P7\_TA(2013)0348

Online gambling in the internal market

Committee on the Internal Market and Consumer Protection

PE506.088

European Parliament resolution of 10 September 2013 on online gambling in the internal market (2012/2322(INI))

*The European Parliament*,

– having regard to the Commission communication of 23 October 2012 entitled ‘Towards a comprehensive European framework for online gambling’ (COM(2012)0596),

– having regard to the Commission communication of 18 January 2011 entitled 'Developing the European Dimension in Sport' (COM(2011)0012),

– having regard to its resolution of 14 March 2013 on match-fixing and corruption in sports[[1]](#footnote-1),

– having regard to its resolution of 2 February 2012 on the European dimension in sport[[2]](#footnote-2),

– having regard to its resolution of 15 November 2011 on online gambling in the internal market[[3]](#footnote-3),

– having regard to its resolution of 10 March 2009 on the integrity of online gambling[[4]](#footnote-4),

– having regard to the Nicosia Declaration of 20 September 2012 on the Fight Against Match-Fixing,

– having regard to the Council conclusions of 10 December 2010 and the progress reports of the French, Swedish, Spanish and Hungarian Presidencies on the framework for gambling and betting in the EU Member States,

– having regard to the preparatory action entitled 'European Partnerships on Sport' and, in particular, to the assembling of projects focusing on the prevention of match-fixing incidents through the provision of education and information to relevant stakeholders,

– having regard to Articles 51, 52 and 56 of the Treaty on the Functioning of the European Union (TFEU),

– having regard to the Protocol on the application of the principles of subsidiarity and proportionality annexed to the TFEU,

– having regard to the case-law developed by the Court of Justice of the European Union, whereby in the specific area of the organisation of games of chance, the Court notably recognizes consumer protection, the prevention of both fraud and incitement to squander on gaming, as well as the general need to preserve public order as reasons of overriding general interest that may justify restrictions on the freedom to provide services[[5]](#footnote-5),

– having regard to the opinion of the European Economic and Social Committee of 22 May 2012,

– having regard to Rule 48 of its Rules of Procedure,

– having regard to the report of the Committee on the Internal Market and Consumer Protection and the opinions of the Committee on Culture and Education and the Committee on Legal Affairs (A7-0218/2013),

A. whereas gambling is not an ordinary economic activity given its potentially negative health and social impacts, which include: compulsive gambling, the consequences and costs of which are difficult to estimate; organised crime; money laundering; and match-fixing; whereas online gambling may involve a greater risk of addiction than traditional offline gambling, owing, inter alia, to the increased ease of access and the absence of social control, but additional research and data is needed in this regard; notes that, on these grounds, certain internal market rules – including the freedom of establishment, the freedom to provide services and the principle of mutual recognition – do not preclude Member States from determining their own additional measures for the protection of players;

B. whereas Article 35 of the Charter of Fundamental Rights of the European Union establishes the obligation to protect human health in the definition and implementation of all the Union's policies and activities;

C. whereas Article 169 of the TFEU obliges the EU to ensure a high level of consumer protection;

D. whereas, given the special nature of the online gambling sector, the protection of human health and consumers should be the main guiding principle when EU-level recommendations and national legislation are made;

E. whereas, with due regard to the principle of subsidiarity, Member States have the right to determine how the offer of online gambling services is organised and regulated in accordance with their own values and pursued objectives of general interest, while observing Union law;

F. whereas, because of its specific nature and in application of the subsidiarity principle, the supply of online gambling services is not subject to sector-specific regulation at EU level and is exempted from the services and consumer rights directives, remaining – nevertheless – subject to a number of EU secondary legislative acts, such as the data protection directive, the directive on privacy and electronic communication and the unfair commercial practices directive;

G. whereas the online gambling sector differs from other markets on account of the risks involved in terms of consumer protection and the fight against organised crime, as repeatedly acknowledged by the Court of Justice of the European Union;

H. whereas the Court of Justice has confirmed that the provision of games of chance or gambling is an economic activity of a special nature, where restrictions may be justified for reasons of overriding general interest such as consumer protection, fraud prevention, the fight against money laundering and the preservation of public order and public health; whereas any restrictions imposed thereto need to comply with those provided for by the TFEU, such that they must be proportionate to the objectives pursued and must not be discriminatory;

