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MALTA'S GAMING SECTOR: CURRENT DEVELOPMENTS AND FUTURE TRENDS

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Paul Micallef Grimaud is a Partner at Ganado Advocates and heads the firm's intellectual property, TMT and data protection practice group. Paul's focus is dedicated to counselling and assisting clients in the media, technology and entertainment space on the legal aspects of their operations and to representing them in court and arbitration. The team that Paul leads is regularly involved in the drafting and negotiation of IP assignment, licensing and management contracts, advising on content and end-user related matters, registering and enforcing IP rights, and assisting with data protection and regulatory compliance.

Paul is a warranted advocate and regularly represents his clients in arbitration and litigation proceedings relating to intellectual property infringements, anti-counterfeit measures, trade mark and design oppositions, telecoms regulatory matters, media, slander and freedom of information disputes, data protection breaches and unfair competition cases.

Paul has a keen interest in Artificial Intelligence and Innovative Technology and is regularly involved in the drafting of laws, strategy and policies surrounding this area of law.

Paul was elected to the Chamber of Advocates in 2023 where he occupies the post of Vice President for the Professional Advancement and is President of the Malta Institute of Privacy Law (MIPL). He is a member of ECTA's Law Committee and also acts as external examiner at the Civil Law Department of the Faculty of Laws.

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Philip Formosa is a Senior Associate within Ganado Advocates' intellectual property, TMT and data protection practice group. Philip regularly assists clients in all IP-related matters and across the various types of intellectual property rights, both transactional and contentious in nature. This includes assisting clients with applying for and obtaining registered IP protection, brand protection and enforcement of IP rights and also defending them against IP-based claims and with the drafting of agreements for, or otherwise involving, the exploitation of IP rights, such as IP assignment agreements, software licences, end-user licences and franchise agreements.

Philip also regularly assists clients with data protection compliance, particularly with understanding and meeting their respective data protection obligations and duties. He has assisted and guided a number of clients, from a diverse range of industries and market sectors (including insurance, banking, gaming and real estate) with adapting and adhering to data protection legislation and has conducted a number of data protection audits. He also provides regular support to data protection officers (DPOs).

Philip gives regular advice in the areas of privacy, telecommunications and media law as well as in relation to e-commerce, digital signatures, web-hosting, affiliate and white labelling arrangements.

MALTA'S GAMING SECTOR: CURRENT DEVELOPMENTS AND FUTURE TRENDS



Malta remains one of Europe's principal jurisdictions for online gambling, with reportedly more than 300 operators currently licensed by the Malta Gaming Authority (the "MGA"). In 2026, attention has so far increasingly shifted to a set of developments that point to a more intricate phase of the jurisdiction's evolution within this sector. Several themes stand out; in particular, the continuing legal pressure surrounding Article 56A of Malta's Gaming

Act¹ (commonly referred to in the industry as "Bill 55"), the emerging policy discussions in the wake of the "prediction markets" boom, and a series of targeted reforms to Malta's gaming tax and VAT frameworks. Taken together, these developments are best understood as adjustments that operators may need to navigate and, in the case of prediction markets, as possible new opportunities, rather than as a break with Malta's established model.

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1. Player Claims and the Pressure on Article 56A (Bill 55).

Few topics have garnered as much legal attention and debate within the industry as Malta's Article 56A. This public policy provision must be viewed in its broader context; namely, the growing number of cross-border claims brought by players against operators licensed by the MGA ("Malta-licensed operators"). Over time, such claims have proliferated and, in certain instances, even financially supported by third-party litigation funders. In 2023, the Maltese Parliament, responding to concerns that such claims, where unfounded, could undermine the status and integrity of the Maltese gaming licence, enacted amendments to the Malta Gaming Act through "Bill 55". These amendments, effectively enshrined in Article 56A, empower the Maltese courts to, as a matter of domestic public policy, refuse the recognition and enforcement of foreign judgments against Malta-licensed operators where it would otherwise conflict with or undermine the Maltese legal framework, provided the operator's underlying activity is lawful under the Gaming Act and any regulations issued by the MGA.

Conceptually, this provision draws on Article 45 of Regulation (EU) No 1215/2012 ("Brussels I Recast"), which permits a Member State to refuse recognition and enforcement where doing so would be manifestly contrary to its public policy. Article 56A is framed as linking this ground of refusal to foreign judgements that concern activities carried out by operators under an MGA licence and authorised by that licence. As such, this provision was also prompted by an aim to prevent inconsistent outcomes for Malta-licensed operators across the EU.

The MGA's position has consistently been that Article 56A is not intended to constitute a blanket prohibition on the enforcement of judgments from EU Member States against Malta-licensed operators, and nor does it shield such operators from legal action in other courts. Rather, it maintains that Article 56A codifies Malta's long-standing public policy on online gambling as a licensable and regulated activity and that it aligns with existing EU principles, without introducing any new or autonomous ground for refusing foreign judgments.

