

# New kid on the block

## UKRAINE

After more than a decade of prohibition and black market operations, all eyes are currently focused on Ukraine, which is cantering into the worldwide gambling arena, all gung-ho and cape flying, with its brand new gaming law.

Despite the fact the Ukraine harbours debts, mostly to cover defence spending, things were looking positive with a predicted GDP growth of five per cent for the year 2020. Then of course Covid-19 arrived and put the kibosh on that, shrinking the economy by five per cent.

2020 will be remembered for the Coronavirus, which dominated and haunted the world for pretty much the entire year... and beyond.

In Ukraine, 2020 brought not only another year of political intrigue, but also a new gambling law, driven by a need to replenish state funds depleted both by the country's ongoing conflict with Russia and response to the economic pressures of the pandemic,

The law 'On State Regulation of Activities Related to the Organisation and Conduct of Gambling' was signed, sealed and delivered in August last year by President Volodymyr Zelensky, bringing an end to a decade long gambling ban and a much needed boost for a country which can only be described as struggling.

Since independence from the Soviet Union in 1991, Ukraine has been pulled apart by two opposing forces; attracted to closer ties with Western Europe while Russia's orbit, which is keen to keep its former dependent state close, draws it further away.

The two share much common ground. A significant number of the population have Russian as their first language and the country was, for most of the 20th century, an important contributor to the Soviet Union's economy, providing much of the Soviet's agricultural output and supplying heavy industrial equipment.

However, Russia viewed Ukraine's desire to open its markets to the EU and make a deal with US companies over its natural gas reserves, as a



threat to its own economy sparking the Russo-Ukrainian war.

Moscow illegally annexed Crimea in 2014 and supported pro-Russian separatists in east Ukraine and a war began centred around the status of two Ukrainian regions - Crimea and Donbass.

Pro-Russian Ukrainian president at the time, Viktor Yanukovich, was ousted from office and there was unrest throughout the region as Russia sent in troops to occupy the Crimean peninsula. The military conflict has seen over 13,000 people killed. Today, seven per cent of Ukraine's territory is still under occupation.

President Yanukovich was replaced by Petro Poroshenko who served in 2019 until current

President Volodymyr Zelensky took office. The former TV personality's anti-corruption campaign won him huge support and a landslide victory.

Meanwhile, the economy in Ukraine remains uncertain. It is predicted that the country will see a four to 4.5 per cent growth in 2021 mainly due to a predicted rebound after lockdowns, but there is little investment anticipated.

Since 2017, Ukraine's economy had been relatively strong following several years of decline thanks to the turmoil in the country and Russia imposing stricter border and customs controls. In 2013, the country saw zero growth in GDP, whilst 2014 saw a decline of 6.8 per cent and 12 per cent in 2015. However, by 2019 growth had increased to around 3.2 per cent

thanks to a bumper agricultural harvest and rise in domestic consumption. Despite the fact that Ukraine harbours debts, mostly to cover defence spending, things were looking positive with a predicted GDP growth of five per cent for the year 2020.

Then of course Covid-19 arrived and put the kibosh on that.

Instead, the GDP in Ukraine shrank by five per cent last year mostly because of the economic slump in the second quarter. The Covid-19 outbreak also coincided with Zelensky's government re-shuffle where he sacked his reformist government and then removed all remaining reformers from senior positions. His new Cabinet of Ministers is now described as 'random' and 'lacking in certainty'.

## Essential information and facts about Ukraine:

<b>Capital</b>	Kiev
<b>Total Area</b>	603,550sq.km
<b>Population</b>	43.7 million
<b>Median age</b>	41.2 years
<b>Religion</b>	Orthodox, Ukrainian Greek Catholic, Roman Catholic, other
<b>Ethnic Groups</b>	Ukrainian (78%), Russian (17%), other
<b>Languages</b>	Ukrainian (official), Russian, other
<b>Currency</b>	Hryvnia (UAH)
<b>Government type</b>	Semi-presidential republic
<b>Chief of State</b>	President Volodymyr Zelensky (since May 2019)
<b>Head of Government</b>	Prime Minister Denys Shmyhal (since March 2020)
<b>Elections</b>	President appointed by majority vote for five year term (eligible for second term). Next election due March 2024. Prime Minister selected by the Verkhovna Rada.
<b>Unemployment</b>	9.8 per cent (2020)
<b>Tourism</b>	13.7 million (2019)



The country has fared better than most during the pandemic, mainly because of its macroeconomic development and a windfall in foreign trade mostly down to exports in agricultural goods, iron ore and steel. The unemployment rate in mid-2020 was 9.8 per cent compared to the usual average of 8.7 per cent.

Under the re-shuffle Prime Minister Oleksiy Honcharuk resigned after just six months on the job and Deputy Prime Minister, Denys Shmyhal replaced him in March 2020 coinciding with the set up of the country's Covid-19 Pandemic Response programme.

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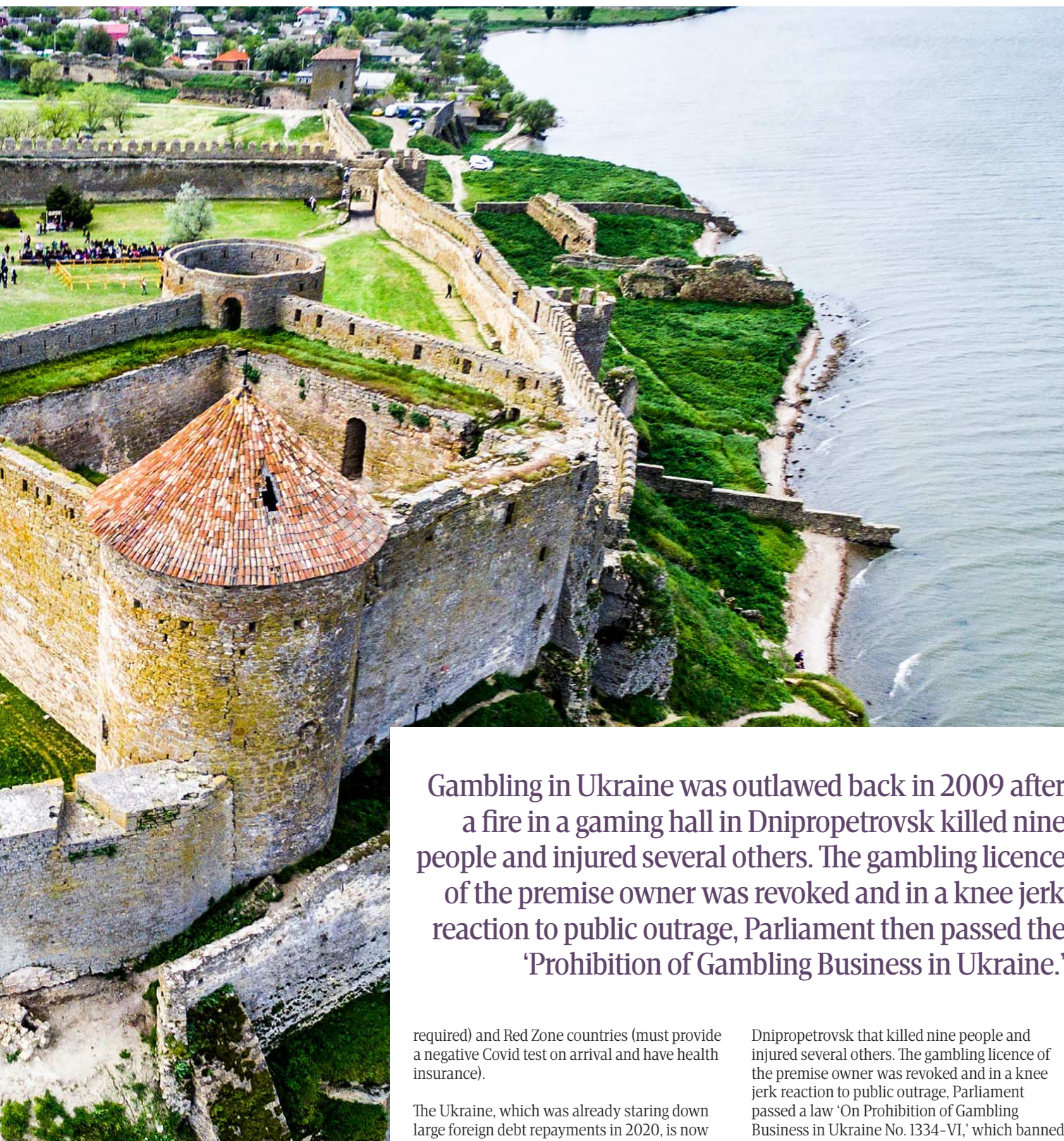
By the beginning of March, Covid total cases in the Ukraine were around 1.35 million with over 26,000 deaths. Vaccinations began in Ukraine on February 24 when doctors at Cherkasy Oblast Hospital became the first to receive their jobs. The first batch of AstraZeneca vaccines arrived the day before comprising of 500,000 doses, which is the first portion of 12 million doses Ukraine has ordered from India.

