu told GamblingCompliance although the exact nature of the Commission's opinion are not known, some issues raised may be similar to its [objections over Polish draft regulation](#) earlier this year.

The Polish government recently chose to resubmitted its updated draft laws, although local legal experts warned the changes made had probably not gone far enough to swerve further objections from the EC.

Looking forward, Mararu pointed out that if objections to the Romanian draft are minor, the government will make the changes easily and could still bring in legislation by the end of the year.

Still, he said even without taking into account European concerns the Government may wish to press ahead: "If they already did, or will do their homework well and prepare their defense well, I think the Government will have a strong chance of avoiding or defending infringement, even with the detailed opinion from the Commission".

"In my opinion it will be difficult to convince any Member State with established state monopoly [on gambling] to change its fundamental views on it in a voluntary manner, because historically Member States that have opted for monopolies of conventional gambling tend to adopt similar structures for online gambling," he explained.

Nevertheless Mararu also warned that if the objections raised by the EC are substantial, Romania might simply shift its focus away from regulating remote gambling altogether.

He explained that, in the case of substantial objections, especially those targeting the state monopoly on gambling, Romania "will face a no-win situation, so it may go through with the law as it is."

"If it's not [the draft as it stands], Romania has less reason to open the Internet and then why not leave the online sector banned and more actively pursue the prosecution of operators, based on the existing ban instead."

In addition Moraru said the law in its current form, although this may change, is lacking on detail: "...many of the industry's concerns - such as payment processing, the requirement to establish only certain types of company and many other important limitations - are not being expressly regulated in this draft law."

The proposed legislation was also the subject of debate at Eastern European Gaming Summit in Bulgaria yesterday, where operators questioned how attractive the market might be under the mooted laws.

Matt Jellicoe, chief executive of the B2B arm of online operator Offsidebet, said the required upfront payment for a Romanian licence would scare off foreign companies: "Any legal system that requires an immediate sizeable down-payment is not going to be taken up by many operators, and so you are always going to have an offshore problem."

He added that the taxation for online sector was competitive, although land-based operators, who staged a [mass protest](#) over the summer over rumours of new tax proposals, may not share the same view.

Industry lobby group European Gambling & Betting Association (EGBA) echoed online sector concerns claiming that a number of the draft were questionable under EU law.

They highlighted objections to a number of clauses including the requirement for local servers and necessity of a physical presence for the company in Romania, as well as the complete ban on advertising of online operators not licenced in the country.

Secretary General of the EGBA Sigrid Ligné commented: “While we support Romania’s legitimate wish to regulate its online gaming market, it is important from a consumer protection perspective that national gambling policies are consistent.

“As confirmed by the ECJ in its recent rulings, there are less restrictive means than forced establishment to monitor and control the online gaming and betting market.”