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ESTABLISHING A SECOND STATE LOTTERY – RISKS OF CORRUPTION

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ESTABLISHING A SECOND STATE LOTTERY – RISKS OF CORRUPTION

Betting is a very profitable business in the country, which is evident by the large number of facilities for organizing games of chance and the profit made by the State Lottery between 2019 and 2021. During these years, the joint-stock company State Lottery made a profit of over 17 million euros, i.e. 4.9 million euros in 2019, 6.5 million euros in 2020 and 5.8 million euros in 2021.¹ The economic benefit stirs great interest in organizing games of chance, but in contrast to the profit there are also a series of negative consequences such as the impact on mental health and addiction. Governments regulate the organization and participation in games of chance in order to protect the public interest and the rights of citizens, but also to establish control over the gaming market and to prevent illegal activities. The organization of games of chance in various countries differs depending on the legislation covering the area. The organizers of games of chance must meet legal requirements and follow safety standards, as well as protect the rights of the players. These conditions may include licenses, permits and registrations, adequate financial guarantees, regular inspection by government authorities, etc.

The reason for this paper is the announcement by the first Deputy Prime Minister and Minister of Political System and Inter-Community Relations, Mr. Artan Grubi that a new state lottery will be established, which will compete with the existing one. With this statement, the public was introduced, for the first time, with the idea of establishment of a new lottery, even though a year before this statement was given, preparations have started for establishment of a new state company, which was officially established in April 2023.

Pursuant to the Law on Games of Chance and Amusement Games,² electronic and internet games of chance are organized by the trading company that organizes lottery games of chance, which in our country is the already existing State Lottery. That is why this policy document aims to examine the risks of corruption by creating a new second state lottery and to propose measures to mitigate these risks.

Legislation regulating games of chance

The Republic of North Macedonia regulates games of chance, their organization and participation in the Law on Games of Chance and Entertainment Games³. The Law clearly defines three categories of games of chance: general games of chance, special games of chance and Internet games of chance. General games of chance belong to category that includes lottery games of chance (lotto, tv bingo, etc.), electronic games of chance (video lottery, electronic bingo and keno), prize games and interactive games of chance. Special games of chance include games in casinos, betting

¹Data from the feasibility study for establishment of a new company for organizing electronic games of chance

²Law on Games of Chance and Entertainment Games, Official Gazette of the Republic of Macedonia, No. 24/11..., 90/17 and Official Gazette of MK No. 251/22, available at: <http://www.ujp.gov.mk/mk/regulativa/opis/25> (Article 7, Paragraph 3)

³Law on Games of Chance and Entertainment Games, Official Gazette of the Republic of Macedonia, No. 24/11..., 90/17 and Official Gazette of MK No. 251/22, available at: <http://www.ujp.gov.mk/mk/regulativa/opis/25>

houses and slot machines. Online games of chance is the broadest category since it includes general and special games of chance, but also other games that can be played over the Internet.

The Law also regulates the types, conditions and manner of organizing games of chance and entertainment games. There is a clear distinction between the organizers of games of chance, which are companies registered for that activity and hold a license - a permit to organize games of chance or a company in which the Republic of North Macedonia is a partner or shareholder. In terms of organizing lottery games, the government is organizing them independently, and has established a company for organizing games of chance for that purpose in which the Republic of North Macedonia is a partner or shareholder with at least 51% of the charter capital.

The Ministry of Finance decides who will be involved in organizing games of chance, as it is responsible for issuing licenses for organizing games of chance. It was the Ministry of Finance that proposed changes and amendments to the Law that stirred the public, but also encouraged the organizers of games of chance and the Association of Organizers of Games of Chance (APIS) to react. At the beginning of February, the Law was approved at a government session and submitted to the Parliament, and has been stuck in the parliamentary procedures ever since and was not amended. The proposed amendments provide for stricter procedures for issuing licenses and increased fees for betting houses, including limitations on the physical space where they can be located.⁴ The proposed amendments to the Law created a division between the government institutions and the Association of Gambling Operators (APIS). The most delicate change in the proposal was the reallocation of the betting houses from the urban areas, that is, they should not to be located within 500 meters of educational institutions. On the one hand, the proposed amendment was presented as a measure to reduce the participation of the young population in games of chance, while the interpretation of APIS is that it will result a financial crisis and is the beginning of the process of closing the games of chance in the country.

In relation to the proposed legal solution that draw the attention of the public and which will *de facto* reduce the number of casinos and slot machines in urban areas, the First Deputy Prime Minister and Minister of Political System and Inter-Community Relations, Mr. Artan Grubi pointed out in a podcast⁵ that the amendments to the Law plan to establish a new state lottery as a competition to the already existing state lottery - State Lottery of North Macedonia.

