



REPORT ON THE RESOLUTION FROM THE DIRECTORATE-GENERAL FOR THE REGULATION OF GAMBLING ON THE MODIFICATION OF CERTAIN RESOLUTIONS ABOUT THE GAMBLING ACTIVITIES SET OUT IN LAW 13/2011 OF 27 MAY ON GAMBLING REGULATION.

Introduction

The aim of this resolution is to improve the system to verify the identity of gamblers and to introduce certain modifications in the reporting model which derives from the information monitoring system used by the Directorate-General for the Regulation of Gambling.

With this objective, the following provisions of the Directorate-General for the Regulation of Gambling are modified:

- Firstly, it modifies the Resolution of 12 July 2012 by the Directorate-General for the Regulation of Gambling issued to approve the provision to implement articles 26 and 27 of Royal Decree 1613/2011 of 14 November with regard to identifying gambling participants and monitoring subjective gambling exclusions.
- And secondly, it also modifies the Resolution of 6 October 2014 approving the data model used in the information monitoring system of gambling operation registries.
- Finally, it modifies the Resolution of 6 October 2014, approving the provision establishing the technical specifications for gambling, traceability and security to be met by the technical systems of non-reserved games licensed under Law 13/2011, of 27 May, the Gambling Act.

In terms of the improvements to the identity verification system, these not only extend the obligations of the gambling operators to verify identity but also impact on the gambler's ability to make deposits into or withdrawals from their gambling account based on the degree of effective identity accreditation.

Regarding modifications to the reporting model not strictly associated with the modification of the identity verification systems, these affect, on one hand, the gambler's account status and, on the other, the content of the operator's Catalogue of Events Record.

Regarding the change referred to in the Resolution of 6 October 2014, on technical gambling specifications, its only purpose is to update the certification requirements of the random number generators, requiring them to be cryptographically strong.



Legal basis

This Resolution is prepared based on articles 21.4, 21.5, 21.9 and 21.14 of Law 13/2011, of 27 May, on Gambling Regulation, which enables the Directorate-General for the Regulation of Gambling¹ to issue instructions of a general nature to the gaming operators, to establish the necessary technical and functional requirements of gambling, to ensure that the interests of the participants are protected and, finally, to comply with legislation for the prevention of money laundering and financing of terrorism and to monitor compliance with it.

The regulatory empowerment is completed with the provisions of article 23.1 of Law 13/2011, of 27 May, on gambling regulation, stating that the Directorate-General *“may dictate those provisions which require the development and execution of the standards contained in this Law, in the Royal Decrees approved by the Government or in the Orders of the Ministry of Economy and Finance, provided that these provisions expressly enable it to do so.”*

In addition, sections 3 and 5 of article 26 of Royal Decree 1613/2011 of 14 November, which develops Law 13/2011 of 27 May on gambling regulation should be borne in mind with regard to the technical requirements of gambling activities, which provides as follows:

“3. Opening a user account requires participants to submit the data referred to above, which must be verified by the operator.

After the data have been verified in accordance with the terms established by the National Gambling Commission, the operator may activate the user account.

(...)

The operator is responsible for the accuracy and periodic checking of the data in its user accounts, in the terms established by the National Gambling Commission. “

“5. The National Gambling Commission will establish additional requirements and conditions to be met by user and gambling accounts, and the protection measures which must be provided by operators.”

¹ Pursuant to the Tenth additional provision of the Establishment of the National Markets and Competition Commission Act 3/2013, of 4 June, the Directorate-General for the Regulation of Gambling, under the aegis of the Ministry of Finance and Public Administrations, will assume the purpose, functions and powers attributed by the Gambling Act 13/2011, of 27 May, to the now defunct National Gambling Commission.”



Justification

Justification for modifying the system for verifying the identity of gambling participants.