I. whereas, now more than ever, the Member States share common general concerns as to the negative social and economic impact of illegal online gambling at national level, their principal objectives being to protect underage and vulnerable members of society and combat addiction, crime and tax evasion;

J. whereas the cross-border nature of online gambling, the risks involved in terms of consumer protection, fraud prevention and law enforcement against illegal activities, such as money laundering and match -fixing, as well as the need to combat illegal gambling-related activities, require better-coordinated action among Member States and at EU level;

K. whereas it is essential to introduce mechanisms for scrutinising sports competitions and financial flows, along with supervisory mechanisms;

L. whereas a comprehensive overview of the online gambling sector, in terms of information and data regarding domestic and cross-border, intra-EU and global, authorised and unauthorised offer, is currently needed;

M. whereas the form taken by advertising for online gambling varies between the Member States or is not regulated at all;

***Specific nature of the online gambling sector and consumer protection***

1. Considers that, in order to ensure a high level of consumer protection, in particular for those consumers who are the most vulnerable, a fair and legal offer of gambling services defined by each Member State in compliance with Union law might diminish the social costs and harmful effects of gambling activities;

2. Warns that gambling can lead to dangerous addiction, which is an issue that would need to be addressed in any legislative proposal for the sake of consumers;

3. Calls on the Commission and the Member States to take action against illegal gambling offered from within Member State territories; urges the Commission, in this regard, to call on the Member States to take enforcement measures against offers for illegal gambling in its planned recommendations on consumer protection and advertising;

4. Believes that there is a dangerous link between severe economic hardship and high levels of gambling; stresses that the present, extremely harsh social and economic climate has been instrumental in the huge upsurge in gambling, in particular among the poorest sections of society, and that there is, therefore, a need for close, ongoing monitoring of levels of gambling addiction and problem gambling;

5. Affirms that online gambling is a form of commercial use of sport and that, while the online gambling sector is growing steadily by keeping abreast of technological innovations, Member States face difficulties in controlling it, given the specific nature of the internet, which creates the risk of violations of consumers’ rights and of the sector being subject to investigations in the context of the fight against organised crime;

6. Insists that, regardless of the manner in which Member States decide to organise and regulate the offer of online gambling services at national level, a high level of protection of human health and consumers must be ensured; calls on the Commission to continue to explore measures at EU level to protect vulnerable consumers, including formalised cooperation between regulatory authorities in the Member States; stresses that the expert group should ensure that it is impossible for minors to access online gambling services; invites Member States to oblige operators working with a licence from the Member State to carry the logo, trustmark of the regulatory authority in a prominent fixed position on its website;

7. Asks the Commission to study what can be done to stop the practice whereby companies based in one Member State market online-gambling services – for example via satellite-TV or advertisement campaigns – in another Member State in which they are not licensed to offer such services;

8. Calls for operators to be obliged to display clear, prominent and explicit warnings to minors stating that it is illegal for them to engage in online gambling;

9. Considers that measures should be taken to ensure that the more vulnerable members of society do not have their subsistence jeopardised even further as a result of gambling;

10. Believes that additional research and data are needed in order to quantify compulsive gambling and the risks associated with different forms of gambling; calls on all the Member States and the Commission to carry out, in a coordinated manner, further studies to understand problem gambling; notes that gambling operators have a responsibility to contribute towards the prevention of gambling addiction;

11. Calls on the Commission, in cooperation with the Member States – where appropriate through the expert group – to explore the possibility of EU-wide interoperability between national self-exclusion registers that include, inter alia*,* self-exclusion, personal loss and time limits, and that are accessible to national authorities and licensed gambling operators, so that any customer self-excluding or surpassing their gambling limits at one gambling operator has the opportunity to be automatically self-excluded from all other licensed gambling operators; underlines the fact that any mechanism to exchange personal information on problem-gamblers must be subject to strict data protection rules; stresses the importance of the expert group in working towards the protection of citizens against gambling addictions; stresses that in order to make consumers aware of their own gambling activity, this register should show the consumer all information pertaining to her/his gambling history whenever she/he starts to play;

12. Recommends that a clear distinction be made between gambling activities and other forms of online entertainment; services which combine distinguishing features of the gambling sector must fall under appropriate gambling legislation and fully respect age and identity verification mechanisms;

13. Notes that self-regulatory initiatives can serve as good contributions for identifying the content of common standards; reiterates its position that, in an area as sensitive as gambling, self-regulation can only complement but not replace national legislation;