Interestingly, closing the borders to international tourists wasn't as disastrous for Ukraine as other countries, mainly because Ukrainians consistently spend more abroad than the country receives from incoming tourists. Forced to stay at home this particular protocol had less

of a detrimental effect than in those countries heavily reliant on tourism.

Even the closure of bars, restaurants and hotels was less intense because these services employ a smaller share of the labour force than the likes of Spain or France, for example.

Back in the early 2000s, the country attracted more than 20 million tourists each year which dropped back in 2014 to around 10 million. In 2019, there were 13.7 million visitors with tourism receipts of UAH59.5bn - in comparison 29.3 million Ukrainians travelled abroad. Visitors from Moldova (32 per cent) and Belarus (17 per cent) are the main inbound tourists



## Gambling in Ukraine was outlawed back in 2009 after a fire in a gaming hall in Dnipropetrovsk killed nine people and injured several others. The gambling licence of the premise owner was revoked and in a knee jerk reaction to public outrage, Parliament then passed the 'Prohibition of Gambling Business in Ukraine.'

followed by visitors from Poland, Russia and Hungary.

In 2020, Ukraine saw 66.7 per cent less foreign tourists visitors with about 3.4 million people in total from 192 countries. In comparison, 11.2 million Ukrainians travelled abroad last year. Tourism accounts for around 6.4 per cent total contribution to GDP and is responsible for 1.3 per cent of total employment.

The country lifted its entry ban to foreigners and resumed commercial flights for the second time in September 2020, although visitation codes are divided between Green Zone countries (no quarantine rules, but Covid health insurance

required) and Red Zone countries (must provide a negative Covid test on arrival and have health insurance).

The Ukraine, which was already staring down large foreign debt repayments in 2020, is now facing another recession with a reported 84 per cent of households having lost income despite the fact the government introduced an 'adaptive quarantine,' which allowed them to respond to outbreaks in areas without stopping the country completely.

### NEW GAMBLING LAW

The Ukraine gambling market until now has mostly operated illegally over the last decade. It is estimated that the Ukraine gambling market is worth around €1bn. The government says a legalised market is a powerful tool for the development of the tourism market.

Gambling in Ukraine was outlawed back in 2009 following a fire in a gaming hall in

Dnipropetrovsk that killed nine people and injured several others. The gambling licence of the premise owner was revoked and in a knee jerk reaction to public outrage, Parliament passed a law 'On Prohibition of Gambling Business in Ukraine No. 1334-VI,' which banned any type of gambling business, except lotteries as these operated under the 'On State Lotteries in Ukraine law.'

Prior to the ban, gambling was rife with very little clear regulatory procedures in place, while no single state authority had responsibility over the sector. It has been estimated that only 40 per cent of all gambling operators were legal entities during this time.

Revenues were estimated to be around €967m in 2008 with slots raking in over €700m alone followed by casinos €37m, lotteries €66m and betting companies €158m.

President Viktor Yushchenko signed the

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prohibition law at the time and some 100,000 gaming halls were shut down. The law provided for a temporary ban on gambling until legislation for special gambling zones was adopted.

Initially, the Prohibition Law established a three month period to enable the Cabinet of Ministers to draft a new legislation for gambling zones. However, due to the unstable political climate in Ukraine this draft law 'On Gambling Business in Ukraine No. 2156' wasn't released until 2013.

Something was required. Essentially, the ban on gambling during that time had merely shifted everything underground. Providers moved their servers abroad and offered online gambling services to Ukraine players, whilst the majority of casinos and slot halls underwent a re-fit and renamed themselves 'internet cafes' or 'video lottery clubs', providing access to online gambling resources or regular slot machines under the guise of video lottery vending machines.

The draft law, however, failed to gain sufficient support. In 2017, the government issued a letter of intent to the IMF outlining a plan to raise tax revenues by legalising the gambling industry. The idea was to enact economic reforms to qualify for around US\$18bn in IMF financial assistance, but this also failed to restart the gambling industry.

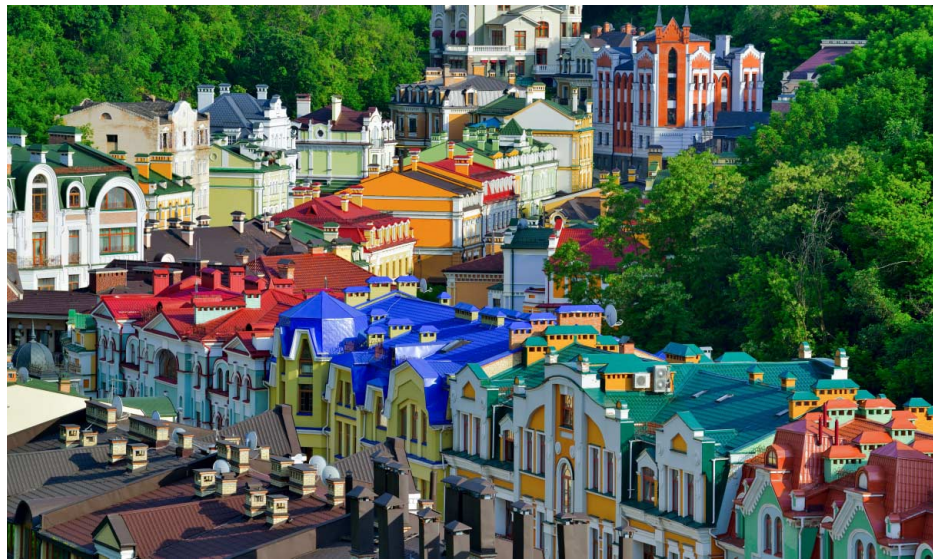
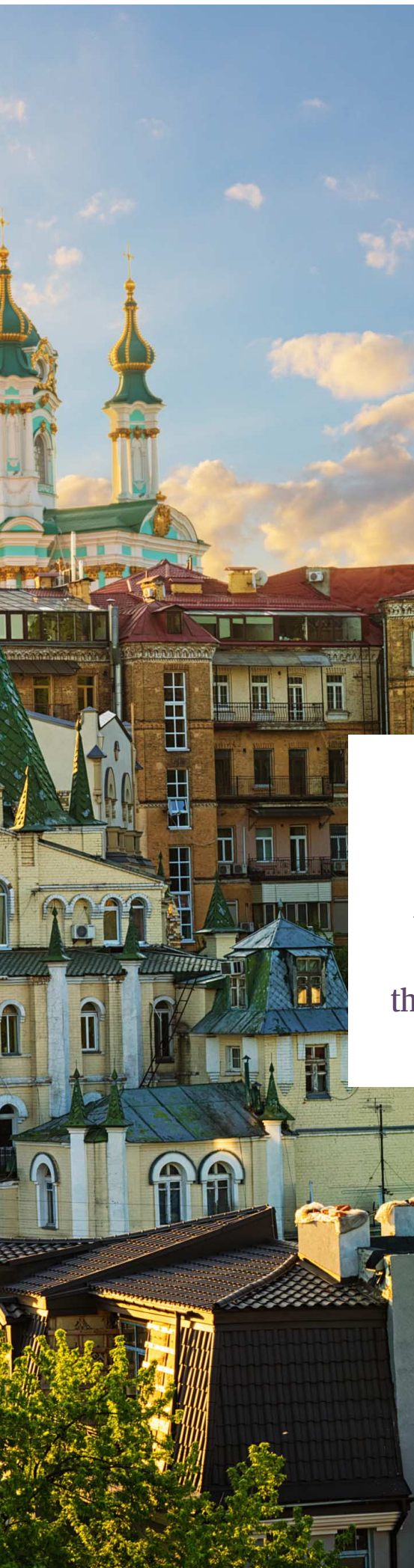
In September 2019, the President ordered parliament to introduce a draft law to regulate gambling in a bid to revitalise the economy. His plan was to legalise casinos in five star resorts and boost the tourism sector near the Black Sea.

He announced he would start enforcing anti-gambling laws and Ukrainian courts ordered ISPs to block unlicensed gaming sites, whilst in early January 2020 more than 900 gambling establishments were shut down for illegal operations according to the Office of the Prosecutor General. Some 437 criminal proceedings have been issued and 11,600 units of gaming equipment have been seized.

In October 2019, Oleg Marusyak introduced the 2285-D bill, as one of six alternatives to the reforms submitted by the Servant of the People Party-led government. It was rejected on the first reading, but after a few amendments the bill was approved in January 2020 and after several amendments and delays, the law was finally adopted in July after a landslide 248-95 approval in parliament and was signed by President Zelensky in August.

The law 'On State Regulation of Activities Related to the Organisation and Conduct of Gambling No. 768-IX' gave the go-ahead for the following types of gambling activities:





- Gaming (landbased and online) – casino gaming including table games and poker.
- Betting (in betting shops and online) – betting on any events such as sports and horse races but not on virtual events.
- Gaming machines to be permitted in gaming halls.
- Online poker.