In addition to guaranteeing the protection of gambling participants' rights, the identity verification mechanisms established in the state gambling regulation try to avoid the use of identities which are false or do not belong to the user, the impersonation or assumption of third-party identities, as well as the violation of individual prohibitions to be able to gamble established in article 6 of Law 13/2011, of 27 May. These mechanisms are also a very valuable tool in the fight against fraud and money laundering.

The current identity verification model for online gambling at a national level relies on a weighted approach through which the intention is to make the aforementioned objectives compatible with the reasonably agile development of the operational and commercial activity of gambling operators. This is based on a risk containment model which limits both the capacity and the incentive of the identified individuals in the use of incorrect identities in accessing gambling services.

This scheme is based on several complementary pillars: firstly, the Identity Verification Service to determine the veracity and integrity of the data provided by the users in the registration process; and secondly, the additional "Know Your Consumer" methods established by the operators for identity and documentary verification; and finally, closely related to both, the remaining elements foreseen in the regulation to trace flows of cash and link them to the real identity of the user, such as being identified for prizes, withdrawals or deposits derived from the legislation on money laundering or identification mechanisms which have increasingly been incorporated into the use of bank or electronic payment methods.

With the current regulations, the aforementioned framework has offered a reasonably satisfactory level of solvency in the protection of gamblers and, in particular, the control of individual prohibitions mainly associated with minors and persons registered in the General Register of Gambling Access Bans. Thus, for example, the *8th Report on social perception about Gambling in Spain 2017*, by the Institute of Policy and Governance of Universidad Carlos III, puts the percentage of minors on websites of the regulated area at 1% of the total in 2016, and 0.3% in 2017. Likewise, the specific study on minors and gambling carried out in the *Study on Prevalence, behaviour and characteristics of gamblers in Spain in 2015* commissioned by the DGOJ in 2015 (last pilot sample, survey of the general population aged between 15 and 17) shows that online gambling occupied tenth position, out of a total of 13 categories, as a platform for initiation into minors gambling.



However, there are several reasons which recommend strengthening the existing identity verification systems in our regulation. Among others, it is worth mentioning the advisability of strengthening the fight against fraud in the face of the growing promotion of e-commerce; the important challenges facing gambling today, such as the fraudulent manipulation of sports competition results in relation to betting or the appearance of new forms of fraud; or the current state of technological evolution, which simplifies, for operators and users, the management of document verification, without creating great burdens or technical or commercial distortions for any of them.

Finally, regardless of the aforementioned factual context, the new regulation on money laundering and the fight against fraud derived from Directive 2015/849 of the European Parliament and of the Council, of 20 May 2015², incorporated into the legal system by means of Royal Decree - Law 11/2018, of 31 August, on the transposition of directives on the protection of pension commitments with workers, prevention of money laundering and requirements for entry and residence of third-country nationals and amending them Law 39/2015, of 1 October, on the Common Administrative Procedure of Public Administrations, encourages strengthening the existing identity verification procedure, not only to improve the control exercised over the aforementioned groups, but also to include preventive control mechanisms that directly affect the ability of the gamblers to operate through their gambling account based on the degree of identity verification.

Given the foregoing, it has been considered necessary to reinforce, at regulatory level, the mechanisms to avoid the use of identities not corresponding to the user, whether or not consent of the real owners is given, and directly impact on the player's ability to carry out operations in their gambling account depending on the degree of effective verification of their identity. It is true that, generally, the operators already demand such document verification either when making withdrawals, or even upon registering, but this new verification system will offer a greater degree of security and control in the processes for checking the identity of gambling participants.

Justification of the other changes planned in the project.

In addition to the modification of the system for verifying the identity of gambling participants, this resolution also introduces certain changes in the reporting model of gambling operators.

The information on the status of the gambler gathered in the reporting model is completed, including two new statuses (pending document verification, self-excluded). Greater detail of this information will facilitate the monitoring and supervision of the procedures and controls

² Directive 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No. 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC.



established by the operator to limit participants' access to gambling according to their individual situation.