Risks of corruption in the establishment of the second state lottery

The government already has experience with one Lottery that currently organizes lottery games, and was established fifteen years ago as the State Lottery of Macedonia AD Skopje. The joint-stock company continuously works in organizing lottery games, in accordance with the Law on Games of Chance and the Law on Companies. The second lottery now opens to organize video games. It was established on the basis of Article 7 of the Law, according to which the existing state lottery can

⁴360 "The government has adopted the amendments to the Law on Games of Chance: the facilities must be 500 meters away from schools <https://360stepeni.mk/vladata-gi-utvr-di-izmenite-na-zakonot-za-igr-ite-na-sreka-objektite-mora-da-bidat-500-metri-podaleku-od-uchilishtata/>

⁵Podcast #9 | Interview in the Editorial Office with Artan Grubi | IRL, available at: <https://www.youtube.com/watch?v=SEp9L18qtPY>

establish a new company regardless of the form of association, if it has equity participation with at least 51% of the charter capital.

The risks of corruption shows up even before the process of establishment of the new state lottery, and is also present in the process of establishing and operating this company. This is because the lottery industry involves large sums of money, which can be attractive to corrupt individuals seeking personal gain. Different risk areas open up at different stages.

The first risk appears already in the process of establishment, that is during the preparation and publication of the call for a joint venture for establishment of a company for organizing electronic games of chance. What follows is the process of choosing a partner of the state lottery which are processes that are important to be transparent and open. After it is official - the establishment of the company, other risks open up, including the awarding of contracts, regulation and supervision on the one hand, and employment on the other hand.

Transparency is a long-term risk that appears from the very beginning of the process, and persists after the establishment and during the operation of the state enterprise. The public was left out of the information process, and thus the transparency of the process was neglected.

The process of establishing a new state lottery begins with a decision of the government, after which a process of selection and election will have to be completed and an agreement will be concluded for a partner who will own a maximum of 49% of the shares of the new joint stock company. The first stage is a public call for tenders for awarding of a joint venture contract for establishment of a company for organization of electronic games of chance, which has been published in the Official Gazette of the Republic of North Macedonia⁶ according to the legal provisions. Aside from the announcement, the start of the process has not been shared with the general public. The lack of information has prevented the public from following the process and evaluating whether it is in the interest of society.

The public was first informed about the likelihood of opening of a new state lottery from the statement of the Minister of Political System. However, the state lottery already worked intensively in the first half of 2022 on preparations for establishment of a new company. The information regarding the procedure for establishing a company for organizing online and electronic games of chance, as well as the decision to approve the operation of the Management Board, were adopted at a Government session in March 2022.⁷ For that purpose, a feasibility study was later prepared, which includes objectives and a financial-technical analysis. Right afterwards, at the beginning of May, a call for a partner of the state lottery for joint venture and organization of electronic games of chance was announced. By the end of August 2022, the entire procedure has been completed and the contract has already been signed with the partner - HTL Macedonia, which is one of the two bidders and the only one that meets all the criteria.

The exclusion of domestic legal entities from participating in the public call and becoming potential partners of the state lottery is problematic. According to the tender of the public call, the participation is open to all legal entities who will pay 2,000 euros to the account of the State Lottery for tender documentation. It is also stated that the call is intended for domestic and foreign legal entities, with one of the conditions being that the bidder has at least 30 years of experience in organizing games of chance, of which at least 10 years of experience in participating in the process of organizing electronic

⁶Public call for submission of bids for awarding of a joint venture agreement for establishment of a company for organization of electronic games of chance, Official Gazette of MK, No.107/22.

⁷Twenty-third session of the Government of the Republic of North Macedonia, held on March 8, 2022

game of chance - video lottery in at least three countries in Europe on the day of submission of the offer.⁸ This requirement *de facto* excludes domestic legal entities, since according to the Law, only the State Lottery or a legal entity that is a partner of the State Lottery has the right to organize online games of chance.

That is why two foreign companies that are part of the games of chance participate in the call. The commission chose HTL Macedonia and signs a 15-year contract for partnership in the new lottery for organizing electronic games. A three-member committee participates in the selection process, which excludes one of the bidders due to incomplete documentation.⁹ The entire procedure and the contract are not publicly available, which casts doubt on the entire procedure and the way in which the decisions are made.

The new state enterprise was officially established in April 2023, as a partnership of the State Lottery and HTM Macedonia. Several risks of corruption follow after the establishment. The first is employment – the plan with the new state lottery is to be managed by a Management and Supervisory Board and to have 70 employees. There is no data available on the selection of the members of the Administrative and Supervisory Board, as well as on the employment of the 70 positions.

Members of the Management and Supervisory Board of the joint-stock company are crucial positions for the operation. Over the years, the State Lottery has been one of the most profitable enterprises in partial state ownership, but also one of the most attractive for political party employment as well as for concluding high value contracts with companies close to political parties. Since 2021 it was shown that persons close to political parties were appointed to the Management and Supervisory Board of the State Lottery.¹⁰ Regardless of the bad practice of appointing people close to the Management and Supervisory Board, as well as hiring people close to political parties in power, the new lottery is being established and will work with the same setup and structure, which hints at risks of corruption at multiple levels.

The selection and management of human resources is always a challenge, but also a risk of abuse. The State Lottery, as one of the most profitable state enterprises, was not excluded from party employment in the past.¹¹ The members of the Management and Supervisory Board should be appointed following the principles included in the Law on Public Enterprises, which prescribes a special procedure for selection of the Management and Supervisory Board members. This legal solution reduces the influence of political parties, but the problem remains with the employment of staff in the new lottery.