The law also provided for the establishment of

Licence fees are determined dependant upon the Minimum Monthly Wage (MMW) established on January 1st of the year the licence is issued. *Sgl.com.ua* has a very useful instant calculator which works out the 2021 rate online.

Taxation is governed by the Ukraine Tax Code and, in August last year, the Bill 2713-D proposed by Oleg Marusyak suggested different taxes on gambling based on each activity. For example, a five per cent tax on GGR for bookmakers, 10 per cent for online gambling and lotteries and 12.5 per cent for slots.

**There are seven 'primary' licences for: land-based casinos; land-based slot machine halls (each licence allows the operation of up to 250 slots); land-based and online betting; land-based racetrack pool betting (permission for one betting shop at the racetrack); online casino gambling and online poker. The three 'secondary' licences are for: a gaming table or roulette gaming table; slot machine and a betting point/shop.**

the state-owned National Gambling Operator which would control and regulate gambling activities for private operators, whilst huge penalties were introduced for offenders of around UAH5m (€470,000) for those conducting illegal gambling.

The gambling law provides for 11 gambling licences divided into two main groups:

1. There are seven 'primary' licences for: land-based casinos; land-based slot machine halls (each licence allows the operation of up to 250 slots); land-based and online betting; land-based racetrack pool betting (permission for one betting shop at the racetrack); online casino gambling and online poker.

2. The three 'secondary' licences are for: a gaming table or roulette gaming table; slot machine and a betting point/shop. The secondary licences can be obtained by a landbased operator with a primary licence.

However, at the end of February the Committee on Finance, Tax and Customs Policy changed the proposed tax rates and has put forward a new proposal for a flat 10 per cent GGR tax for all gambling activity types, plus an 18 per cent corporate tax rate applicable for operators.

Tax on winnings was also introduced to the effect that any player winning more than eight months MMW (currently UAH48,000 or \$1,700) is subject to 18 per cent personal income tax.

The bill will now go to Verkhovna Rada (parliament) for review and possible amendments and a final draft of the proposal then needs to be signed by the President.

The proposal also abolishes the current requirement that licence fees start out three times higher than normal until the central monitoring system is in place.

The government expects to see around

Investment licences can be issued and these are exempt from the licence fee for 10 years on the condition applicants build a new five star hotel with 200+ rooms in Kiev or with 150+ rooms in another city. The operator must hire at least 250 employees and use a minimum of 20 gaming tables (including four roulette tables) and 250 slots and dining facilities.



UAH7.5bn for the state budget in 2021 in income from licensing fees from legalised gambling.

There are several stipulations for applying for a gambling licence which include:

- Although local and foreign investors have access to the market, only legal entities registered in the Ukraine may become gambling operators.
- Gambling operators can not be controlled or any shareholders cannot be Russian residents or by any countries blacklisted by the Financial Action Task Force (ie: North Korea and Iran).
- Gambling operators must have a share capital of UAH30m.
- Operators must open a deposit account or obtain a guarantee from a Ukrainian bank for 7,200 MMW (UAH34m / €1m). They must have a .ua domain name.
- Operators cannot be a bank, financial institution or non-governmental organisation.
- A gambling operator can conduct gambling under one brand.
- Minimum player age is 18 years for the lottery and 21 years for other types of gambling with mandatory identification and a blacklisted register.
- Only the licensed operator is permitted to advertise gambling and advertising of gambling or trademarks is prohibited on any kind of television between 6am and 11pm, in print media (except specialised media), on

transport or on goods, entertainment locations, sports venues or events aimed at under 21s.

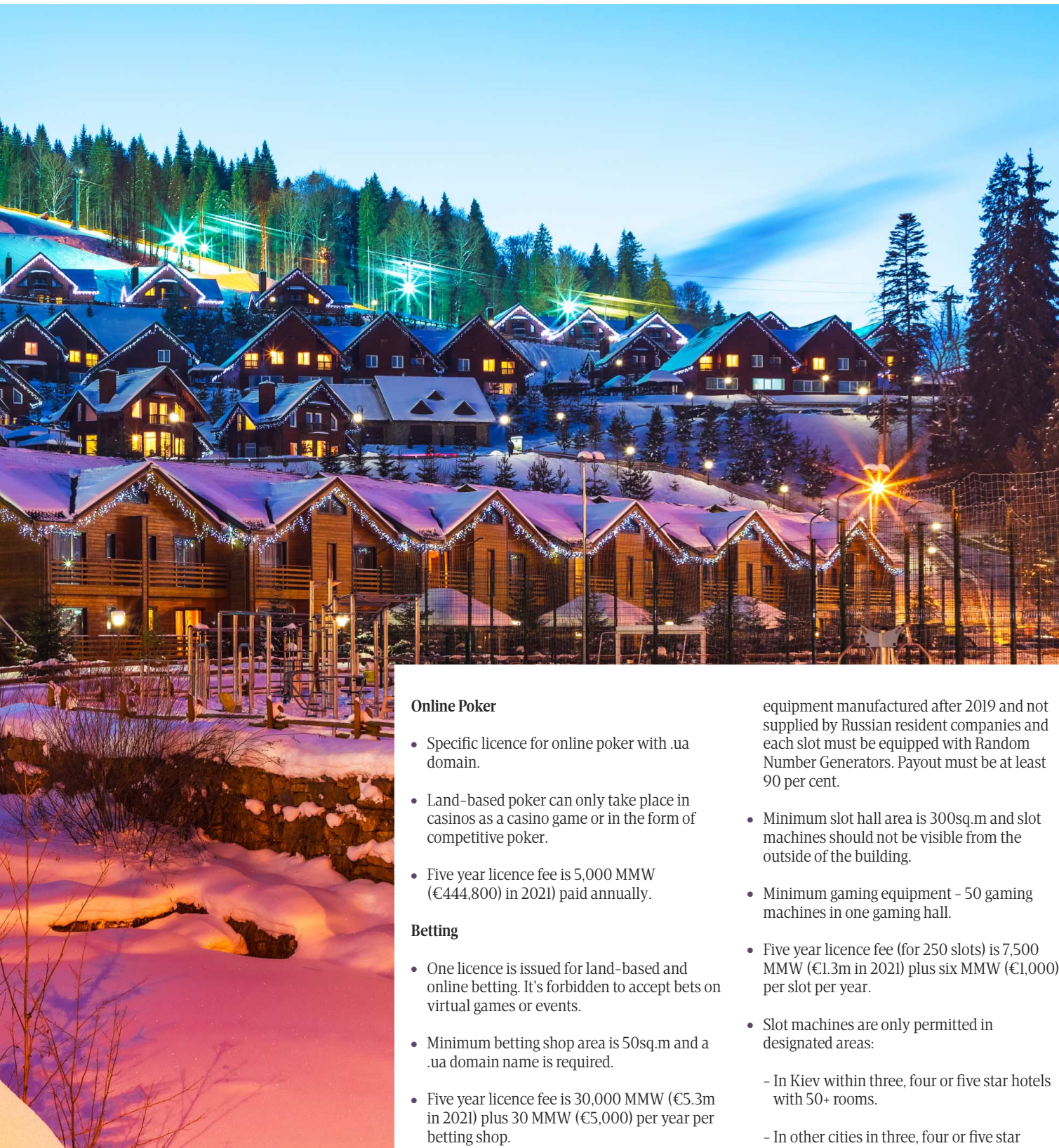
### SECTOR BY SECTOR

#### Land-based casinos

- Casinos can be located in:
  - Five star hotels in Kiev with 150+ rooms;
  - Four and five star hotels with 100+ rooms in other cities;
  - Out of town resort complex with minimum size of 10,000sq.m with a five star hotel;
  - Special gaming zones (maximum five zones can be established) – these zones can be within the Ukraine territory and in an area that might need socio economic development.
- Investment licences can be issued and these are exempt from the licence fee for 10 years on the condition applicants build a new five star hotel with 200+ rooms in Kiev or with 150+ rooms in another city. The operator must hire at least 250 employees and use a minimum of 20 gaming tables (including four roulette tables), 250 slots and dining facilities. It is hoped that investment licences will help boost undeveloped regions to help turn them into tourism destinations.
- Min. gaming area of casino must be 500sq.m.
- Minimum number of employees is 50.
- Gaming equipment requirement includes:



- In cities with 500,000+ people – at least 10 gaming tables (including at least two roulette tables) and at least 50 slots.
- In smaller cities and rural areas – at least five gaming tables (including one roulette table) and at least 20 slots.
- Gambling zones – 20 gaming tables (including four roulette tables) and 250 slots.
- A licence is issued for five years and the fee is 60,000 MMW in Kiev and 30,000 MMW in other cities. In 2021, this is €10.6m in Kiev and €5.3m in other cities.



- In addition, operators will pay equipment fees ranging from 175 MMW per roulette table (€31,000) to 90 MMW (€16,000) for gaming table and six MMW (€1,000) per slot.

#### Online casinos

- Online casinos are covered by a separate licence and no particular requirements except the operator must be registered in Ukraine with a .ua domain. A licence must be obtained to conduct poker games or tournaments.
- Five year licence fee is 6,500 MMW (in 2021 €1.15m) paid annually.

