

Draft Ukrainian Gambling Law – First glance

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 is yet to be officially adopted.

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 eight 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. Land-based poker at poker clubs;
7. Online poker;
8. 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 10 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

The Draft Law establishes that the number of issued licenses will be limited (details about the limitations established by the Draft Law may be found in Annex 2 to this Alert).

A license can be obtained in two consecutive steps:

1. Participation in an electronic auction (“**Auction**”) that will be held by the Regulator; and
2. Application for a license (provided that the applicant has won the Auction).

Auction

The Draft Law provides that detailed regulations governing Auction proceedings will be adopted later by the Regulator.

However, it is still possible to draw the following conclusions on the basis of the Draft Law:

- As of now, there are no limitations for entities participating in Auctions; the Draft Law also directly provides that participation of non-Ukrainian legal entities is allowed;
- Auction participants must pay a guarantee fee (the Draft Law establishes that the regulations of such guarantee fee should be adopted together with the rules of Auction adopted by the Regulator);
- Results of the Auction should determine the annual payment for the specific license;

- The Draft Law establishes starting bid prices for each type of license (but the Regulator is entitled to increase the starting bid price).

Application for a license

After the end of the Auction, the participating entity is entitled to apply for a license, 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. 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);
3. 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 Operator¹ – 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 and documents confirming rights to software (for online licenses);

7. Documents confirming that the applicant is controlled by the winner of the Auction (if the winner of the Auction is a non-Ukrainian entity);
8. 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.

CONTACTS



Alex Skoblo

Partner

Office: Moscow

Telephone: +7 495 644 05 00

Email: alexander.skoblo@dentons.com



Ilya Machavariani

Associate

Office: Moscow

Telephone: +7 495 644 05 00

Email: ilya.machavariani@dentons.com

¹ The "Brand of the Operator" is defined as the set of trademarks, corporate style, name, logo and other means allowing for the individualization of Operators.

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 (i) sports betting (online and land-based) and (ii) online casinos	
3.	LAND-BASED BETTING SHOPS		<i>License for land-based betting shop</i>
			<i>License for bet placing machines (stavkomat) / betting machines³</i>
4.	ONLINE BETTING SHOPS		
5.	SLOT MACHINE HALLS	License for land-based slot machine halls	<i>License for slot machines</i>
6.	LAND-BASED POKER	License for land-based poker clubs	
7.	ONLINE POKER	License for online poker	
8.	LOTTERIES	License for lotteries	

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 / sports betting license) and (ii) used only together with the corresponding license.

³ These are machines that players can use to place bets without interacting with betting shop personnel. Please also note that this license is ancillary to the land-based betting shop license as it may be obtained only under the land-based betting shop license.

ANNEX 2 – PARTICULARS OF THE “MAIN” LICENSES⁴

No.	TYPE OF LICENSE	STARTING BID ⁵		MAIN LIMITATIONS
		NUMBER OF AVAILABLE LICENSES		
1.	LAND-BASED CASINOS	EUR 1,350,000 for Kyiv; EUR 900,000 for other cities in Ukraine		<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 200 rooms; FOR OTHER CITIES: 5-star hotels, no fewer than 150 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. <p>Additional comment: Holders of this license are able to hold poker games in their casinos, but not poker tournaments. Poker tournaments may be held only under the relevant license.</p>
		20 ⁶ licenses		
2.	(I) SPORTS BETTING (ONLINE AND LAND-BASED) AND (II) ONLINE CASINOS	EUR 900,000		<ul style="list-style-type: none"> The number of land-based betting shops is limited to 800 (under 80 licenses), with the following distribution of this amount between cities: <ul style="list-style-type: none"> KYIV: 32 licenses; ODESSA, KHARKIV, DNEPR AND LVIV: 16 licenses, but no more than 40 betting shops in each city; OTHER CITIES: 32 licenses, but no more than 20 betting shops in one city. It is possible to accept both Ukrainian and non-Ukrainian players for online sports betting / casinos. Software used for online sports betting / online casinos should be tested and certified by the relevant Ukrainian state body. The domain name used for online sports-betting and 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>
		10 licenses		
3.	LAND-BASED SLOT MACHINE HALLS	EUR 270,000		<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, 4-star and 3-star hotels, no fewer than 200 rooms; FOR OTHER CITIES: 5-star, 4-star and 3-star hotels, no fewer than 150 rooms. Slot machine halls should be in compliance with the following requirements: <ul style="list-style-type: none"> FOR CITIES WITH POPULATION ABOVE 500,000: the minimum area of the slot machine hall is 300 sq.m. FOR CITIES WITH POPULATION BELOW 500,000: the minimum area of the slot machine hall is 150 sq.m. The maximum number of slot machines in Ukraine should not exceed 40,000 units (or 1 slot machine unit for 1,000 people); as the number of licenses is 160, the distribution of licenses is the following: <ul style="list-style-type: none"> KYIV: 60 licenses; ODESSA, KHARKIV, DNEPR AND LVIV: 40 licenses, but no more than 50 slot machine halls in each city; OTHER CITIES: 60 licenses, but no more than 20 slot machine halls in one city.
		160 ⁷ licenses		
4.	LAND-BASED POKER CLUBS	EUR 45,000		<ul style="list-style-type: none"> The requirements to and limitations on land-based poker clubs are rather standard. Poker tournaments may be held both within poker clubs and outside of poker clubs. The maximum length of a poker tournament <u>outside of a poker club</u> is limited to 2 weeks. Only one poker tournament may be held outside of poker clubs within 6 months.
		5 licenses		
5.	ONLINE POKER	EUR 45,000		<ul style="list-style-type: none"> 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 licenses		

⁴ 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).

⁵ Starting bid amounts are calculated on the basis of the minimum wage set by the Ukrainian budget law for each year. In 2019 it is equal to 4,173 hryvnia (approx. EUR 150).

⁶ The Draft Law provides that the number of licenses can be increased if a new hotel (200 rooms for Kyiv; 150 rooms for other cities) that includes a casino will be built.

⁷ 60 for Kyiv; 40 for Odessa, Kharkiv, Dnepr and Lviv; 60 for other cities

ANNEX 2.1. – PARTICULARS OF THE “ANCILLARY” LICENSES

No.	TYPE OF LICENSE	STARTING BID
		NUMBER OF LICENSES
1.	CASINO GAMING TABLES AND ROULETTE TABLES ⁸	EUR 52,500 – one roulette table; EUR 27,200 – one casino gaming table.
		Unlimited
2.	SLOT MACHINES	EUR 1,050 – one slot machine connected to the online monitoring system; EUR 2,100 – one slot machine not connected to the online monitoring system.
		Unlimited
3.	LAND-BASED BETTING SHOP	EUR 27,000
		80 licenses ⁹
4.	BET PLACING MACHINES (<i>STAVKOMAT</i>) / BETTING MACHINES	EUR 1,050
		Unlimited

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⁸ 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 / sports betting license) and (ii) used only together with the corresponding license.

⁹ 32 for Kyiv; 16 for Odessa, Kharkiv, Dnepr and Lviv; 32 for other cities.