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Item 1018

REGULATION THE MINISTER FOR DEVELOPMENT AND FINANCE¹⁾ of 18 May 2017.

on the manner and scope of archiving of data relating to online gambling activities²⁾

Pursuant to Article 15d(8) of the Act of 19 November 2009 on gambling (Journal of Laws of 2016, item 471, 1948 and 2260 and of 2017, item 88 and 379), it is ordered as follows:

§ 1 The regulation specifies:

- 1) the method of archiving data relating to online gambling, including requirements for archiving devices and their software;
- 2) the scope of data that the online gambling operator is obliged to archive.

§ 2 (1) Data archiving shall be carried out in such a way as to ensure the integrity, completeness, confidentiality and accountability of the data during all data processes, including transmission, storage and access.

2. The data shall be archived in such a way as to provide unambiguous information on the time of the event and the time at which it was recorded, with the date and time being specified with sufficient accuracy to determine the sequence of events and their archiving.

3. Data shall be recorded in such a way that it cannot be altered without the archiving device software detecting this event.

4. The archiving system and its software shall ensure that, in the event of accidental total or partial loss of archived data, the archived data can be retrieved within five years of the end of the calendar year in which they were archived, in particular by copying them onto external media.

§ 3. 1. The archiving device and its software shall provide:

- 1) to search, sort, filter, view and print out the data referred to in § 5 and § 6 separately for gambling on different websites and within individual licences;
- 2) copying data from the archiving device onto computer storage media;
- 3) remotely accessing and downloading this data, structured in a way that allows for later analysis.

2. The archiving device and its software shall prevent the deletion of data before the expiry of 5 years from the end of

the calendar year in which the data were archived.

- ¹⁾ The Minister of Development and Finance heads the department of government administration - public finances, pursuant to § 1(2)(2) of the Ordinance of the Prime Minister of 30 September 2016 on the detailed scope of activities of the Minister of Development and Finance (Journal of Laws, item 1595).
- ²⁾ This Regulation was notified to the European Commission on 30 December 2016 under number 2016/699/PL, pursuant to § 4 of the Regulation of the Council of Ministers of 23 December 2002 on the functioning of the national system of notification of norms and legal acts (Journal of Laws, item 2039 and of 2004, item. 597), which implements Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and rules on information society services (codification) (OJ L 241, 17.09.2015, p. 1).

3. In order to fulfil the requirement referred to in § 2 (1), the archive device and its software in particular:

- 1) provide a permanent, non-modifiable and uniquely identifiable numbering for each event for each type of archived event, in particular the creation of an account, the payment of a stake or withdrawal of winnings, the placing of a bet or a specific action in a gambling game;
- 2) calculate, for each archived event, a cryptographic digest calculated using the asymmetric SHA2 algorithm, compliant with ISO/IEC 10118-3:2004, hereinafter 'SHA2 digest';
- 3) systematically verify the continuity of the numbering of the archived events and their conformity with the corresponding SHA2 hashes calculated in accordance with paragraph 4.

4. The SHA2 hash is calculated from the content of the digital representation of this event and the SHA2 hash of the immediately preceding event in the numbering, with the SHA2 hash of the immediately preceding event being ignored for the first event in the numbering.

§ 4 Archiving device and its software:

- 1) are protected against unauthorised access, in particular through the use of authentication and authorisation mechanisms;
- 2) ensure the continuity and correctness of operations, including through the use of hardware and software solutions in the event of random events that could lead to the alteration or loss of or lack of archived data.

§ 5 Archiving in the field of betting is subject to:

- 1) data enabling determination of the course and outcome of bets, including:
 - a) the catalogue of bets run by the entity,
 - b) the number of bets accepted,
 - c) rates of individual bets,
 - d) number of wins,
 - e) number of losses,
 - f) the prediction by participants in pari-mutuel betting on the outcome of human or animal sporting competitions that are the subject of betting,
 - g) the prediction by participants in pari-mutuel betting on the occurrence of various events that are the subject of pari-mutuel betting,
 - h) the results of human or animal sporting competition that are the subject of betting,
 - i) events which are the subject of betting,
 - j) the activities carried out by the participants in the accounts used for the initiation and conduct of Internet-based betting, created on an Internet-based betting data archiving device, hereinafter "accounts",
 - k) the betting operations carried out by the pari-mutuel participants, as well as any data relating to the balance in the accounts, in particular the value of the deposits, the value of the pari-mutuel participant's winnings and the amounts returned to the account;
- 2) data allowing the identification of betting transactions carried out, relating to the financial flows resulting from betting transactions attributable to individual betting participants, including:
 - a) proceeds from a contribution from a participant in a mutual bet,
 - b) the amounts paid by the entity to the participant in the reciprocal bet, together with the title of the payment,
 - c) the number of the betting participant's payment account used for settlements with the pari-mutuel operator,
 - d) the number of the betting organisation's payment account used to settle the betting participant;