#### Online Poker

- Specific licence for online poker with .ua domain.
- Land-based poker can only take place in casinos as a casino game or in the form of competitive poker.
- Five year licence fee is 5,000 MMW (€444,800) in 2021) paid annually.

#### Betting

- One licence is issued for land-based and online betting. It's forbidden to accept bets on virtual games or events.
- Minimum betting shop area is 50sq.m and a .ua domain name is required.
- Five year licence fee is 30,000 MMW (€5.3m in 2021) plus 30 MMW (€5,000) per year per betting shop.

- Land-based bookmakers are only permitted in designated areas:

- In Kiev – within three, four or five star hotels with 50+ rooms.
- In other cities – in three, four or five star hotels with 25+ rooms.
- Racetracks.

#### Slot halls

- Gaming halls are not permitted in towns with a population of less than 10,000 or within 500m of education facilities. Slots must use

equipment manufactured after 2019 and not supplied by Russian resident companies and each slot must be equipped with Random Number Generators. Payout must be at least 90 per cent.

- Minimum slot hall area is 300sq.m and slot machines should not be visible from the outside of the building.
- Minimum gaming equipment - 50 gaming machines in one gaming hall.
- Five year licence fee (for 250 slots) is 7,500 MMW (€1.3m in 2021) plus six MMW (€1,000) per slot per year.
- Slot machines are only permitted in designated areas:
  - In Kiev within three, four or five star hotels with 50+ rooms.
  - In other cities in three, four or five star hotels with 25+ rooms.

#### THE LOTTERY

The lotteries in Ukraine remain governed by the outdated State Lotteries Law No. 5204-VI of 2012, although the new gambling law imposed amendments to this law. Essentially, this grants three lottery licences and the lottery law stipulates that only those with three years experience in conducting state lotteries can apply for a licence.

The licences will be issued via a tender conducted by the gaming commission. Licence fees will be 28,000 MMW (€4.01m in 2020) and be issued for 10 years.



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Each lottery operator must use an electronic system for accepting stakes ensuring real time recording and use a minimum of 5,000 lottery terminals and at least 5,000 distribution points.

After 1991, when Ukraine gained independence, there were little or no regulations and various lotteries were launched and then suddenly closed and public trust of such operations all but disappeared.

In 2000, a regulatory system was introduced which helped, but regaining consumer confidence was a slow process. The lottery market struggled during the early to mid 2000s

around €150m, a 50 per cent decline on the year before. At this time, only about 18 per cent of the population played the lottery.

In 2015, a winning tax was introduced on small prizes and this combined with additional taxes for the operators saw a market slump.

The Ukraine National Lottery (UNL) is part of the European Sate Lottery and Toto Association and offers various games such as Super Loto, Loto Maxima, Keno, Loto Triyka and Second of Luck.

The UNL was the first company to provide

online lottery games. The company was founded in 1997 and today there are over 5,200 points of sale across the Ukraine. The first game was 6/39, which ran from 1997 to 2001 around the time Super Loto and Keno were also introduced. UNL is considered the biggest player and in 2018 handed over almost UAH200m to the state budget.

MSL or Molod'sportloto was founded in the mid-1970s and was initially set up to raise funds for the Moscow Olympic Games. When the states became independent in 1991 that changed and the company continued under the MSL brand. MSL has over 6,500 Points of Sale offering a



**Lotteries were exempt from the 2009 ban on gambling, but due to a hold on new licences from 2005 there were four companies operating – Patriot, MSL LLC, Ukrainian National Lottery (UNL) and Oschadbank. Market leader was UNL which benefited from sanctions aimed at its Russia connected rivals.**

whilst the annexing of Crimea, the ongoing war in east Ukraine and the devaluation of the Ukrainian currency, led to big drops in lottery sales.

Lotteries were exempt from the 2009 ban on gambling, but due to a hold on new licences from 2005 there were four companies operating – Patriot Limited, MSL LLC, Ukrainian National Lottery (UNL) and Oschadbank. Market leader was UNL, which benefited from sanctions aimed at its Russian-linked two main rivals.

Turnover in 2013 for lottery company MSL was

range of games from instants, numerical, bingo and sports lotteries with brands such as Loto Zabava (the biggest game with a weekly draw), SportLiga, MegaLot and Zolotoy Triumph. MSL was considered the biggest player until 2014, when questions were raised over a connection with Russian investors.

Meanwhile, just recently US based lottery broker and information portal Lottery.com signed an MOU with MSL to become the exclusive distributor of select lottery.com products in the Ukraine once approved by Ukrainian legislation. Lottery.com allows

players to buy tickets worldwide for lotteries such as the US's Mega Millions and Powerball both physically and online.

Lottery.com has been expanding its international presence and recently signed a similar deal at the beginning of the year with operator Inball in Turkey.

MSL is a member of the European Association of State Lotteries and the largest state lottery operator in Eastern Europe.

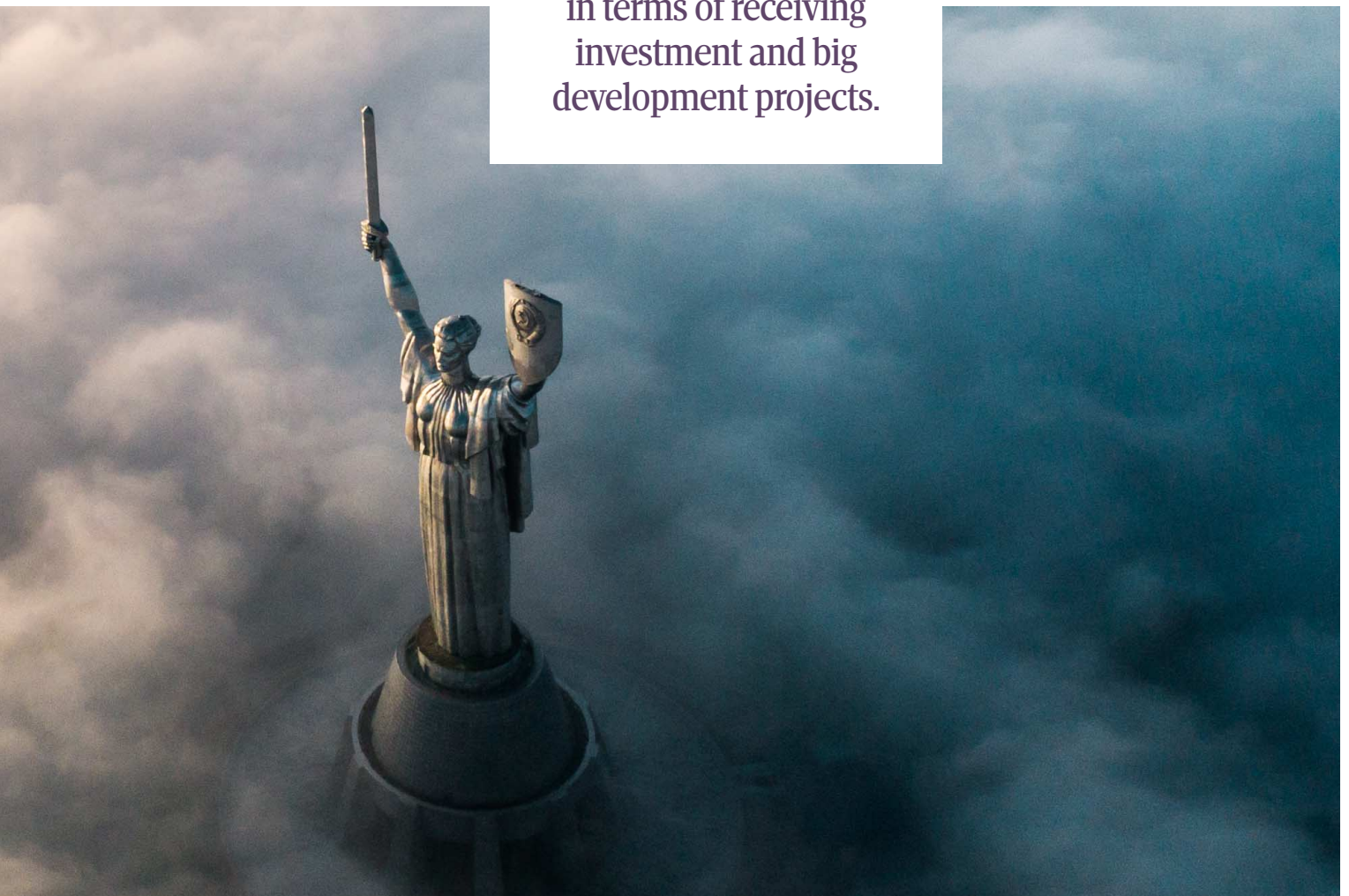
Vice President at MSL, Evgeniy Vlasenko said: "2021 shows slight growth in revenues

**The investment licence for casinos is a possible incentive to operators. With zero taxes if you build a five star hotel from scratch this could be a win-win in terms of those investing and the Ukraine in terms of receiving investment and big development projects.**

estimated that a casino operator will need to invest in the region of €2m for the first year of its licence, plus have \$2m in capital/guarantees to set up. If operators apply before the central monitoring system is in place, permits in theory will be tripled. And that's without the costs per gaming equipment added on top and taxes.

