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# The legal regime of games of chance in the Democratic Republic of Congo

**Fiche pratique** publié le **10/10/2022**, vu **6755 fois**, Auteur : YAV & ASSOCIATES

**There is a reform is in progress for the regulation of the sector of games of chance, lotteries and prognostic competitions in the DRC. However, in the meantime, what is the lead regime?**

## 1. THE LAW OF THE GAMING OF CHANCE IN DRC

The game of chance is a paid game where chance prevails over skill and combinations of intelligence to obtain the gain. It follows that in the Democratic Republic of Congo, two regimes exist depending on the nature of the games: The lottery and other games such as sports betting and related games.

However, it should be noted that a reform is in progress for the regulation of the sector of games of chance, lotteries and prognostic competitions in the DRC. This follows a report by the mission of the Ministry of Finance to take stock of this sector. This mission consisted of collecting information on operations carried out in the sector from 2015 to date and identifying the legal acts in force in the sector.

At the end of the report, it was noted that the anachronism and the shortcomings of the legal architecture in force present non-negligible risks for the financial sector of the DRC which is a jurisdiction plagued by money laundering operations. illegal and criminal.

To remedy this, avenues for reform have been proposed, including the establishment of a Supervisory Commission to monitor operations liable to fraud and to observe the deduction of duties due to the Treasury and its loss of earnings, as well as the establishment of a regulatory mechanism to regulate, supervise and control the gambling sector in the DRC as well as the proposal for the establishment of a new legal framework for a better organization of this sector.

### 1.1. THE MONOPOLY IN THE LOTTERY SECTOR

The National Lottery Company, SONAL in acronym has the monopoly of lottery games but in view of its inability to organize the lottery alone, it signs partnership contracts with private companies to operate the lottery sector. This should not be confused with the granting of the license.

The lottery should not be confused with the other components of games of chance which fall within the ambit of leisure.

## 1.2. THE LICENSE FOR GAMES OF CHANCE IN THE DRC: THE MINISTRY OF SPORTS AND LEISURE

On the strength of Presidential Ordinance No22/003 of January 7, 2022 setting the powers of the ministries, it is unquestionably that the competent authority responsible for granting authorization to gaming companies other than lottery companies is the Ministry of sports and leisure and this, with regard to the 4th indent of the attributions of the Ministry of Sports and Leisure which informs that: ***"Registration of leisure establishments other than those operating lottery games"*** .

It follows that the lottery should not be confused with the other components of games of chance which are part of leisure. Thus, only lotteries are not the prerogative of my ministry and all the others are, it will be games of chance, online betting, " eSport ", stock market games, skill game , contest, etc ...

That consequently, by this ordinance, that no gambling or gambling company, not involved in the lottery, will be forced to sign any partnership or even a certificate with SONAL and that the approval of the Ministry ministry will suffice because, by right.

## 1.3. OF THE GRANTING OF THE LICENSE AND ITS VALIDITY

The license [arrest, approval] granted by the Ministry of Sports and Recreation covers the entire extent of the Democratic Republic of Congo. As regards its duration, in principle this authorization is deemed to be for an indefinite period, subject to:

- The duration of the Company, if this duration has expired, in this case the authorization will also lapse;

- In the absence of an act of renewal and annual registration from the company, will result in the withdrawal of approval and authorization (Art 11 of Ministerial Decree No. 041/MJS/CAB/2100/ 2011 of December 28, 2011);

- For valid reasons, in particular reasons relating to public order, good morals or for non-compliance with the legal and regulatory provisions relating to games of chance, the authorization may be withdrawn (art 12 of the aforementioned decree);

- If the Company does not effectively carry out or exercise its activities within one year of the effective date of the authorization, loses the benefit of the authorization (art 17 of the aforementioned decree);

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- In the event of failure resulting from bankruptcy or a serious breach of the regulations on games of chance, the right to operate a gaming establishment, etc., may be forfeited ( art 18 aforementioned decree);

- In case of extension of activity beyond the limits of the authorization. This means that the company benefiting from the gaming license in the DRC must not go beyond its corporate purpose at the risk of losing it, better still the company must avoid extending the activities beyond those provided for in corporate purpose and what was formulated in the authorization request.

The authorization granted to the Applicant is not transferable. The company cannot transfer its license to a third party.

## 2. TAX AND ACCOUNTING OBLIGATIONS

The company must make itself known to the Tax Administration within 15 days of the start of activities by applying for a tax number. It must also declare the taxes collected and remit them on time.

The authorization to obtain the license is with regard to the Order interdepartmental No. 001/CAB/MIN/SL/2019 and No. CAB/MIN/FINANCES/2019/133 of November 1 2019 wearing fixation of the rate of the rights,

taxes and fee to be collected at the initiative of the Ministry of the Sports and Recreation of USD 100,000 excluding administrative costs. See table of the decree on pages 6 and 7.

The company is required to pay the " **ad valorem** " tax on **the winnings of players from games of chance** , lotteries, forecasting contests or bets and similar activities, by any means [hard, through telecommunications and information and communication technologies] i.e. the 10% bet gain.

Settlement fines, 50 to 100% of the duty rate due.

Keep accounts in accordance with the OHADA system. Although the Congolese regime is declarative, the Sports Director may assign an agent to certify the contents of tax declarations. The company is also required to make available to leisure inspectors all related accounting documents certified by the ad hoc supervisory committee.

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