- 3) the data necessary to identify the participant in the reciprocal establishment, including:
 - a) name(s),
 - b) residential address and e-mail address,
 - c) an identifier allowing access to the account (login),
 - d) nickname - the name of the participant in the bet, if different from the login,
 - e) data about the connection of the betting participant to the site of the betting operator,
 - f) the profiles of the pari-mutuel betting participants activated at the time of account creation and containing the history of the pari-mutuel bets placed by the participant and their progress;
- 4) data relating to the functioning of the storage devices and their software, including:
 - a) modifications of archive equipment or software and other technical operations in the course of their operation, including changes to the settings of the archive equipment or software, in particular the settings of the real time clock,
 - b) checks carried out at the initiative of the pari-mutuel operator, in particular the scope, outcomes and persons responsible for carrying out these checks,
 - c) adding, deleting or modifying data or attempting to do so,
 - d) errors and other malfunctions that occurred during the operation of the archive equipment and the software, in particular those detected during the verification referred to in § 3 section 3 point 3, and the corrective measures taken,
 - e) the provision of access to the archived data, in particular information on the persons to whom the data have been provided and the legal basis on which the data were provided.

§ 6 Archiving in respect of gambling other than that specified in § 5 is subject to:

- 1) data to determine the course and outcome of gambling, including:
 - a) the catalogue of games organised by the entity,
 - b) number of games held,
 - c) stakes in individual games,
 - d) number of wins,
 - e) number of losses,
 - f) the course of the individual games, including the activities carried out by the participants in the individual games,
 - g) the activities carried out by game participants on the accounts used to initiate and conduct games arranged over the Internet, created on the device archiving data relating to games arranged over the Internet, hereinafter referred to as "game accounts",
 - h) the gaming operations carried out by the participants of these games, as well as all data relating to the balance of the gaming accounts, in particular the value of the deposits, the value of the participant's winnings and the amounts returned to the gaming account;
- 2) data to establish the gaming transactions carried out, relating to the financial flows resulting from the activities carried out by the game participant on a game-by-game basis, including:
 - a) proceeds from a participant's payment,
 - b) the amounts paid by an entity to a participant in a game, together with the title of the payment,
 - c) the number of the gambler's payment account used for settlements with the gambling entity,
 - d) the number of the gambling entity's payment account for settlements with the participant;
- 3) data necessary to identify the participant in the game, including:
 - a) name(s),
 - b) residential address and e-mail address,

- c) an identifier allowing access to the game account (login),
 - d) nickname - the name of the participant if different from the login,
 - e) ICT data about the connection of the gambling participant to the website of the gambling entity,
 - f) the profiles of game participants activated at the time of creation of the game account and containing the history of a given participant's games and their progress;
- 4) data relating to the functioning of the storage devices and their software, including:
- a) modifications of archive equipment or software and other technical operations in the course of their operation, including changes to the settings of the archive equipment or software, in particular the settings of the real time clock,
 - b) checks carried out on the initiative of the gaming operator, in particular the scope, results and persons responsible for carrying out these checks,
 - c) adding, deleting or modifying data or attempting to do so,
 - d) errors and other malfunctions that occurred during the operation of the archive equipment and the software, in particular those detected during the verification referred to in § 3 section 3 point 3, and the corrective measures taken,
 - e) the provision of access to the archived data, in particular information on the persons to whom the data have been provided and the legal basis on which the data have been provided.

§ (7) Entities holding, at the date of entry into force of this Ordinance, a licence to organise gambling over the Internet or which organise gambling over the Internet on the basis of approved regulations shall adjust the manner and scope of data archiving within 3 months of the entry into force of this Ordinance.

§ 8 The regulation shall enter into force on the day following the date of publication.³⁾

Minister for Development and Finance: *wz. W.
Janczyk*

³⁾ This Regulation was preceded by the Regulation of the Minister of Finance of 9 July 2012 on the manner of archiving data and the scope of data related to the organisation of betting over the Internet subject to archiving (Journal of Laws, item 833), which is no longer in force as of the date of entry into force of this Regulation pursuant to Article 11 of the Act of 15 December 2016 amending the Gambling Act and certain other acts (Journal of Laws of 2017, item 88).