In neighbouring Poland, a licence to operate a casino is nine times cheaper than in the Ukraine. Licences in Ukraine are currently among the most expensive in the world.

Many believe that despite the legal incentives, high costs may simply keep stubborn and



compared to 2020, which was affected by Covid-19. The lottery market can benefit from the gambling law provided good control of the gambling market is implemented and when the taxes are changed so it is closer to the system that existed before 2015.

"The current government is trying to regulate gambling and the first steps are done, but it is important to follow the gambling law requirements in all details, so illegal gambling will be squeezed out of the market."

Patriot was founded in 1997 and specialises in

instant lotteries. The operator conducts around 30 draws including Eldorado, Kozyrna Mast, Super Gol and other lotteries. Patriot at present only offers ticket sales online. Oschadbank withdrew from the lottery business some years ago.

### WHAT HAPPENS NOW?

So with all the formalities and legalities out of the way, what's next for Ukraine's blank gambling canvas?

Licensing costs are still an key issue. It is

sufficiently fed mules underground, whilst there may be little interest for 'big players' to enter the Ukraine market who may choose to invest somewhere with a little more 'curb appeal.'

The investment licence for casinos is a possible incentive to operators. With zero taxes if you build a five-star hotel from scratch, this could be a win-win for those investing in this route to market and for the Ukraine in terms of receiving investment and big development projects.

Bookmaking, which happily continued during the prohibition on gambling under the guise of

lottery operations, also needs big incentives to set up shop. Only 10 per cent of bettors use bookmaking land-based facilities. With high licensing fees this may limit offline betting opportunities although online betting is expected to boom.

The new law is also expected to reduce the number of slot halls that exist in Ukraine today by at least eight times and the number of slot machines by 20 times.

There is no limit on the number of licences that can be issued per category and the National Police have the job of locating and shutting down any illegal operations although these operators are then able to submit a licence application for legal operations if they wish.

In December last year, the adoption of the Licensing Conditions was the next step in the process to kick-start Ukraine's gambling market, so companies now interested in setting up business in Ukraine can apply to the new regulator - Regulatory Commission on Gambling and Lotteries (KRAIL) - for gambling licences.

KRAIL has been set up to implement state policy in the field of gambling and lottery and oversee the state supervision of the gambling market including licensing, monitoring and inspections and player protection. The commission is made up of a chairman, Ivan Rudyi, and six members who can serve for four years and it was established at the end of September last year via Law No.891.

By the end of February, KRAIL had issued two licences for online casinos and was waiting for payment to issue another two - these are for the companies Spaceiks, Parimatch, Gamedev and First Element.

Spaceiks LLC was the first company to receive a licence for an online casino. Spaceiks owns the trademark Cosmolot and was registered in March 2020. Cosmolot CEO Sergei Potapov said it was an 'important step' to the creation of a 'white' market.

The annual cost of an online casino licence is 6,500 MMW (UAH6,000 in 2021), which amounts to UAH30m for a five year licence. However, the law stipulates that until the central monitoring system is established, the fees are tripled.

KRAIL's Natalia Chuykova commented: "According to the law the Ukraine Gambling and Lotteries Regulatory Commission has two years since the adoption of the law to have the state online central monitoring system implemented. It means that, according to the law, this has to be accomplished by August 2022. However, we are doing everything we can to get it done as soon as possible."

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Before Spaceiks was approved, five other companies were rejected by KRAIL due to incorrect documentation. Spaceiks was rejected three times before the commission finally granted approval.

Previously, Cosmolot held an instant lottery licence under UNL's operations, but stopped with this activity two years ago.

Apparently, by the beginning of February 2021, some 15 companies had their licence applications rejected by KRAIL. Some say KRAIL is incompetent and unable to handle the licensing procedure, whilst there is a call for greater transparency.

Merkur Gaming signed a MoU with KRAIL at the end of February to bring its experience in manufacturing and operating to the Ukraine and will work alongside the authorities to help create market opportunities. The company has also opened a Kiev showroom and will provide in-country sales and after-sales service, plus technical and logistical support.

Parimatch was founded in Ukraine back in 1994

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**Natalia Chuykova, KRAIL**

and has grown into an international entertainment and technology business with more than 2.6 million customers worldwide. It was among the first companies to submit an application for gambling and applied for three categories within the betting category.

Maksym Liashko, Partner at Parimatch said: "The government of Ukraine foresaw in the state budget the income from the gambling industry in the amount of approximately €225m. Almost all types of gambling are legalised in Ukraine, including betting, virtual games, casinos and poker etc. which makes the international companies look closely at this newly opened market.

"However, the key issue of taxation for the industry still remains unresolved. Work still remains to be done on reforming tax legislation before the Ukrainian market becomes attractive to foreign investors. Under current legislation the gambling industry is going to be triple taxed - 18 per cent tax on GGR, 18 per cent personal tax on winnings and 18 per cent corporate profit tax - in addition to the licence fee (one of the highest in Europe), which altogether creates a burden for the newly created industry.

"Taxation should be transparent and logical so that it doesn't create additional obstacles for foreign investors. At this stage the cost of licences for various types of gambling activities is so high that together with taxation, it does not make investments in the Ukrainian market attractive. So Ukraine could lose the competition in terms of investment to other countries.

"Under favourable legal conditions specialist market capacity and qualifications will allow Ukraine to become a gaming hub for the Eastern Europe region. Like Malta and Manila, Ukraine now has the potential to become a centre of expertise for gambling entertainment."

The new gambling law is also a well needed boost for the struggling Ukraine hotel and tourism industry. The year 2019 was a dismal one and figures dropped significantly with the average hotel occupancy in Kiev during the first eight months of 2019 at just 54 per cent. Most badly hit were four and five star hotels, which saw occupancy drop to around 43 per cent. The arrival of Covid-19 in 2020 has just about finished the industry off.

There are over 1,000 hotels in the Ukraine. Only a handful are five star hotels. Kiev sees around 4.9 million tourists each year, of which three million are domestic guests.

A report on the Ukraine Hotel Market and impact of Covid-19 called 'Sentiment Survey' was conducted by Horwath HTL and the Ukrainian Hotel and Resort Association and was released in January this year.



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The gambling law is a boost for the struggling Ukraine hotel and tourism industry. In 2019 figures dropped significantly with the average hotel occupancy in Kiev during the first eight months at just 54 per cent. The most hit were the four and five star hotels, which saw occupancy drop to around 43 per cent.

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“We have been waiting for this day for more than eight years. It is very disappointing to see that the hotel can offer important leisure activities to its guests, but they cannot be used. We have always consistently upheld the idea to legalise casinos in a socially responsible manner and had a clear roadmap on how to quickly manage work in this area.”

*Atis Zaharans, General Manager, Kharkiv Palace Hotel*

The survey was undertaken with 122 respondents with an average size of 72 rooms per property. Two thirds were urban hotel and the remainder rural locations.

Some 93 per cent reported revenue losses and 30 per cent of hotels said revenue had dropped by more than 60 per cent, whilst 75 per cent of hotels had to lay off some of their employees.

However, there is some positive movement.

Kharkiv Palace Hotel, a five star property run by the DCH Group, was the first luxury hotel in Kharkiv built by Oleksandr Yaroslavsky in preparation for the UEFA 2012. It cost \$126m to build after UEFA required the authorities to construct the hotel so Kharkiv could qualify for hosting tournament matches.

The hotel has 171 rooms, which can accommodate more than 360 guests, four restaurants and large MICE facilities.

The hotel includes a casino hall, which DCH has said it is are now preparing to open. General Manager Atis Zaharans said in July 2020, when the new law was approved: “We have been waiting for this day for more than eight years. It is very disappointing to see that the hotel can offer important leisure activities to its guests, but they cannot be used. Many foreign guests asked us why it was banned. How can it be that a five-star hotel has such a wonderful casino hall, but there is no casino? And it was difficult for us to answer that question. Therefore, we have always consistently upheld the idea to legalise casinos in a socially responsible manner and had a clear roadmap on how to quickly manage work in this area.”



Yaroslavsky ranks among the top 10 Ukrainian businessmen according to Forbes 2020. His company DCH includes assets in various sectors from finance, manufacturing, transport and he has invested more than US\$1bn to develop the economy of the Kharkiv region. During the preparation for Euro 2012 he invested around \$300m with the construction of a modern airport, stadium and the hotel.

Meanwhile, the Dnipro Hotel in Kiev was sold in July last year for UAH1.1bn to Alexander Kokhanovsky, founder of Natus Vincere (e-sports teams) and CEO and founder of DreamTeam – an e-sports recruiting platform and payment gateway for e-sports and gaming.

He was former co-owner of ESforce Holding – the third biggest esports entity.