New fields are included in the user record to note the IP from which the gambler connects, the type of device used (mobile, tablet or computer) and the device ID to facilitate identification of the gambler and prevent identity theft.

In the betting Events Catalogue a Boolean field is included to allow the events to be updated in the successive monthly files and also add daily frequency in their reporting. This field was introduced to report if a certain event had already been included in a previous file or not. Finally, it also includes information about the value of the stake of the bet to prevent certain forms of fraud.

Alternatives to the current regulation.

In contrast to the option chosen in this project, there are several alternatives which were ruled out as inappropriate or excessively burdensome for operators and users based on the current context as described in the justification section.

The first would be to specify the specific mechanisms to which document verification is subjected, thus restricting the freedom of operators to establish the means they deem appropriate.

It has been considered that a hardening of these mechanisms at regulatory level, in addition to disproportionately limiting free choice by the operators, would even be counter-productive to the purpose pursued given the important technological component and the consequent dynamism and innovation in the verification systems and procedures implemented by gambling operators. In any event, the consideration that the document verification mechanism must at all times be sufficient to fulfil its purpose allows controlling the effectiveness in complying with this obligation by the operators at the regulatory supervision level.

Another option would have been to record, as an exclusive means of identification, the electronic signature mechanisms and procedures to obtain electronic certificates provided for in the order. This option was also ruled out as the improvement of the current system, which has demonstrated a fair degree of effectiveness, is considered sufficient at the present time. Taking into account the above as well as the cost of the change for users and operators, it has been decided not to make more profound changes in the identification system, particularly at a time when the use of such mechanisms is not yet fully extended to the level of individual users.



Content of the Resolution

As previously stated, this resolution aims to modify the system for verifying the identity of gambling participants and introduce certain changes in the reporting model of gambling operators.

Modification of the system for verifying the identity of gambling participants.

From a formal point of view, the modification of the system for verifying the identity of participants implies modifying both the Resolution of 12 July 2012, and the Resolution of 6 October 2014, approving the data model used in the information monitoring system of gambling operation registries.

In view of this context, the identity reinforcement model foreseen in this Resolution is deployed through several initiatives which act simultaneously in the system's design:

- On one hand, with this provision, the document verification system, which consists of the operators verifying the veracity of the identification information provided by the users in their registration process through the means they deem appropriate, must start to be used in a more generalised manner by regulated operators.

With this new framework, gambling operators will have to verify, via the corresponding document verification, the identity of any gambler who wagers 150 euros or more, unlike the current regime foreseen in the Resolution of 12 July 2012, in which document verification is only mandatory for those gamblers who have identified themselves as non-residents and have not provided their national identity document number or foreigners' identification number³.

³ As provided in section Eight of the Resolution of 12 July 2012 of the Directorate-General for the Regulation of Gambling, which will be modified with the resolution that is the subject of this report:

“1. Gambling operators may use document verification systems.

Where the identification it is not possible through the Identity Verification System of the National Gambling Commission and where the registration application is made by an applicant who is not resident in Spain and who does not have a national identity document or foreigners' identification number, the operator will turn to the document verification of the data which appears in the user record.”

2. When the applicant is a non-Spanish resident participant and does not have a national identity document or foreigners' identification number in their application, the document verification procedure will be started by the operator at the time the application is received, without prejudice to the activation of the record.”



In any case, the real impact of this measure on obligations of gambling operators to check identity is relative given that, to date, practically all operators have already voluntarily incorporated document verification for all gamblers actively participating; and not only for those who, in principle, and in accordance with the provisions of the Resolution of 12 July 2012, would be affected by this identity checking method. Together with this fact, it should be borne in mind that the legislation on the prevention of money laundering and terrorist financing has for some time required the formal identification of gambling participants who win prizes of 2,500 euros or more⁴. In this context, the entry into force on 4 September 2018 of Royal Decree – Law 11/2018, of 31 August, further strengthens the diligence regime required until now of remote gambling operators.

