



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

Single Market Enforcement

Notification of Regulatory Barriers

Message 201

Communication from the Commission - TRIS/(2024) 2833

Directive (EU) 2015/1535

Notification: 2024/0380/LT

Forwarding of the response of the Member State notifying a draft (Lithuania) to of Malta.

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1. MSG 201 IND 2024 0380 LT EN 04-11-2024 16-10-2024 LT ANSWER 04-11-2024

2. Lithuania

3A. Lietuvos standartizacijos departamentas

Algirdo g. 31, LT-03219, Vilnius

Tel. +370 659 67311

Elektroninis paštas: Istboard@lsd.lt

3B. Lietuvos Respublikos finansų ministerija

Lukiškių g. 2, LT-01512 Vilnius

Tel. +370 (5) 230 0000

Elektroninis paštas finmin@finmin.lt

4. 2024/0380/LT - H10 - Games of chance

5.

6. Commission Notice - TRIS/(2024) 2699

Directive (EU) 2015/1535

Notification: 2024/0380/LT

1. Lithuania, having taken note of the views expressed by Malta in the European Commission's Communication TRIS/(2024) 2699, puts forward arguments in support of the restrictions on gambling advertising.

We emphasize that not only the use of alcohol, tobacco (the advertising of which is also prohibited in Lithuania), or medicines can have negative consequences for a person's health and cause addictions. Gambling addiction, like any other addiction (such as alcohol addiction), has catastrophic consequences for the financial situation and social ties of a person and their family, and involves people in an endless process of gambling, borrowing, pledging property, or can even lead a gambler to commit criminal acts in order to obtain the funds necessary for gambling. A person's gambling addiction negatively affects the person's relatives (family members, friends) who, in order to help an addicted person who, as a result of gambling, accumulates large debts that can lead to the loss of property (such as, for example, a dwelling belonging to the person and their family), surrender their accumulated funds or sell their property in order to be able to provide financial assistance to a person addicted on gambling. Any addiction disrupts a person's normal social life, undermines their ability to communicate, form and maintain relationships with relatives, and make rational decisions. In addition, the 2022 review of studies 'Gambling-related suicides and suicidality: A systematic review of qualitative evidence' states that quantitative data show a high risk of suicide among problem gamblers and irresponsible young people involved in gambling.

The 2021 publication 'Relationships between exposure to different gambling advertising types, advertising impact and problem gambling' presents several studies confirming that problem gamblers experience a greater impact from gambling advertising. It is they who are more vulnerable, as gambling advertising attracts their attention more than that



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of people without gambling problems. Gambling advertising can easily encourage pathological gamblers to re-engage in this gambling activity and thus cause relapses. Advertising also has a greater impact on young people, who, when they start gambling at an early age, are particularly at risk of experiencing problem gambling, as the prefrontal cortex, responsible for understanding the consequences of actions and controlling impulses, is fully developed only in the third decade of human life.

According to the official data of the Republican Centre for Addictive Disorders (RCAD), the number of people treated for pathological gambling in the branches of the Republican Centre for Addictive Disorders has more than tripled since 2020, from 55 in 2020 to 176 in 2023. It should be noted that the RCAD is a medical institution with a secondary-level addiction psychiatry licence and these data only reflect a portion of people with gambling addiction, i.e. do not reflect the true scale of the problem, which in reality is greater in the population.

It should also be noted that, from 1 May 2017, when the voluntary self-exclusion programme from gambling was established and became operational in Lithuania, namely the establishment of a voluntary Register of Persons Who Restricted Their Ability to Gamble ('the Register'), until 31 December 2017, 2,580 applications to prevent gambling and participation in remote gambling were registered in the Register. Meanwhile, as of 30 September 2024, 62,178 applications to prevent gambling and participation in remote gambling have been registered in the Register since its establishment, of which 17,342 are valid applications.

Although Article 10(9) of the Law on Gambling of the Republic of Lithuania prohibits the advertising of gambling on the territory of the Republic of Lithuania, gambling organisers are making good use of the possibility currently allowed to advertise the names, trademarks and types of gambling organised. This is illustrated by the advertising funds allocated by lottery and gambling operators. Since 2020, the funds allocated to advertising have doubled, from EUR 6.36 million in 2020 to EUR 12.73 million in 2023. Meanwhile, the profits of gambling operators increased from EUR 20 million in 2020 to more than EUR 53 million in 2022.

It is clear that the advertising restrictions currently in place are not only insufficient, but also create preconditions for further aggressive advertising of gambling with the aim of encouraging individuals to gamble. For example, attention-grabbing advertisements outside educational establishments that encourage gambling and create the illusion of quick and easy enrichment, or advertisements during sporting events or broadcasts of sporting competitions that give the impression that sport and gambling are compatible, or even inseparable.