The new joint-stock company opens space for new employment of unqualified staff who are close to political parties. The reduction of this type of risk starts at the very beginning - when publishing an advertisement, which should be transparent, first of all, but also includes the formal criteria for each position. Furthermore, it should follow a process of selection and promotion of candidates based

⁸Public call for submission of bids for awarding a joint venture agreement for establishment of a company for organization of electronic games of chance, Official Gazette of MK, No.107/22.

⁹Data obtained by submitting a request for access to public information

¹⁰IRL.mk. Are you a member of a political party and want a second job during a pandemic? State companies are waiting for you. Available at: <https://irl.mk/chlenuvash-vo-partia-i-sakash-vtora-rabota-vo-vreme-na-pandemia-drzhavnite-kompanii-ve-ochekuvaat/>

¹¹IRL.mk. Are you a member of a political party and want a second job during a pandemic? State companies are waiting for you. available at: <https://irl.mk/chlenuvash-vo-partia-i-sakash-vtora-rabota-vo-vreme-na-pandemia-drzhavnite-kompanii-ve-ochekuvaat/>

on their qualifications and competences, which is the basis for selecting and promoting suitable staff for a specific position.¹²

Supervision runs in parallel with resource management, primarily with the assets of the company. Experience shows that the existing state lottery concluded contracts with companies close to political parties, which is a serious risk for corruption and for allocation of funds outside the state enterprise. Contracts for services with companies that are donors to political parties are also problematic. During the summer of 2023, such a contract of 288 thousand euros was signed by Arberia Design, a company that is a donor for DUI political party.¹³

The risk of corruption in resource management is a significant challenge for many organizations and institutions, regardless of whether they are in the public or private sectors. Corruption can have various forms and can include irregularities such as those related to finances, leases, awarding of contracts, etc. In order to reduce the risk, transparent and responsible management is important, which is closely related to the appointment of a professional who will manage the institution. In addition, it is necessary to establish internal systems for control and monitoring of all financial transactions and processes for leasing and awarding contracts.

Conclusion

The large sums of money that are inherent to organizing games of chance are a motive for various actors to strive to be partners of the government in organizing lottery games. Risks can appear even before the establishment of the company, that is, already in the process of preparation and publication of the call for a joint venture partner for establishment of a company for organization of electronic games of chance. The risks continue even after the establishment and in performing the activity.

In the establishment and operation of the new state lottery, there are several key risks of corruption. The first is the restriction of competition in the call for a partner of the state lottery for organizing electronic games, as domestic companies were prevented from applying to the call. After the establishment of the company, several crucial risks appear, including human resources and asset management. One risk is human resources, that is, the selection of people who will be part of the new lottery. The second risk is supervision, which is directly related to the appointment of the Supervisory Board, where incompetent members may lead to improper operation of the lottery. Finally, the management of assets also appears as a risk. As one of the potentially most profitable companies, it carries a high risk of corruption and the possibility of allocating funds from the company. Transparent and responsible management is required to reduce this risk, apart from appointing competent staff who will be managing.

¹²Popovic, Misha, Dimovska-Simjanovska Vesna. (2020). "Who is in charge there?". Institute for Democracy, Skopje. available at <<https://idscs.org.mk/wp-content/uploads/2021/04/Koj-toa-tamu-upravuva-Finalna.pdf>>.

¹³Filipovska, Slavica. (2023) "New one hundred thousand euros from Grubi's ministry for Arberia Design for the anniversary of the Framework Agreement". 360stepeni.mk. available at <<https://360stepeni.mk/arberia-dizajn-ostana-favorit-na-tenderi-na-institutsiite-predvodeni-od-dui-pet-dogovori-za-tri-mesetsi/>>

About the project

The project includes activities for research and advocacy in order to support the reform process in North Macedonia by strengthening the reform agenda in the area of the rule of law. The project foresees cooperation and consultation with all relevant stakeholders in the fight against corruption for achievement of this objective.

The project aims, together with the anti-corruption institutions, to establish a strategic and long-term vision for development of the institutions in order to intercept future processes and forms of corruption. With this project, the institutions and the Institute for Democracy will work on making an overview of the key social processes that will influence the fight against corruption until 2030, and based on that, plans will be drawn up for the institutions to deal with the modern challenges brought about by the fight against the corruption.

By enabling political dialogue between anti-corruption institutions, the Parliament and civil society, the project aims to achieve three specific objectives:

- Support the improvement of the policy-making process, referring to the long-term visions of corruption risks and the identified shortcomings;
- Informing long-term plans for institutional development, based on strategic thinking and forward-looking analyses
- Educating the public and creating public demand for improved anti-corruption planning by the authorities.

About IDSCS

IDSCS is a think tank organization that researches the development of good governance, rule of law and European integration of North Macedonia. IDSCS has a mission to help citizen involvement in decision-making and to strengthen a participatory political culture. By strengthening libertarian values, IDSCS contributes to coexistence between diversities.

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