His plan is to develop esports in the Ukraine by opening 20 gaming centres across major cities and plans to use the Dnipro Hotel to hold international level events.

He said: “Frankly speaking, we were not going to build or purchase a hotel. But when it was announced that the Dnipro Hotel was up for auction, we saw that the object is unique and it suits our ecosystem ideally. So, now we plan to set up the first ever esports Ready Hotel. It will feature unique esportsing elements, such as training areas, an esports stage, special suites for



**“When the Dnipro Hotel was up for auction, we saw that the object is unique and it suits our ecosystem. So, now we plan to set up the first esports Ready Hotel. It will feature unique esportsing elements, training areas, an e-sports stage, special suites for professional players as well as the world’s best players’ lounge.”**

***Alexander Kokhanovsky, founder of Natus Vincere (e-sports teams) and CEO and founder of DreamTeam***

professional players as well as the world’s best players’ lounge.”

Kokhanovsky spoke at the Ukrainian professional esports association meeting in September last year and is partnered with Smarland, a real estate management company. Costs to set up the project will be around US\$20m and it will take up to two years to renovate the hotel ready for the project.

Early last year, Hilton Kiev also announced plans to construct two casinos inside its property should the law be passed. The hotel stated it would spend \$30m to bring slots and table games into the downtown hotel which

would compliment the 262 guestrooms and suites, restaurants, bars, convention space, fitness and spa services. The property was constructed back in 2012.

Meanwhile, the Vertex Hotel Group, which has a portfolio of hotels, wellness and commercial real estate, operates several hotels in Kiev and

Odessa, most significantly President Hotel Kyiv, Bristol Hotel Odessa and Londonskaya Hotel Odessa.

In November last year, the VHG attended the Ukrainian Hospitality Conference organised by Hoteliero and also discussed the opening of a casino in the hotels.

## Delving into the complexities of Ukraine's licencing and tax rules



**Iryna Sergienko,**  
Managing Partner  
Sports & Gaming Lawyers



**Robert Khorolskyy,**  
Partner  
Sports & Gaming Lawyers

Sports & Gaming Lawyers is a specialised Ukrainian law firm providing a full range of legal services in the field of gambling and sports. The team consists of reputable Ukrainian lawyers with long-term practical experience, who participated in all the developments on gambling legalisation in Ukraine and have a deep vision of the gambling market. They maintain high quality standards for legal services and deliver an individual approach to the implementation of challenging projects.

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The required authorised capital of US\$1,07m must be confirmed by a Ukrainian certified auditor (US\$100). However, the company may decide not to pay the capital in full until filing its licence application. One company can cumulate gambling licences, the law does not require creating several companies.

### Section I: Ukrainian online gambling licence: key costs calculation

Ukraine's case follows many other cases of gambling legalisation: while the government is proud of having a non-popular gambling law adopted, the industry and investors are not happy with their calculations of risks and costs.

As of beginning of March 2021, the ball is still in the Ukrainian government's court. A law on gambling taxation amendments should be adopted (see Section 2) and the key Gambling Law provisions are still waiting for smooth implementation in secondary legislation and by-laws.

Here are the key 10 points we recommend taking into account when calculating costs of Ukrainian online gambling licences (casino games, betting, poker). The list contains approximate figures of costs.

#### I – Trademark (TM) registration

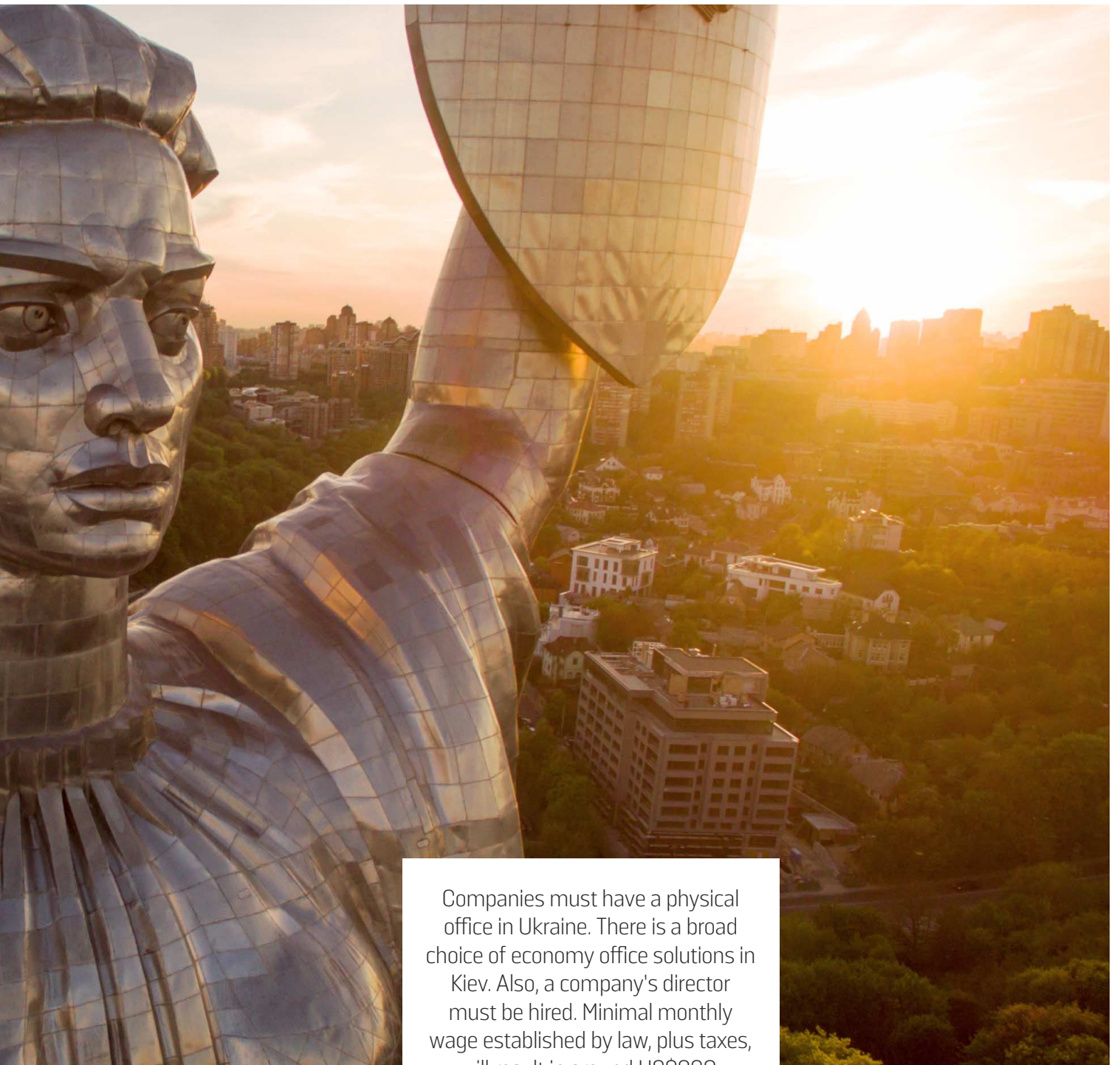
It is necessary for getting a domain name in .UA zone.

Also, under the Gambling Law, only one brand can be operated under a licence.

TM registration in Ukraine takes about 18–20 months (US\$1,250), however the procedure can be accelerated to 6–7 months (US\$1,650). The pricing covers three core classes of services.

Even if a TM is registered for Ukraine under the Madrid Convention in another jurisdiction, we strongly recommend registering the TM in Ukraine.

We recommend starting TM registration as soon as possible.



## 2 – Registration of a Ukrainian gambling company

It is a quite quick process, and the costs to be around US\$1,000. The amount will depend on a quantity of shareholders and their home jurisdictions. Please note that the Gambling Law rigidly precludes Russian national/residents from being shareholders of a Ukrainian gambling company.

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One company can cumulate gambling licences, the law does not require creating several companies.

## 3 – Gambling company's office and staff

Companies must have a physical office in Ukraine. There is a broad choice of economy office solutions in Kiev. Also, a company's director must be hired. Minimal monthly wage established by law, plus taxes, will result in around US\$280.

At least a director and an accountant must be employed by the company at the moment of filing a licence application. And note that foreign nationals are required to get employment and residence permissions.

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And note that foreign nationals are required to get employment and residence permissions. Their timing and costs depend upon circumstances, but anyway should not be a serious challenge.

## 4 – Registration of a domain name in .UA zone

It can be conducted only after registration of a TM in Ukraine or after a TM is registered under the Madrid agreement and covers Ukraine.

Annual registration costs around US\$100, depending on pricing of a selected registrar of domain names.

## 5 – Operator's online gambling system

At the moment of a licence application's filing, a gambling company must confirm its legal right to use an online gambling system in its activities. Costs depend on circumstances.



Certification of the online system, to be used by a licensed operator, is mandatory. However, the procedures have not yet been defined by Ukrainian authorities.

Technical means of the online system must be situated in the Ukraine's territory, and information in the online system must be processed in Ukraine.