However, several Member States have taken a different view, arguing that the provision undermines mutual trust in EU judicial cooperation, a concern that has also attracted scrutiny from the European Commission. In June 2025, the Commission issued a letter of formal notice to Malta concerning Article 56A,² taking the position that it has led to shortcomings in Malta's compliance with its obligations under Brussels I Recast and has created conditions for the systematic refusal of foreign judgments in gambling-related cases. These proceedings remain open following the Maltese Government's formal response to that letter.

1. Chapter 583 of the laws of Malta.
2. INFR (2025)2100.

Recent EU-level developments relevant to this debate

(i) **FB v European Lotto and Betting Ltd and Deutsche Lotto-und Sportwetten ltd (Case C-440/23, Judgment of the Court (Fifth Chamber) of 16 April 2026 following a reference from the First Hall of the Civil Court of Malta):** This preliminary reference to the Court of Justice of the European Union (the “CJEU”) arose from a dispute involving two Malta-licensed operators offering online virtual slot machine games and betting on the results of lottery draws (so-called “secondary lotteries”). Those services were deemed to have been directed, via the operators’ websites, to Germany, where a German-resident player lost a number of stakes between 2019 and 2021. At the relevant time, German law generally prohibited online games of chance, permitting only limited gambling-related activities. The player’s restitution claim for those lost stakes was brought before the First Hall of the Civil Court in Malta by a third-party company (assigned the player’s claim), which court then referred a series of questions to the CJEU on the compatibility of national restrictions on cross-border online gambling with the EU freedom to provide services.

In its ruling of 16 April 2026, the CJEU held that EU law does not preclude a Member State from prohibiting specific online gambling or betting services, even where those services are authorised in another Member State. In the Court’s analysis, and in the absence of express EU harmonisation, Member States retain a wide discretion to determine their own level of protection in this area. The CJEU further observed that online gambling may involve risks perceived to be greater than those typically associated with gambling in physical premises, including its constant availability of play and anonymity, and that these may be relevant factors in a Member State’s assessment. The Court also held that Member States may attach civil-law consequences to breaches of such prohibitions, including contractual nullity and restitution of stakes. While this CJEU ruling was not specifically based on Article 56A, but rather on general principles relating to the freedom to provide services, it remains relevant to the ongoing discourse.

(ii) **Spielerschutz Sigma (Case C-683/24, Opinion of Advocate General Emiliou, delivered on 23 April 2026):** A separate reference, arising from Austrian proceedings concerning potential liability for a legal opinion, has raised questions on the compatibility of Article 56A with EU rules on the mutual recognition and enforcement of judgments under Brussels I Recast. AG Emiliou proposed that the request for a preliminary ruling be declared inadmissible, on the basis that the dispute did not, in substance, concern the validity of Article 56A, but rather whether the legal opinion at issue met the standard of diligence expected of a reasonably prudent and well-informed lawyer under national law.

For completeness, the Advocate General nevertheless considered it appropriate to address the substance of the questions raised. In his view, a provision such as Article 56A could be difficult to reconcile with Brussels I Recast, as once a judgment has become final in the Member State of origin, the parties must, in principle, accept its findings. He further emphasised that the public policy exception cannot be used to revisit the merits of a foreign judgment or to refuse recognition on the ground that EU law was arguably misapplied. While Member States remain free to regulate gambling within their territory and are not required to recognise gambling licences issued elsewhere, such divergence does not, as considered in that opinion, necessarily justify non-recognition under Brussels I Recast. Against that reasoning, AG Emiliou noted that Article 56A appears to pursue a protectionist objective aimed at shielding a strategically important national industry from adverse financial consequences; a consideration which would not, in his view, suffice to justify refusal under the public policy ground. Although not binding, the AG’s Opinion may nonetheless indicate the possible direction of travel at an EU level in this debate.

(iii) **TQ v Mr. Green Limited (Case C-198/24, Judgment of the Court (Fourth Chamber) of 21 May 2026):**

This reference concerned a cross-border debt recovery resulting from a gambling-related judgment. The claimant, an Austrian-resident player had suffered losses totalling €62,878 playing online games offered by Mr Green Limited, a Malta-licensed operator but without an Austrian licence, between 2017 and 2019. The Austrian courts ordered Mr Green to refund those losses, treating the underlying gambling contract as null and void. When the sums went unpaid, the player subsequently applied for a European Account Preservation Order (“EAPO”) under Regulation (EU) No 655/2014, targeting Mr Green’s accounts in Ireland, Luxembourg, Malta and Sweden. The player noted that Mr Green, after being ordered to refund other players, had terminated its relationship with its Austrian payment service provider in 2021. On that basis, the claimant argued there was a risk the operator would act similarly elsewhere to shift assets to Malta, where, since June 2023, the law constrains the enforcement of foreign judgments against Malta-licensed operators. The matter was referred to the CJEU, asking whether, under Article 7(1) of this Regulation, a court assessing the risk of dissipation of assets may take into account the existence of a law capable of hindering enforcement.