- Furthermore, the implementation of this model will directly affect the gambler's ability to participate, make deposits into and withdrawals from their gambling account. That ability will be conditioned on the effective identification of said gambler through the different methods provided for in this provision.

In other words, the degree of accreditation of gamblers' identity will be the one which determines their ability to gamble, which will be lower the less accredited that identity is.

In this sense, the gambling operator will proceed according to the following scheme for resident gamblers:

- Users whose identity has not been validated in the participants' Identity Verification System of the DGOJ or in another identity verification service may not take part in any gambling activity or make deposits or withdrawals.
- Users correctly identified through any identity verification system and awaiting documentary verification may deposit up to a joint limit of 150 euros and participate in gambling activities but may not make withdrawals irrespective of their amount or nature. The status of these users will be considered as 'pending document identification'.
- Users correctly identified through documentary verification may make deposits, withdrawals and participate in gambling activities. The status of these users will be considered as 'active'.

⁴ Article 4 of Royal Decree 304/2014, of 5 May, which approves the Regulation of Law 10/2010, of 28 April, on the prevention of money laundering and terrorist financing, requires the identification and verification of the identity of those people who have obtained prizes for their participation in lotteries or other gambling for amounts equal to or greater than 2,500 euros.



In terms of non-resident gamblers, the gambling operator will proceed according to the following scheme:

- Users who have completed the registration process but are pending document verification cannot gamble or make deposits or withdrawals.
 - Users correctly identified through the document verification system may make deposits, withdrawals and participate in gambling activities. The status of these users' accounts will be considered as 'active'.
- On a technical level, the modification of the gamblers' identity verification system also implies the modification of the gamblers' statuses in the corresponding user record depending on the status they hold, as well as the incorporation of new fields which allow the IP from which the gambler is connected, the type of device (mobile, tablet or computer) and the ID of the device to be captured in order to identify the gambler with greater precision.
 - Finally, this provision includes a single transitional provision which establishes the identity verification regime for gamblers registered prior to its entry into force and whose identity has not yet been verified via documents.

In conclusion, with this four-pronged approach, the improvement in the gambler identity verification system foreseen in this provision will result in greater effectiveness in the fight against money laundering and fraud in the identity of users.

Other modifications

The modification of the Resolution of 6 October 2014 approving the data model used in the information monitoring system of gambling operation registries includes two changes to the reporting model which are unconnected to modification of the previously analysed identity verification system.

These modifications are as follows:

- In the betting Events Catalogue a Boolean field is included to allow the events to be updated in the successive monthly files and also add daily frequency in their reporting. This field was introduced to report if a certain event had already been included in a previous file or not.



- On the other hand, the status "Self-excluded" is added to reflect the exclusion of the gambler, and another related to the modifications of the identification system to identify the participants in the gambling described above (the "Pending document verification" status).
- It also includes information about the value of the stake of the bet to prevent certain forms of fraud.

Finally, this Resolution modifies the Resolution of 6 October 2014, approving the provision establishing the technical specifications for gambling, traceability and security to be met by the technical systems of non-reserved games licensed under Law 13/2011, of 27 May, on gambling regulation.

The purpose of the modifications to this Resolution are to update the certification requirements of random number generators, requiring them to be cryptographically strong.

On the other hand, it has been considered appropriate to give those operators who must approve their GNA systems as a consequence of the introduction of the new requirement on strong cryptography a reasonable time frame. This time frame, nine months from the entry into force of this Resolution, has been established in a new transitional provision.

Transaction

This Resolution has been put out for public consultation. Resulting from this procedure, submissions were received from the following entities:

- WHG Spain PLC
- Sociedad Estatal Loterías y Apuestas del Estado, S.M.E., S.A
- Playtech
- Bet365
- Reel Spain PLC
- Gamesys SPAIN PLC
- Rank Digital España, S.A.
- Tecnalis Solution Providers SL.
- CIRSA Digital.
- Bingosoft
- Betfair
- 888 Spain PLC



- Unidad Editorial Juegos SA.