After the Gambling Commission launches the State system of online monitoring (the Gambling Law established a two year deadline), the operator's online system must be connected to such State system.

The Gambling Law requires any Ukrainian provider of gambling software to get a special B2B licence. However, the Law does not impose on a licensed gambling operator any obligation to use only gambling software from such licensed Ukrainian software providers.

#### 6 – Filing a licence application

Expenses depend on agreement with a provider of legal services and costs on formation of the documentary package.

#### 7 – Licence fee

Online casino games: US\$840,000 for each year – if the State system of online monitoring (SSOM) is not launched before payment of a licence fee. If launched, the annual fee will be US\$280,000.

Online betting (a licence also covers landbased betting, which conduct is not mandatory): US\$3.88m for each year – if the SSOM is not launched before payment of a licence fee. If launched, the annual fee will be US\$1.29m.

Online poker: US\$107,000 for each year.

Each licence is issued for five years. A licence is valid under condition a licence fee is paid annually before the start of each year.

You can also use a Ukrainian gambling licence calculator, designed by our team, at <https://www.sgl.com.ua/calculator/>

#### 8 – Operator's website

A website must comply with the requirements of the Gambling Law, in particular in respect of content and language, before provision of gambling services.

#### 9 – Banking guarantee/deposit

A licensed operator must get a banking guarantee/deposit covering US\$1.5m. Any Ukrainian bank can be used by a licensed operator.

#### 10 – Taxes

Current taxes for online gambling are too high: 18 per cent GGR tax plus 18 per cent corporate income tax,

and the GGR tax does not reduce a tax base of the corporate income tax. Operators must withhold 19.5 per cent of personal taxes from every winning paid to a player.

The Ukrainian authorities promise to reduce taxation of both operators and players, and a respective bill has been registered in the Parliament (see Section 2)

### SECTION 2.

#### Taxation of gambling in Ukraine

Taxation is governed by the Tax Code of Ukraine. Its current gambling provisions were adopted in 2016 as a part of the Government's efforts (unsuccessful in the end) to legalise gambling. In 2021, the situation is opposite: the Gambling Law is adopted, but a promised taxation amendments bill failed to pass even initial stages in the legislative process.

The current taxation of gambling operators includes two taxes: (1) 18 per cent GGR tax for all operators, except lotteries (30 per cent GGR) and slot machine halls (10 per cent GGR); and (2) a general 18 per cent corporate income tax. It is important, that the GGR tax does not reduce a tax base of the corporate income tax.

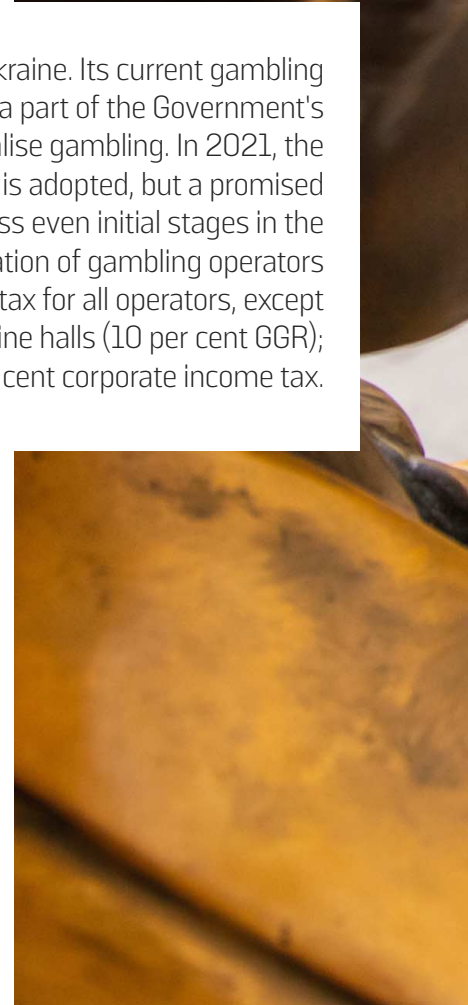
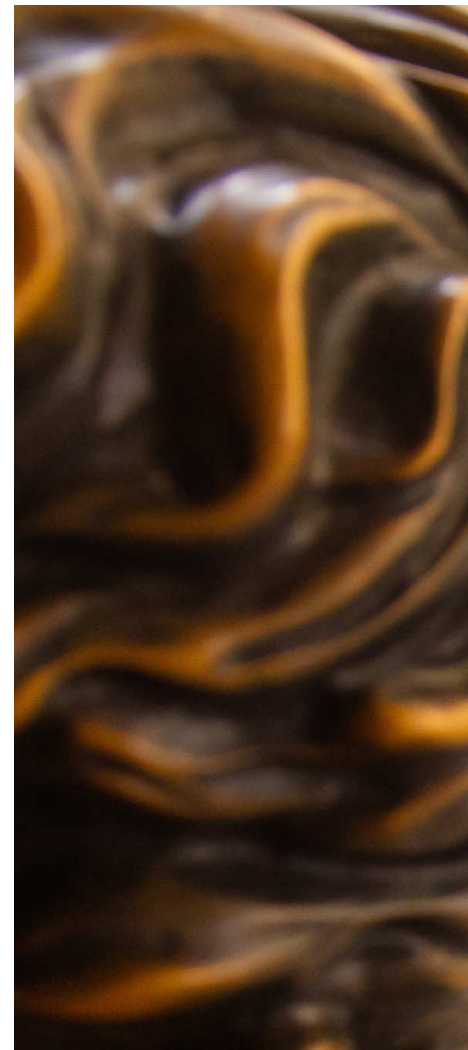
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VAT is not applicable to transactions between a player and an operator.

On personal taxation side, every winning paid to a player must be immediately taxed by 18 per cent personal income tax and 1.5 per cent military tax. Both taxes must be withheld by an operator making a payment.

The new Gambling Law is based on the concept of extremely high licence fees, probably the highest in the world. They should compensate the lack of government's capacity to collect taxes in the first years of gambling legalisation, when the government should build-up enforcement infrastructure, primarily the State system of online monitoring (SSOM) for collecting actual information about each operator's GGR.

Keeping this concept in mind, the government declared early on that gambling taxes will be much



reduced the day of the new Gambling Law entering into force. However, it appeared too difficult politically to deliver unpopular reduction.

On 25 February 2021, the profile Parliamentary committee on finances, taxation and customs policy recommended Parliament to adopt the Bill No. 2713-d, and now the bill is waiting for plenary vote in first reading. The bill, in its updated version of 25 February 2021, provides the following taxation regime:

### (1) Taxation of gambling and lottery operators:

- 10 per cent GGR tax, paid quarterly, is established for all operators.
- GGR is understood as the amount received from players in cash and/or non-cash form, reduced by the amount of winnings and refunds paid to players during this reporting period, and increased by the uncollectable amounts.
- GGR tax will reduce a tax base of the corporate income tax.
- 18 per cent corporate income tax on the profits of operators received from the activities of organising gambling and lotteries.

VAT is not applicable to transactions between a player and an operator.

### (2) Licence fees:

- the bill will abolish the triple multiplier currently applied under the Gambling Law (until launch of the State system of online monitoring) to the annual part of the licence fee, paid by betting operators and online casino operators, as well as to the annual fee for each slot machine used in land-based casinos and slot machine halls.

### (3) Taxation of winnings:

- winnings exceeding eight minimum wages (US\$1,700) are subject to 18 per cent personal income tax and 1.5 per cent military tax.
- in case an individual winning exceeds the amount of eight minimum salaries (US\$1,700), only the amount of such exceeding is subject to taxation (which will not be reduced by player's expenses on making a stake/buying a lottery ticket).
- an operator will act as a taxation agent when accruing/paying winnings to players.
- only winnings exceeding eight minimum salaries (US\$1,700), shall be included in the annual tax declaration of such a player.

## Gaming 101: how to obtain a Ukraine online gambling licence



**Olga Belyakova,**  
Partner, CMS Cameron McKenna  
Nabarro Olswang and CEE

Olga Belyakova is a partner in the commercial practice group at CMS Cameron McKenna Nabarro Olswang and CEE co-head of the Technology, Media and Communications (TMC) sector group with over 20 years in the sector. For the gambling sector, Olga advises on the full range of commercial, operational and regulatory matters. Her recent experience includes advising on a regulatory review and advice on various issues concerning obtaining gambling licences.



**Mykola Heretiy,**  
Associate, Kiev  
CMS Cameron McKenna Nabarro  
Olswang and CEE

Mykola Heretiy is an associate in the commercial practice in the Kiev office and his practice includes advising foreign and local clients on various aspects of their business activity in Ukraine. Mykola has particular experience in the gambling sector, including advice on day-to-day operations in the gambling industry.

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If you also intend to carry out industry services, such as the supply of gaming software, this also requires obtaining a separate licence for the provision of gambling services (supply of software directly used in gambling activity). Depending on the scope of your planned offered gambling services you may need one or several above licences. The law does not provide for the possibility of sub-licensing or sharing of the gambling licences.