The CJEU answered in the affirmative, holding (amongst other things) that the existence of such a law could be a factor for deciding whether there is a real risk that, absent an order, the debtor would impede enforcement or make it substantially more difficult. The ruling is pertinent because, per the Court, it allows the very existence of Article 56A to weigh in favour of granting cross-border asset-freezing relief, adding a further dimension to the questions already surrounding this heavily debated provision.

Domestic application

In the meantime, Maltese courts have, in 2026, continued to accept Article 56A or, more generally, EU freedom principles, as grounds for refusing such player claims judgments. To date, matters stand at an impasse. How the situation now unfolds, particularly whether these developments give rise to sustained legal tension and, if so, the way forward, is likely to become clearer in the latter part of 2026 and beyond.

2. Prediction Markets: Early Regulatory Positioning.

Malta has also begun exploring potential growth areas, most notably, prediction markets. These platforms allow users to take positions, typically against other users, on the outcome of real-world events, such as elections, macro-economic indicators, and sports events. Global trading volumes seem to have increased significantly in recent years, with platforms such as Polymarket and Kalshi reporting combined volumes in the tens of billions of euros.

Across the EU, regulation remains fragmented. Some jurisdictions view prediction markets as gambling products, others as financial instruments, and many have yet to address them substantively. For its part, Malta has signalled interest in this area, such that, in early 2026, government representatives indicated that the country is considering dedicated regulation, aiming to be amongst the first EU jurisdictions to explicitly regulate this product offering.

Classification challenges

A key issue in this context is the classification of prediction markets, particularly as Malta explores introducing explicit regulation. The applicable regime will largely depend on whether these products are characterised as financial instruments or gambling products. If classified as financial instruments, MiFID II is likely to apply. Such a classification could provide advantage by enabling these operators to benefit from EU passporting rights and be able to offer their products across the EU under a single authorisation. Same time, it would also subject them to the full suite of MiFID II requirements, including authorisation conditions, conduct of business rules, and appropriateness and suitability assessments.

An additional challenge arises from the extant treatment of binary-outcome products within the EU. In 2018, the European Securities and Markets Authority (“ESMA”) imposed, as a temporary measure, a prohibition on the marketing, distribution and sale of binary options to retail clients. That measure was briefly renewed and has since been followed by permanent, similar measures adopted at a national level by Member States. As a result, retail offerings of binary-outcome contracts linked to financial or similar events remain heavily restricted across much of the EU, potentially affecting the viability of certain prediction market models or necessitating a jurisdiction-by-jurisdiction analysis. However, the relevance of this will also depend on the specific features of the product offering; which would have to be factually assessed to determine whether it qualifies as a binary option.

Alternatively, operators already in possession of gambling licences may view the gambling route as the more practical option in their circumstances. Malta's Gaming Act already includes peer-to-peer exchange and commission-based betting models as an available and licensable category ("type 3" products). The principal drawback to this approach is that gambling licences do not currently benefit from EU passporting rights; therefore, requiring operators to assess regulatory classification and associated requirements on a jurisdiction-by-jurisdiction basis. Nevertheless, Malta may still enjoy a competitive advantage as an early mover in this area, given its longstanding regulatory framework, which already caters for exchange-based models, as well as the regulator's supervisory experience with peer-to-peer exchanges. As policy discussions continue to evolve, the classification of prediction markets will be a key consideration in the formulation of any such regulation.

3. VAT Reform and Changes to Gaming Tax.

Two legal notices published in April 2026, Legal Notices 84 and 86 of 2026, will introduce reforms to Malta's gaming tax and VAT frameworks, with implementation scheduled for October 2026.

VAT adjustments

The updated rules narrow the scope of VAT exemption for gambling-related services. From October 2026, VAT exemptions will apply only to specific categories, including certain low-risk gaming products, approved junket operations, and limited forms of in-person betting activity. For most online operators, this means gambling services will generally fall within the scope of VAT. However, this should not automatically translate into domestic VAT liability in Malta, as place-of-supply rules remain relevant. Furthermore, operators previously operating under an exempt model may now be able to recover input VAT on costs, depending on their structure, which could offset some of the additional tax exposure.

Gaming tax structure

Separately, Malta is replacing its flat 5% gaming tax model with a differentiated structure based on game type. Under the new system, Type 1 gaming activities, including casino-style products, are subject to a 15% gross gaming revenue ("**GGR**") rate. Other categories, including sports betting, poker, and certain skill-based games, are taxed at 10% GGR rate. Additional levies apply in specific cases, such as studio-based broadcast operations.

The revised structure reflects an attempt to align taxation more closely with product type and operational complexity. For operators running multiple product lines, the changes increase the importance of granular revenue tracking and internal segmentation.

Conclusion.

Taken together, these developments point to a Maltese gaming sector undergoing a period of adjustment while continuing to evolve. Yet, these have not diluted Malta's prominence, with the jurisdiction retaining a strong base of licensed operators, an experienced regulator, and a framework that remains adaptable to new products.

The position on Article 56A, the direction Malta takes in relation to prediction markets and other burgeoning areas, and the practical effect of the new tax and VAT rules will all merit close monitoring over the coming months, both from a legal and operational perspective.

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