14. Calls on the Commission to consider implementing a compulsory third-party identification control in order to exclude minors or persons using fake identities from playing; suggests that this could, inter alia, be a check on social security number, bank account information or other unique identifier, noting that such identification should take place in advance of any gambling activity;

15. Believes that the software used for online gambling services should be made more secure and that common minimum certification requirements should be laid down in order to ensure that uniform parameters and standards are used;

16. Draws attention to the need to draw up efficient methods of betting supervision, bearing in mind the rapid development of the online environment, but highlights as well the importance of protecting users’ personal data against abuse;

17. Takes the view that common standards for online gambling should address the rights and obligations of both the service provider and the consumer, ensuring a high level of protection for citizens and consumers, in particular minors and other vulnerable persons, and the prevention of misleading and excessive advertisements; encourages the European gambling operators’ associations to develop and adopt self-regulatory codes of conduct;

18. Calls on the Commission to include in its recommendation that gambling operators should be obliged actively to promote the use of self-restrictions at the time of registration as well as in cases of repeated losses;

19. Recommends the introduction of uniform, pan-European common security standards for electronic identification and cross border e-verification services; welcomes the Commission’s proposal for a directive on e-identification and authentication, which will allow for interoperability of national e-identification schemes where these exist; calls, therefore, for registration and identification procedures to be streamlined and made more efficient, notably in order to ensure efficient identification mechanisms and to prevent multiple accounts per player and access by minors to online gambling websites; recommends the exchange of best practices between Member States on enforcement measures – such as on establishing white and black lists of illegal gambling websites, jointly defining secure and traceable payment solutions, and considering the feasibility of blocking financial transactions – in order to protect consumers against illegal operators;

20. Calls on the Member States and on operators to encourage responsible advertising in relation to online gambling; welcomes the Commission’s initiative to adopt a Recommendation on responsible gambling advertising: asks the Commission to include common minimum standards which provide sufficient protection for vulnerable consumers; recommends that advertising should be responsible, contain clear warnings as to the risks of gambling addiction and be neither excessive nor displayed on content specifically targeted at minors or where there is a higher risk of targeting minors, as is the case notably with social media advertising;

21. Calls for the definition and implementation of measures to enable children and young people to attain and further develop digital literacy; believes that the introduction of school courses aimed at young people on the best uses of the Internet could make users more adept in protecting themselves against addiction to online gambling services;

22. Stresses the important role of education, advisory services and parents in raising awareness on the subject of online gambling and its consequences among minors;

23. Calls on the Commission and the Member States to introduce effective measures to raise awareness of the risks of gambling addiction, targeting young people in particular;

24. Calls for socially responsible advertising of online gambling games to be permitted only for gambling products which are legal; considers that it should never be allowed to advertise for online gambling services by exaggerating the probability of winning, so that a false impression is given that gambling is a reasonable strategy for improving a person’s finances; believes that advertising should contain clear information concerning the consequences of compulsive gambling;

25. Stresses that defining a non‑harmful format for advertising, and rules on its dissemination, is key to preventing people under 18 from gambling and to combating problematic and compulsive gambling;

26. Stresses that consumer protection measures should be flanked by a combination of preventive and responsive enforcement measures to reduce the contact of citizens with unauthorised operators; stresses the importance of jointly defining the notion of legal gambling operators, so that Member States, in compliance with EU law, only authorise operators who fulfil at least the following requirements and are thus considered to be legal:

(a) the operator must have a licence which gives it a right to operate in the Member State of the player;

(b) the operator is not considered to be illegal under the law applicable in any other Member State;

27. Is of the opinion that a registration process should include, as a mandatory feature, maximum loss limits, set and defined by the player for a certain time period; as a minimum, this feature should be present in games with short frequency;

***Compliance with EU law***

28. Stresses that, on the one hand, providers of online gambling should in all cases respect the national laws of the Member States in which they operate and, on the other hand, that Member States should retain the right to impose the restrictions they deem necessary and justified to address illegal online gambling in order to implement national legislation and exclude illegal providers from market access;

29. Recognises that, in accordance with the principle of subsidiarity, the Member States have the right to determine how the offer of online gambling services is to be organised and regulated at national level, and the right to enforce all measures they consider necessary against illegal gambling services, while observing the basic EU Treaty principles; recognises that such legislation must be proportionate, consistent, transparent, and non-discriminatory; notes the need for more coherent EU policies in order to address the cross-border nature of online gambling;

