

## **GAMES OF CHANCE**

*The presentation hereby has in view the legal provisions in force on the 31<sup>st</sup> of March 2004*

### ***Applicable legislation in this field***

- Government Emergency Ordinance no. 69/1998 on the regime of authorization of activities in the field of games of chance, published in the Official Gazette no. 515/30<sup>th</sup> of December 1998
- Government Decision no. 251/1999 on the conditions of authorization, organization and exploitation of games of chance, published in the Official Gazette no. 171/22<sup>nd</sup> of April 1999
- Law no. 166/1999 for the approval of the Government Emergency Ordinance no. 69/1998 on the regime of authorization of the activities in the field of games of chance, published in the Official Gazette no. 550/11<sup>th</sup> of November 1999
- Order of the minister of industry and trade no. 184/2000 for the approval of the Technical Norm for the verification of the means of gaming – General Requirements – T.N.V. – 01-2000 published in the Official Gazette no. 344/25<sup>th</sup> of July 2000
- Government Decision no. 671/2000 on the updating of the level of the duties for the issuing of the documents for the authorization of the activities of games of chance, published in the Official Gazette no. 398/25<sup>th</sup> of August 2000
- Decision of the president of the National Audio-Visual Council no. 97/2003 on the abrogation of certain decisions, published in the Official Gazette no. 349/22<sup>nd</sup> of May 2003

### ***I. Scope of the legal provisions on games of chance***

Legal persons duly registered in Romania and authorized to exploit games of chance may organize games of chance.

According to law, *game of chance* means the procedure of assigning of gains of any kind, taking into consideration certain aleatory elements – regardless of the modality of their generation – with the collection, under any form, of certain direct or dissimulated participation fees.

Any natural person who wants and has the legal right to take part in the game is participant in the game. Participation in the game implies the adhesion without limits or without reserves to all the provisions of the regulation of the respective game.

Games of chance can be organized with or without the direct participation of the gamblers, regardless of the technical means used.

## ***II. Public authorities having duties in the field of games of chance***

The Ministry of Public Finances is the public authority having duties in this field.

## ***III. Authorization of organization and exploitation of games of chance***

The authorization regime of activities in the field of games of chance is regulated by the Government Decision no. 251/1999, as further amended and completed.

Economic entities organizing and exploiting games of chance may perform their activity on the basis of the license for the exploitation of the games of chance.

The license for the exploitation of the games of chance is issued by the Commission for the authorization of games of chance, which performs its activity within the Ministry of Public Finances.

The license for the exploitation of the games of chance is issued against fees established in lei.

On a quarterly basis, until the 25<sup>th</sup> of the month following the end of the trimester, the economic entities organizing games of chance of any kind have the obligation of transmitting the situation regarding the main economic-financial indicators achieved, cumulated from the beginning of the year, according to the model presented in the Annex no. 2 to the Government Ordinance no. 36/2000, to the Ministry of Public Finances – the department that has issued the license.

## **1. Authorization conditions**

In order to obtain the exploitation license, the legal persons must fulfill the following conditions:

- 1.1. to be duly registered in Romania;
- 1.2. to have rooms accordingly arranged for the performing of such activities;
- 1.3. the administrator and/or executive manager must be a person who has turned 23 years old.;
- 1.4. to have the technical proof attesting the good functioning of the machines, equipments, gambling tables, devices, issued by trade companies specialized in this field, authorized by the Commission;
- 1.5. administrators and executive managers of economic entities, requesting the authorization, not to have suffered convictions with the offence of fraud, theft, fraudulent bankruptcy, forgery and use of forgeries, tax evasion, smuggling or for any other offence that led to the loss of civil and political rights or not to have been repeatedly sanctioned with contravention in connection with the failure to comply with certain legal provisions regarding games of chance;
- 1.6. administrator and/or executive manager not to be public servant or not to hold another position incompatible with the position of manager or administrator;
- 1.7. not to register outstanding tax liabilities to the state budget and to the state social securities budget. The followings are not considered outstanding tax liabilities to the state budget and to the state social securities budget.
  - the amounts for which economic entities have obtained from the Ministry of Public Finances or from the Ministry of Labor and Social Solidarity facilities for their payment;
  - the amounts established after the controls made by the specialized fiscal bodies and which are in different stages of challenging or in court;
  - the amounts which are the object of a measure for suspension of execution, ordered by the court.
- 1.8. the prior approval from the National Bank of Romania is necessary if games of chance in foreign currency are exploited.

Documentation is filed with the Ministry of Public Finances.

## **2. Authorization validity**

The license for games of chance exploitation is valid for a period of one year starting from the 1<sup>st</sup> of the months following the one in which the approval of the license was obtained.

After this period the economic entities may request the reauthorization of these activities, subject to payment of the afferent duties.

### ***Specification***

The games of chance, regardless their name, are not allowed and cannot be authorized, through which amount of money or other material values are accumulated in certain associations or in other organized forms, with the promise of the making of a gain by multiplying the deposited amounts, only on the basis of the hope to increase the number of deponents in a period of time proposed by the organizers and accepted by the deponents on the date of the filing the application or/and of the amounts of money.

There are also forbidden and cannot be authorized the games type blacks and whites based on the organizer's dexterity, of the handler of the means of the game (playing cards, rubbers with stamps, caps with cereal beans, caps with balls, etc.)

## **3. Suspension of the games of chance exploitation license**

The failure to pay of a monthly fee, representing the authorization fee, on the term provided by law, attracts the suspension of the games of chance exploitation license. The failure to pay the monthly installments for a period longer than two months leads to the cancellation of the games of chance exploitation license.

The failure to pay or the delaying with more than 31 working days of any tax liabilities owed to the state budget, to the state social securities budget as well as to the local budget by the economic entities organizing games of chance, leads to the cancellation of the games of chance exploitation license.

The raising of the sanction of suspension of the games of chance exploitation license is made on the basis of the certification by the territorial tax body of the payment of the outstanding monthly installments as well as of the afferent increases for delay.

After the suspension or after the cancellation of the games of chance exploitation license, as well as after the cessation of the games of chance activity, under any form, the economic entities organizing games of chance

are further compelled to the payment of the monthly installments afferent to the difference between the fee for annual authorization and the installments already paid, on the terms provided by law, until the expiration of the period for which they have been authorized.

The changing of the place of exploitation of the activities of the games of chance is made on the basis of a permit issued upon the interested economic entity's request by the Ministry of Public Finances – Commission for Authorization of Games of Chance.

The exploitation of the games of chance in foreign currency is made only subject to authorization from the National Bank of Romania, on the basis of the games of chance exploitation license.

The organizers of games of chance are compelled to keep the accounts separately, up to the level of balance sheet, for the activities of games of chance, including the part afferent to the associates, in the case of the contracts of joint-venture.