Following this procedure, certain aspects of the resolution have been amended. The most important is rightly the user identity verification process, which has been simplified by reducing the number of statuses in which a gambler can be found, without undermining the monitoring and control process exercised by the Directorate General for the Regulation of Gambling.

After this public consultation procedure, the information procedure on technical and regulatory standards and regulations relating to the services of the information society provided for in Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 has been lodged, by which an information procedure is established in terms of technical regulations and rules relating to the services of the information society. In this regard, no submissions were received during this procedure.

Finally, this project has been favourably reported by the State Advocacy of the State Secretariat for Finance.

Impacts

Budgetary impact

Nothing implying an increase in public spending or a decrease in public income, either financial or non-financial, derives from this draft legislation.

Therefore, it has no impact on General State Budgets or on those of the Autonomous Communities or Local Entities.

Impact due to gender

The current standard has no impact due to gender.

Administrative burdens

Following the provisions of Appendix V of the Methodological Guide for the preparation of the Regulatory Impact Analysis Report, administrative burdens are considered to be those activities of an administrative nature which companies and citizens must carry out in order to comply with the obligations derived from the regulation. In the case of companies, the administrative burdens are those which must be borne in order to comply with the obligations to facilitate, preserve or generate information about their activities or production, to make them available and for enactment, where appropriate, by public authorities or third parties.



From this point of view, the regulation envisaged in this provision involves the emergence of two administrative burdens for operators other than those already in place with the verification model currently in force, relating to the documentation which they will have to demand and verify in order to verify the veracity of the identification data provided by the users, either for newly registered gamblers, or those who are already registered but whose identity has not been verified with documents.

This administrative burden is identified with that of “Contribution of data” which appears in the Methodological Guide table for the preparation of the Regulatory Impact Analysis Report, with a unit cost of €2. Regarding the determining of the affected population, it is understood that this could be assimilated by the gamblers who would have to go through a document verification process.

To adequately determine the administrative burdens associated with this provision, the affected population would be ascertained through the following analysis:

1.- Burdens derived from the implementation of the document verification system for gamblers who register after the entry into force of this project (First section of the project).

Regulated operators generally perform the document verification of gamblers when making withdrawals from their gambling account, voluntarily upon the first withdrawal but compulsory for the payment of prizes exceeding 2,500 euros under the regulations on the prevention of money laundering⁵.

Therefore, we can estimate the population of the aforementioned administrative burden from the data corresponding to 2017, considering those users who registered in that period and who made deposits of more than 150 euros in their account and withdrew less than 2,500 euros. According to the data contained in the DGOJ databases, this figure is estimated at 214,563 users (approximately 16.4% of the 1,297,426 new active users in the aforementioned period).

2.- Burdens derived from the implementation of the document verification system for gamblers registered prior to the entry into force of the Resolution whose identity has not yet been verified through documents (first transitional provision).

The user abandonment rate is very high for online gambling and at all times the percentage of new active users is around fifty per cent.



Taking the group of users that, at 1 January 2017, had not yet been verified through documentation and who during 2017 made deposits of over 150 euros or withdrew less than 2,500 euros, the figure is 463,144 gamblers.

Based on these two pieces of data, we can estimate the size of the burden for operators derived from the transitional provision to be about 240,000 gamblers who would have to be verified by gambling operators.

The following table determines the burdens analysed, with reference to the article where they are included, and calculates them according to the methods and estimates established in the Methodological Guide for the preparation of the Regulatory Impact Analysis Reports.

Administrative burden	Origin	Cost	Units	Frequency	Population	Subtotal
Provision of data	Single transitional provision	€2	1	1	240,000	€480,000
Provision of data	First section	€2	1	1	214,563	€429,126

As a result of this analysis, it can be said that, in the first year of the new identity verification model's implementation, it would imply an increase in the administrative burden borne by gambling operators of 909,126 euros while in the following years this would be estimated at 429,126 euros to be distributed among the active operators according to the size of their customer database.