
Online Reforms At Stake As Romania Weighs EU Concerns

05 Nov, 2010 / *GamblingCompliance* / [Daniel Macadam](#)

With Romania now expected to submit only negligible changes to its online gambling bill to the European Commission (EC), local legal experts believe that further opposition could lead to the entire reforms being scrapped.

Sources involved in the process suggested that the Romanian authorities, who submitted an amended draft of the [controversial gambling legislation](#) earlier this week, have largely sidestepped the EC's calls to allow greater cross-border competition.

One of the requests in the EC's detailed opinion, obtained by GamblingCompliance, was for more information about state-owned operator Loteria Romania, and whether its monopoly over mutual betting extends to the online market.

Bogdan Mararu, gaming specialist at the Romanian law firm Mararu & Mararu, argued that if the EC probes further into Loteria Romania's privileged position, the government could drop its plans to license online gambling markets rather than risk a bloody battle over the legitimacy of its monopoly.

"The detailed opinion's questions about the exclusive control Loteria Romania enjoys really could open Pandora's box," Mararu told GamblingCompliance.

"What the opinion's addressing is pan-European freedom of services, so if the Commission goes further it will start tackling the monopoly.

"The Romanian government will weigh it up very carefully, and the calculation is not simple – trying to tax the €500m online gambling market or staying with the €370m turnover of the national company."

If the EC does send back another detailed opinion or open infringement proceedings, then, Mararu argued, the government will "drop the entire lot".

In the detailed opinion, the Commission states that it would "really appreciate" additional information about what legal justification Romanian Lotteries has for holding a monopoly over lotteries and mutual betting.

EU countries are entitled to establish monopolies to tackle gambling-related problems, but, as shown in recent European Court of Justice rulings, they are only justified if they deal with the problems consistently.

At stake is legislation which would enable licensed companies to offer online gambling, but would also establish strict licensing requirements and [severe penalties](#) for illegal internet gambling activities.

Online companies welcomed the EC's intervention, arguing that Romania's strict licence requirements breach EU law and would leave their operations anaemic.

The detailed opinion's first main issue is that under the draft bill betting providers must be organised as a Romanian legal entity.

The second is that online operators must locate their technical equipment on Romanian soil, with the EC suggesting that the text be amended "so as to accurately and precisely point out that there is no requirements" for an operator to hold a server there.

The Romanian authorities have not succeeded in or have been inaccurate in pointing out the reasons for the restrictions, the detailed opinion said, and have not provided proof that the measures are proportional.

"I was surprised to see that the Romanian government did not play its best hand [in the draft legislation] – i.e. the notable particularities of the Romanian market – which would have clarified much better the justifications for the strict requirements," Mararu said.

Instead, there were a number of outstanding questions that the EC had of the draft legislation.

As well as what types of gambling Romanian Lottery offered, the EC also questioned why operators will be required to put down 4m RON (€930k) as a financial security for online gambling activities.

It also sought clarification on why the bill creates different licence fees for different types of gambling as well as on the length of those licences.

Mararu, along with two large European online operators, said that they believed the Romanian government would only make minimal concessions to the EC's detailed opinion and requests.

The Romanian authorities are then due to submit the secondary legislation, which will flesh out the skeletal bill, to the European Commission at the end of next week.

One British betting operator, which is active in Romania, argued that if everything comes together a new law could be in place by as early February next year.

The amended bill will be passed to the Deputy's Chamber for further analysis later this month, and will then be placed before parliament if there is no further action from the European Commission.