In 2020 Ukraine finally legalised gambling and introduced specific legislation that allows the state, among other things, to licence and regulate gambling companies, including those that are active online.

Today, for an online gambling site to offer its services to customers in Ukraine legally, its operator must hold a specific license issued by the Ukrainian gambling licensing authority - the Regulatory Commission on Gambling and Lotteries (gc.gov.ua).

As of March 2021, several online gambling licences were already issued by the regulator. Below is key information for existing or prospective gambling businesses regarding acquiring an online gambling license.

### Types of licenses you may need for your business:

These are the main types of online gambling licenses available:

- Online gaming (casino) licence.
- Betting licence (one licence for both land-based and online)
- Online poker licence.

If you also intend to carry out industry services, such as the supply of gaming software, this also requires obtaining a separate licence for the provision of gambling services (supply of software directly used in gambling activity).

Depending on the scope of your planned offered gambling services you may need one or several above licences. The law does not provide for the possibility of sub-licensing or sharing of the gambling licences.

### Pre-application check: Qualification and eligibility requirements:

Businesses that desire to conduct a gambling business must meet certain organisational requirements (residency, amount of the charter capital, etc) as well as technical standards (domain zone, location of online systems and processing of information). Thus, before you make an application for an online gambling licence, you should make sure that you have complied with all respective requirements.



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#### How to apply?

To obtain an online gambling licence, you should apply for it to the regulator by submitting an application. The standard form of the application is available in the Licensing Terms and Conditions that can be found on the regulator's website. The application must also be supported with extensive number of documents and information including, for example:

- Constituent documents.
- Documents confirming the funds used for the payment of charter capital.
- Documents for the domain name in UA domain zone.
- Documents for the brand.
- Documents confirming the absence of criminal liability, sanctions and compliance with international AML or CFT requirements.
- Other documents confirming the compliance of the applicant with the gambling operator's requirements.

If one or more of these documents are not submitted, the application will be deemed



incomplete and will lead to your application being rejected. The practice of first licences have shown that the regulator is very attentive to all formalities with the documents. For instance, the first ten applications were all returned without consideration due to technical deficiencies in the documents.

The application and supportive documents should be submitted either personally in the regulator's office, by post-delivery, or online. The latter option is associated with certain additional barriers relevant to the use of e-signatures in Ukraine, thus in practice the personal submission remains the most widely used application mechanism.

#### Review process

The regulator will assess your application and make a decision on issuing or rejecting to issue the licence within 15 working days. During the first five working days the regulator may return the application if it has formal deficiencies (e.g., lack of documents or information).

decision. The law does not preclude to re-apply for the licence in case the application was rejected any time after correction of deficiencies in application documents. The decisions on rejection may be also challenged to the competent Ukrainian court (though in practice it is commonly easier to resubmit a corrected application).

The original copy of the licence will be passed to you after the respective licensing fee payment for the first year is made.

#### Licensing fee payment

Your licensing fee for the first year is due 10 business days after the regulator notifies you about the issued licence.

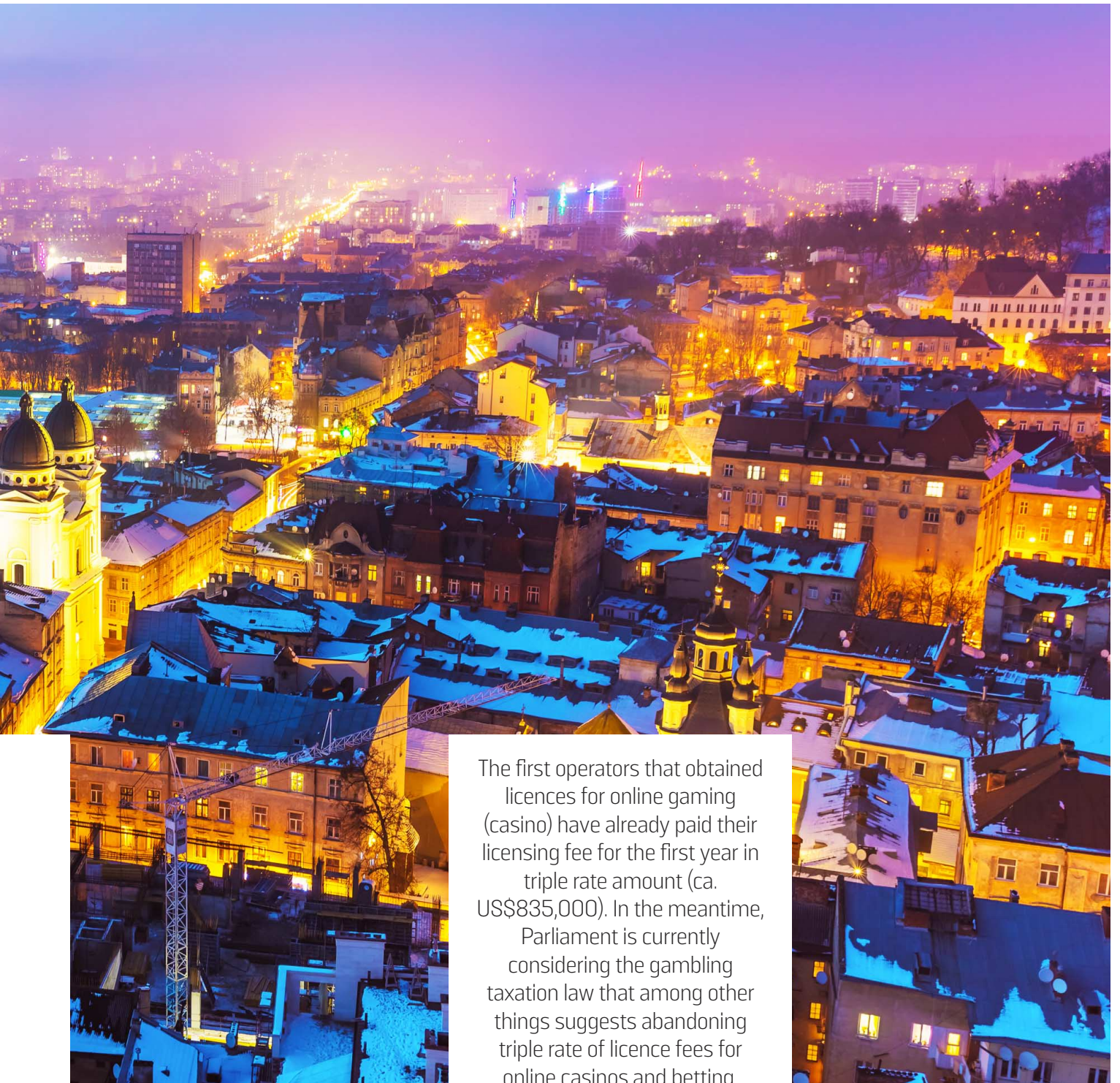
Licence fees are payable in equal annual instalments (which means you should make five equal instalments annually). Your annual fee is due no later than 30 days before the beginning of each subsequent year of validity of the licence.

The licence fees amounts are connected to the amount of the statutory minimum salary and their US\$ (or other currency) equivalents and also depend on the currency fluctuations. In terms of minimum salary, as of March 2021 it equals to UAH6,000 (ca. US\$ 215). It is normally made higher every six month (the information about the minimum salary is publicly available). Accordingly, you should monitor the respective financial data to find the most cost-efficient moment for to apply.

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Upon the decision on issuing or rejecting the licence, the regulator will notify you within five working days. If rejected, you will be informed the reasons of such

The yet existing specific rule is that until the day the state online monitoring system (a state-owned software tool allowing the regulator to conduct a real-



The first operators that obtained licences for online gaming (casino) have already paid their licensing fee for the first year in triple rate amount (ca. US\$835,000). In the meantime, Parliament is currently considering the gambling taxation law that among other things suggests abandoning triple rate of licence fees for online casinos and betting.

time monitoring – control the flow of funds, tax payments, preventing money laundering etc) becomes operational the yearly fee payment for the gambling licences for betting and online gaming (casino) are to be charged at triple rate. The first operators that obtained licences for online gaming (casino) have already paid their licensing fee for the first year in triple rate amount (ca. US\$835,000). In the meantime, Parliament is currently considering the gambling taxation law that among other things suggests abandoning triple rate of licence fees for online casinos and betting. The gambling taxation law is expected to be adopted very soon.

**Renewal or extension of the licence:**

The law does not provide for the procedure of renewal or extension of the licence. Therefore, upon expiration of the five year period, you should file a new licensing application to the regulator.

**THE LICENCE FEES FOR ONLINE GAMBLING LICENCES**

GAMBLING ACTIVITY	LICENCE FEE	DURATION
Online Gaming	ca.US\$ 1.4m (yearly instalment – ca.US\$280,000)	
Betting	ca.US\$ 6.4m (yearly instalment – ca.US\$1.3m)	5 years
Online poker	ca.US\$ 1.1m (yearly instalment – ca.US\$220,000)	