The jurisprudence of the Court of Justice of the European Union (CJEU) and the justification of restrictions in the field of gambling were summarised by the CJEU in Cases C-186/11 and C-209/11 *Stanleybet* (2013). The CJEU has repeatedly pointed out that the regulation of gambling is one of the areas where there are significant moral, religious and cultural differences between Member States. In the absence of harmonisation in that regard at EU level, it is for each Member State to determine, in those areas, on the basis of its own scale of values, the requirements which must be met in order to protect the interests concerned (Case C-42/07: *Judgement of the Court of 8 September, 2009 – Liga Portuguesa de Futebol Profissional and Bwin International*, ECR I-7633, paragraph 57 and the case-law cited).

The CJEU has also pointed out that Member States have a margin of discretion in determining the level of protection of consumers and the social order in the betting and gambling sector and may opt for a system of consumer protection different from that applied by other Member States, without it being necessary for a restrictive measure adopted by a Member State to be consistent with the concept of all other Member States as regards methods of consumer protection (Case C-176/11: *Judgement of the Court of 12 July 2012 – HIT and HIT LARIX*, paragraph 25 and the case-law cited; Case C-518/06: *Judgment of the Court of 28 April 2009 – Commission v Italian Republic*, ECR I 3491, paragraph 83 and 84).

It is worth noting that gambling advertising is prohibited:

- in Latvia (excluding gambling venues);
- in Estonia (advertising is only allowed on organisers' websites, gambling venues, cruise ships, planes);
- in Italy, moreover, in 2023, Italy and Spain banned sponsorship of sporting events and clubs;
- in Belgium (except for lotteries). Advertising on sports fields will be prohibited from 2025, and gambling operators will no longer be able to sponsor sports teams from 2028.

We would point out that the dangerous nature of gambling for public security, as well as for other public values protected by the Constitution of the Republic of Lithuania, has been assessed by the Constitutional Court of the Republic of Lithuania. The Constitutional Court stated in the Decision of 21 June 2011 that '[...] organising gambling can lead to negative consequences for human health, public order and public security, and other legally protected values'. So this ruling of the Constitutional Court provides a legal assessment of gambling in view of the social values established by the Constitution. In other words, the Constitutional Court conducted an analysis of gambling based on the scale of values



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enshrined in the Constitution. According to the case law of the CJEU, the moral evaluation of gambling and its regulation lies within the competence of the Member States. Thus, the above-mentioned requirements laid down in national legislation should be regarded as measures aimed at regulating gambling activities, taking into account the values of public interest enshrined in the Constitution and the negative consequences and dangerous nature of gambling identified in the case-law of the Constitutional Court.

Regarding proportionality of regulation.

It should be noted that the regulation of gambling advertising in Lithuania is reviewed in a proportionate and consistent manner, taking into account the damage caused by this advertising – bans on the publication of additional audio and visual information in advertising have been introduced since 1 November 2019. From 1 July 2020, advertisements for gambling must include a warning that participation in gambling may lead to gambling addiction or pathological gambling. However, as indicated above, the data show that the number of problem gamblers, who have voluntarily restricted their ability to gamble, has increased several times over the last few years, and the more than doubling of the profits of gambling operators, while the number of gambling companies remains unchanged, indicates a constant increase in participation in gambling and, at the same time, an increase in the extent of problem gambling.

It is also important to emphasize that the Gambling Law of the Republic of Lithuania no. IX-325 2, 10, 103, 21 and 292 of the draft law no. The advertising restrictions provided by XIVP-3481(2) (hereinafter - Draft Law No. XIVP-3481(2)) are not discriminatory in nature, as they apply to all gambling entities (only betting advertising and sponsorship by betting companies is subject to a transitional period of entry into force until December 31, 2027).

In conclusion, gambling advertising is broadcast everywhere: television, radio, social media, events (particularly sports events), streets. Such advertising is not harmless to public health and society. Advertising normalizes gambling in society. Through advertising, gambling is presented as socially and culturally acceptable behaviour and as a leisure activity. This harms more vulnerable groups in society, such as minors, young people, and gambling addicts. In the absence of a common rule at European Union level, Lithuania is therefore free to establish rules in this area in accordance with the principles enshrined and protected by the Constitution, and the proposed restrictions are justified by overriding reasons of public interest.

2. Having taken note of the views expressed by the interested parties in their letter of 27 September 2024, Lithuania puts forward its arguments in support of the restrictions on gambling advertising.

