



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.

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.

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 Gambling 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, article 26.5 of Royal Decree 1613/2011, of 14 November, in which Law 13/2011, of 27 May, on gambling regulation is taken into account, in regard to the technical requirements of gambling activities, provides that the Directorate-General for the Regulation of Gambling *“shall establish the additional requirements and conditions which should combine user records and gambling accounts and the protection measures which must be met by the operators.”*

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 rests 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 and withdrawals derived from the current 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 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 2015¹, makes it necessary to strengthen the verification procedure of existing identities, not only to improve the control exercised on the aforementioned groups, but also to incorporate preventive control mechanisms which directly affect the ability of gamblers to operate their gambling account according to the degree of verification of their identity.

¹ 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.



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 four new statuses (pending identification, pending document verification, self-excluded, suspended through application of the operator's responsible gambling policies). Greater detail of this information will facilitate the monitoring and supervision of the procedures and controls 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.

A Boolean field is included in the Catalogue of Events of the bets to events to be updated in successive monthly files. This field was introduced to report if a certain event had already been included in a previous file or not.

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 the identity of any gambler who actively participates in it, 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 number.

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. In addition, the legislation on the prevention of money laundering and terrorist financing already requires the formal identification of gambling participants who win prizes of 2,500 euros or more.

- Furthermore, the implementation of this model will directly affect the gambler's ability to 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:

- Users whose identity has not been validated in the participants' Identity Verification System of the DGOJ nor in another identity verification service, may not take part in any gambling activity nor make deposits or withdrawals.
- Users correctly identified through any identity verification system awaiting documentary verification may deposit up to a joint limit of 2000 euros and participate in gambling activities but may not make withdrawals.
- Users correctly identified through documentary verification may make deposits, withdrawals and participate in gambling activities.



- Users correctly identified through any identity verification system which, after one month from such verification, have not been verified through documents by the operator, will move to a 'pending identification' status and cannot gamble or make deposits nor withdrawals.
- 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.

To proceed with the document verification of these users, the logistical implications involved for the operators in the regularisation of previously registered gamblers are taken into account, for which a period of seven months is granted for the modification of the status of those gamblers who carry out any activity with their gambling account within six months following the Resolution's entry into force.

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:

- A Boolean field is included in the Catalogue of Events of the bets to events to be updated in successive monthly files. This field was introduced to report if a certain event had already been included in a previous file or not.



- Additionally, new player statuses are added, associated with the actions on responsible gambling (together with the status of “Existing individual prohibition”) carried out by the gambling operators (the “Self-excluded” status to reflect the exclusion of the gambler from the operator's platform and the status “Suspended through application of the operator's responsible gambling policy”) and two others related to the modifications of the participants' identity verification system in the gambling described above (the statuses “Pending document verification” and “Pending identification”).

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 laundering.

For this reason we can approximate the population of the aforementioned administrative burden considering those users who have registered in the last 12 months and who have acted on their gambling account in periods of more than one month but have not made any withdrawals. According to the data contained in the DGOJ databases, this figure is estimated at 275,000 users (approximately 17% of new active users in a one-year 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 (Single 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.

According to the Gambler Profile report for 2015, in December 2015, 46% of active users are those who registered in the course of 2015. We can then approximate the population of the burden for operators derived from the transitional provision in the number of new users in a year who are not verified, detailed in the previous point, weighted by 50% given the current high level of abandonment. The number of users thus obtained is 137,500.

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	137,500	€275,000
Provision of data	First section	€2	1	1	275,000	€550,000

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 825,000 euros (275,000 + 550,000), while in the following years this would be estimated at 550,000 euros to be distributed among the active operators according to the size of their customer database.