



EUROPEAN COMMISSION PUBLIC CONSULTATION ON eIDAS REGULATION THE EUROPEAN STATE LOTTERIES AND TOTO ASSOCIATION (EL) SUBMISSION

About the European State Lotteries and Toto Association ("EL")

The European State Lotteries and Toto Association ("EL") is the European umbrella organisation of national lotteries operating games of chance for the public benefit in 44 European countries with a total of 76 members, including all EU Member States. It is the largest and most representative lottery and gambling sector's organisation in Europe whose members only operate in those jurisdictions in which they are licensed and where they comply with the legal requirements (e.g. anti-money laundering, responsible gaming policies, etc.).

EL stands for the sound and sustainable gaming model for the benefit of society based on the values of subsidiarity, precaution, solidarity and integrity. In 2018, EL members secured €21 billion for society and directly supported valuable projects related to sport, cultural heritage, art, individuals with disabilities/disadvantages, education, science and many other areas.

For more information please see:

<https://www.european-lotteries.org/>

<https://www.benefit4society.eu/>

The European State Lotteries and Toto Association ("EL") appreciates the opportunity to share its views with regard to the European Commission's ("Commission") efforts in assessing the Regulation on electronic identification and trust services for electronic transactions in the internal market ([Regulation 910/2014](#), the "eIDAS Regulation") and exploring the possibilities to improve its effectiveness, extend its application to the private sector and promote trusted digital identities for all European citizens.

In its submission, EL would like to draw the Commission's attention to the following related key points from the perspective of the lotteries and gambling sector.

- **The organization, regulation and supervision of the lotteries and gambling sector fall within the exclusive competences of the EU Member States.**

There is **no sector-specific EU legislation on gambling**. In the EU, gambling is regulated in **strict observance of the subsidiarity principle, whereby Member States are deemed to be best placed to regulate the sector**, to set their own policy objectives and to define the modalities to achieve them, in accordance with the extensive case law of the Court of Justice of the EU.



EL considers this approach to be both legitimate and justified, as it stems from the fact that gambling is an economic activity of particularly sensitive nature. This was repeatedly recognised by different EU institutions: the European Parliament¹, the Council of the EU², as well as by the extensive case-law (more than 70 rulings) of the Court of Justice of the EU whereby the Court expressly stated that: *“moral, religious or cultural factors, as well as the morally and financially harmful consequences for the individual and for society associated with betting and gaming, may serve to justify a margin of discretion for the national authorities, sufficient to enable them to determine what is required in order to ensure consumer protection and the preservation of public order”*³.

The competent national authorities are therefore free to set the requirements imposed to the lotteries and other operators they authorize to provide gambling services to players in that specific national market – either under a license or exclusive rights – notably with regard to consumer protection, anti-money laundering, taxation matters, and contribution to public good or specific charities.

- **Identification and authentication of players can be useful tools for national lotteries and other legal gambling operators in achieving their primary objectives of ensuring consumer protection and preserving public order. Member States should maintain a sufficient margin of discretion in defining the applicable legal and technical requirements.**

Identification and authentication as part of player registration process varies considerably across Member States. Also, while registration is mandatory in online gambling, this is not always the case for land-based gambling. Both serve a number of different important purposes in the daily work of lotteries, such as preventing minors from accessing gambling services, checking against excluded and self-excluded players registers or protection of players' funds.

Identification and authentication obligations can also be imposed to legal gambling operators as part of anti-fraud, money laundering and terrorist financing requirements by national legislations.

In an indirect way, they can also help national lotteries and other legal gambling operators in their fight against illegal online gambling offerings. Namely, lotteries and gambling sector in general face unregulated and illegal operators which tend to be licensed in a single EU Member State (or outside the EU) while offering their products online to players located in multiple EU Member States. This practice is to be considered illegal, as **there is no mutual recognition of licenses in the gambling sector within the EU (C-316/07)**. **No EU Member State is obliged to recognise in its national market the controls and rules set in place by another EU Member State.** This unfair competition of illegal gambling services providers is a serious threat to the safety of EU players, but also to Member States themselves, as such providers tend not to comply with the requirements set up by the national legislation

¹ [European Parliament Resolution on online gambling in the Internal Market 2013](#)

² [Council Conclusions 1992, Council Conclusions 2010](#)

³ Judgment of 6 March 2007, *Placanica and Others*, C-338/04, C-359/04 and C-360/04, EU:C:2007:133, § 47, Judgment of 6 November 2003, *Gambelli*, C-243/01, EU:C:2003:597, § 63



applicable in the Member States of the player with regard to anti-money laundering or taxation. Efficient identification and authentication systems in place could make player experience more pleasant through a smoother registration process, and keep them away from the illegal gambling offering.

Tools other than eID solutions foreseen in the eIDAS Regulation – in particular electronic seals, time stamps and website authentication – can also be useful for lotteries to further ensure the integrity of their gambling operations and fight against fraud.

Member States should maintain a sufficient margin of discretion in defining the legal and technical requirements applicable to the gambling operators authorized in their respective national markets with regard to electronic identification and trust services for electronic transactions.

To sum up, eID solutions, but also other tools foreseen in the eIDAS Regulation such as digital time stamps, digital seals or website authentication, can certainly make a considerable contribution in facilitation of online business. With regard to the application of these tools in the gambling and lottery sector, we believe they can be useful, provided that the approach is tailor made as per the applicable legislative framework as well as the existing proceedings and technologies implemented by each lottery. EL therefore calls upon the Commission to continue acknowledging the specificities of the lotteries and gambling sector (i.e. national level regulation and supervision) in their further work on the eIDAS Regulation, as well as on any legislative or other initiative stemming therefrom. The approach finally adopted should ensure Member States maintain a sufficient margin of discretion in defining the legal and technical requirements applicable to the gambling operators authorized in their respective national markets with regard to electronic identification and trust services for electronic transactions.

This submission is without prejudice to possible individual submissions of EL members.

EL remains at disposal of the European Commission for any further information and/or explanation.

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