



LEGAL FRAMEWORK OF GAMBLING OFFENCES IN ALBANIA

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General Observations

- The Albanian criminal justice system has undergone radical changes and a significant improvement during the past decade. In the cadre of intensive efforts towards EU integration process Albania has identify the latest trends in fighting specific forms of organised crime.



HISTORICAL BACKGROUND



- **Gambling has existed for centuries and has taken on many forms. The word “*game*” comes from the latin word «*jocus*» which expresses a sense of satisfaction.**



HISTORICAL BACKGROUND



- The history of gambling dates back to the days of the Roman Empire, when the predecessor of the modern backgammon, *Ludus Duodecim Scriptorum* became popular among the Roman legionnaires.



HISTORICAL BACKGROUND



- *In China and in Egypt, games can be traced back in the year 200 B.C., founded in many forms. At that time, there were two categories of games, on the one hand, games of chance and on the other games that relied only on human physical or intellectual abilities. The word “Coincidence” comes from the Arabic word «al-zahr» signifiant « dés ».*



HISTORICAL BACKGROUND



- It is also due to them that the game came to other European countries. It was in Venice, that in 1638 the first gambling house “*Ridoto*” was opened. It was sanctioned by the government aiming to control gambling activity of the citizens. Although the admission to the gambling house was free, only rich people could afford to play there, because the stakes were high. The games played were “*Biribi*” resembling lottery and “*baseta*”.



HISTORICAL BACKGROUND



- Both games had a very high house edge.
- In 1774 "*Ridotto*" was closed which resulted in the growth of popularity of the closed gambling clubs. These clubs were called 'casinos', so the word "casino" itself is of Italian origin. Bingo is also of an Italian origin. In 1530s, the Italians played a game called "*Lo Gioco del Lotto D'Italia*", which resembled bingo.
- In 1696, gambling was carried out more and took a new orientation. In Italy appeared the first form of Casino.



HISTORICAL BACKGROUND



- *In France*, they were called the "*casa*" or "*casini*". These institutions were premises real gambling houses where visitors could play table games, card games or games drawing. In France, the approach was different. It was not until 1717 that an order would prohibit gaming establishments on French territory and in its colonies. At that time, the games were stigmatized with debt, alcohol or even to libertinism.



HISTORICAL BACKGROUND



Napoleon, in 1804, decided to establish a formal undertaking in order to limit the illegal games. This was the first appearance of French Casino. In 1806 appears the first regulation on games of chance. According to the regulation, a simple decree would issue, permit's exemptions for resorts and "to places where there are mineral waters during the open water season and one for the City of Paris."



HISTORICAL BACKGROUND

- In 1959, a decree clarifies that a casino must have "*three distinct activities: entertainment, food and games, combined in a single direction without any of them may be leased*". Texts relating to gambling in France can be summarized in one sentence: "All games and gambling are prohibited except those for which the state grant, a very definite monopoly or temporary's authorizations dismissed *ad nutum*."



THE MEANING OF GAMES OF CHANCE



- **Games of chance are a quite widespread activity which creates a particular addiction on the part of the players and, as such, it attracts the special attention of the scholars of law, sociology, etc. Article 197 of the Penal Code of the Republic of Albania, named *“Organizing unlawful games of chance” (Organizing lotteries, games of chance or gambling in breach of legal provisions constitutes criminal contravention and is punishable by a fine or up to three months of imprisonment.)* is the only provision that punishes the commission of an unlawful activity requiring a license.**



THE MEANING OF GAMES OF CHANCE



- **The provision in question, is of a specific nature. So, regardless of qualifying organizing unlawful games of chance, gambling and lotteries as criminal contravention, it gives no explanation concerning the concepts of games of chance, gambling and lotteries, and consequently they should be understood as defined by the amended Law Number 10033, dated December 11, 2008. The law on games of chance recognizes eight categories of games of chance, which are as follows: (1) casinos; (2) electronic casinos; (3) sports bets; (4) traditional bingos; (5) television bingos; (6) national lotteries; (7) bets on track races; and (8) promotional games of chance.**



THE ALBANIAN BACKGROUND OF ILLEGAL GAMBLING



- **Each of them implies playing the game for a certain amount of money that a participating player can win or lose depending on chance factor. Any other form of games of chance, which has not been provided by the law, is unlawful. The law on games of chance and any other sublegal act, in which Article 197 of the Criminal Code of the Republic of Albania may refer to, do not stipulate the category of games of chance in detail. For example, the section dealing with casinos does not clarify the specific games included in casino or electronic casino licenses.**



THE ALBANIAN BACKGROUND OF ILLEGAL GAMBLING



- **To this respect, and by examining the formulation of Article 197 of the Criminal Code of the Republic of Albania, which provides for lotteries, gambling and games of chance, at a time that, according to the legislation on games of chance, gambling and lotteries are subcategories of games of chance, we are of the opinion that the content of this provision should be amended describing the criminally punishable games of chance in a more detailed way.**



THE ALBANIAN BACKGROUND OF ILLEGAL GAMBLING



- The social dangerousness of organizing unlawful games of chance.
- Organizing unlawful games of chance, like any other criminal offence, contains social dangerousness, which is manifested in four main moments of the criminal activity.
- A. Games of chance are activities, which create significant addiction to them and may gravely damage the economy of the player who, if not controlled or protected by legal provisions in force, is likely to commit violent acts against organizers or other players. Organizing lawful games of chance means that organizers of games of chance are entitled to keep a certain amount of turnover varying from five to ten percent. Meanwhile, in the case of black market establishments, organizers keep more than fifty percent of turnover, destroying thus the real aim of games of chance, which is the entertainment of a player, and not his or her economic harm. Such a problem is encountered in casino and electronic casino categories.



THE ALBANIAN BACKGROUND OF ILLEGAL GAMBLING



- B. Organizing unlawful games of chance damages fair competition and is quite harmful. The taxes established by law are very high, almost reaching the limits of being affordable by the organizers of games of chance. These taxes are not based on the profit of organizers, but on the turnover and establishments carrying out games of chance as an activity. Hence, an establishment registered in the taxation bodies will find it very difficult to afford the taxes if, near it, there is another establishment that does not pay them.



THE ALBANIAN BACKGROUND OF ILLEGAL GAMBLING



- **C. Taking into consideration the high taxes imposed on games of chance, organizing unlawful games of chance damages the state budget to a considerable extent. During January and February of the year 2010, the income coming from games of chance was equal to four hundred million Leks per month, namely, four million Euros per year. In the meantime, the real fiscal evasion in state budgeting was approximately of the same amount. A part of this fiscal evasion is done by consuming criminal offences, whereas the rest of it by consuming administrative contraventions.**



THE ALBANIAN BACKGROUND OF ILLEGAL GAMBLING



- D. Organizing unlawful games of chance facilitates money laundering. Unlike the organizers of lawful games of chance, who are much more controlled, the organizers of unlawful games of chance find it quite easy to fix the winners and then justify their dirty money.



THE ALBANIAN BACKGROUND OF ILLEGAL GAMBLING



- According to the law No.9917, May 19, 2008 “On the Prevention of Money Laundering and Financing of Terrorism” amended by law NO. 10 391, March 03, 2011, *Gambling, casinos and hippodromes, of any kind have to identify and verify their customers identities in case of a transaction in an amount equal to, not less than 200,000 (two hundred thousand) Lek or its equivalent in foreign currencies and have to submit a report to the responsible authority, for the cases when they know or suspect that laundering of the proceeds of crime or terrorism financing is being committed, was committed or attempted to be committed.*