On 14 March 2024, during the plenary sitting of the Seimas, draft Law No XIVP-3481 amending Article 10 of Law on Gambling No IX-325 of the Republic of Lithuania ('the draft Law') was submitted. The purpose of the draft law is to introduce, as of 1 May 2025, a prohibition on the advertising of gambling, with the exception of the publication of the name and brand of the company organising gambling on the premises of the organiser of gambling, the building in which the place of organisation of gambling is located or in the immediate vicinity of the entrance to the place of organisation of gambling, the publication of information on the types of gambling organised by the company organising gambling at the place of organisation of gambling or on the website of the company organising gambling, the address of which is specified in the Regulation on gambling, and the publication of information on gambling in publications (information notices) intended solely for professionals in the gambling business. It also establishes a prohibition on the dissemination of information about the sponsorship of public events, activities, and natural and legal persons of any kind by a company organising gambling.

After the submission, the draft law was approved and the Government of the Republic of Lithuania was asked to submit an opinion on it.

On 5 June 2024, the Government of the Republic of Lithuania presented its conclusion in Resolution No 432, in agreement with the interested institutions and social partners (including the interested parties who signed the letter of 27 September 2024).

The Government of the Republic of Lithuania, while approving the draft Law in principle and seeking to ensure the proper implementation of the proposed provisions in practice, and after assessing the potential impact of the proposed legal regulation on the businesses concerned, has proposed to the Seimas of the Republic of Lithuania to improve the draft Law.

Having regard to the observations and proposals set out in the Resolution of the Government of the Republic of Lithuania, the Seimas of the Republic of Lithuania has registered Draft Law No. XIVP-3481(2), which provides for a transitional period until 31 December 2027 for the prohibition of betting advertising and the sponsorship of sports events, sports



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organisations, athletes, cultural and artistic events, cultural and artistic organisations, and artists. Such a transitional period is intended for stakeholders to adapt to the new legal norms and requirements, allowing sufficient time for entities to implement technical and organisational changes in their activities, to ensure more sustainable funding, and to develop and operate in a socially responsible environment.

Regarding loss of income from gambling advertising. It should be noted that in 2025, amendments to the Law on Lottery and Gambling Tax of the Republic of Lithuania will enter into force, whereby, when organising gambling on slot machines, table games, bingo, sweepstakes, betting, and remote gambling, the tax rate of 22% will be applied instead of 20% to the tax base of lotteries and gambling.

It should be noted that gambling operators paid EUR 31.8 million into the State budget in 2022 and EUR 43.7 million in 2023 in the form of a gambling tax.

Increasing the rate of the tax on lotteries and gambling paid by gambling operators from 20% to 22% of the gross income of gambling operators will allow the collection of approximately EUR 4.4 million more in revenue for the state budget and the use of this additional income for the implementation of preventive activities – to educate the public on the topics of potential damage caused by problem gambling and to carry out social advertising. The redirection of an additional EUR 4.4 million to the media, including the dissemination of social advertising on the prevention of problem gambling, will also help mitigate the impact on the potential loss of revenue for the media segment following the adoption of Draft Law No XIVP-3481(2).

This will have a positive impact on the objectives of preserving and strengthening public health for which the State Fund for the Promotion of Public Health (hereinafter 'the Fund') has been set up. This Fund shall be used to support activities aimed at preserving and strengthening public health, including preventive projects, social advertising and research. State funds allocated to the Media Support Fund, which, inter alia, aims to ensure the availability of socially significant information to the public, also contribute to the achievement of the stated objectives. Stakeholders (media actors) will thus have greater opportunities to contribute through social advertising to the protection of important public interests and values and to consolidate their positions as responsible businesses to an even greater extent.

The case-law of the CJEU and the justification of restrictions in the field of gambling were summarised by the CJEU in Cases C-186/11 and C-209/11 *Stanleybet* (2013), where it was held that restrictions on the freedom to provide services are justified on grounds of public policy, public security or public health or, in the light of the case-law of the CJEU, by overriding reasons in the public interest (judgement of 19 July 2012, *Garkalns*, C 470/11, paragraph 35 and the case-law cited).

According to settled case-law of the Court of Justice, restrictions on gambling activities may be justified by overriding reasons in the public interest, such as consumer protection, the prevention of fraud, and the prevention of incitement to squander money on gambling (*Garkalns*, paragraph 39 and the case-law cited therein).

In this context, the proposed prohibitions on gambling advertising are compatible with the principle of the free movement of services enshrined in Article 56 of the Treaty on the Functioning of the European Union and the jurisprudence of the CJEU, as they pursue both public health objectives and the protection of the public interest in preventing incitement to squander money on gambling.

European Commission

Contact point Directive (EU) 2015/1535

email: grow-dir2015-1535-central@ec.europa.eu