30. Notes that the Commission has sent letters to a number of Member States asking for detailed information on their current gambling legislation; calls on the Commission to continue the dialogue with the Member States; takes note of the Commission’s work on the infringement cases and on complaints brought against certain Member States; calls on the Commission to continue to monitor and enforce compliance of national laws and practices with EU law, in cooperation with the Member States, and to launch infringement procedures against those Member States that appear to breach EU law; respects the decision taken by the Member States in relation to the establishment of monopolies in this sector, provided that, in line with the case-law of the Court of Justice, they are subject to strict state control and ensure a particularly high level of consumer protection, that their activities are coherent with the objectives of general interest and that they reduce gambling opportunities in a consistent manner;

31. Calls on the Commission, the Member States and the expert group on gambling services to draw up coordinated measures and strategies, including exchanges of best practice, with a view to looking into and addressing the problem of tax avoidance by authorised operators who provide online gambling services on the EU market but have their registered offices in tax havens within or outside the EU;

32. Notes the risks that access by consumers to illegal online gambling services might pose; calls on the Commission and the Member States to discuss, as part of the work of the group of experts on gambling services, the social costs of permitting regulated gambling activities versus the harmful effects of consumers resorting to illegal operators;

33. Emphasises that those Member States that choose to open up their online gambling sector must provide for a transparent and legally certain licensing application procedure based on objective and non-discriminatory criteria, in full compliance with EU law and with sufficient and strict citizen and consumer protection;

***Administrative cooperation***

34. Calls on the expert group on gambling services and on the Commission to facilitate, as much as possible, the flow of data between regulators in the Member States in order to share best practices and information to facilitate the establishment of a common system for identifying players, enforcement measures against illegal operators, enhance protection of consumers, responsible advertising, establishment of white and black lists, prevent match-fixing and make self-exclusion mechanisms that include, inter alia, personal time and money limits applicable throughout the EU; calls on the Commission to arrange for the expert group to benefit from the broadest expertise possible in the development of its work; urges the Member States to restart the dialogue on online gambling services in the forum of the Council Working Party on establishment and services;

35. Calls on the Commission always to include experts specialised in problem and pathological gambling in expert groups and consultations;

36. Is of the opinion that cooperation and exchanges of best practices among national experts from the social and health spheres specialising in pathological and problem gambling should be strengthened at European level;

37. Emphasises that, while the effective exchange of information between investigative bodies is important for successful law enforcement, action to combat match-fixing must comply with national and European data protection laws and regulations;

38. Encourages the Member States, in the context of the expert group, to work in close cooperation with the Commission and with each other to coordinate steps to combat the unauthorised supply of cross-border gambling services, and to implement the action plan contained in the Commission’s communication on online gambling;

39. Recognises that cooperation among Member States is essential but stresses that it is also very important that the expert group on gambling works in close collaboration with all stakeholders, including the gambling industry and consumer organisations;

40. Stresses the importance for the expert group to work towards more transparent and simplified procedures that remove unnecessary administrative burdens on Member States that could unnecessarily increase costs for legal online operators in those countries which choose to open up their markets; notes that the removal of administrative burdens must not compromise protection of consumers;

41. Believes that steps should be taken to bring national tax regimes for gambling services into line with one other in order to prevent disproportionate tax concessions from fostering a proliferation and concentration of online gambling services;

42. Encourages national regulatory authorities in those Member States that have chosen to introduce licensing systems to exchange best practices that would facilitate the application of national gambling licenses, including technical standards for gaming equipment; encourages the competent national regulatory authorities to allow operation of a gambling company within their jurisdiction only when said company does not operate in contravention of the law in another Member State, the legislation of which has not been established as non-compliant by the Court of Justice;

***Money laundering***

43. Points to the fact that online gambling is a non-cash-based environment and that – given the dependency on third-party financial service providers – additional safeguards against money laundering are needed; emphasises the need for close cooperation between national gambling authorities, national police and national enforcement authorities in preventing criminal activity;

44. Calls on the Commission, the Member States and the expert group to take effective action against money laundering; welcomes, in this respect, the proposal to extend the provisions of the Anti-Money Laundering Directive to include all forms of gambling, and calls on the competent national authorities to ensure that any transaction suspected of being potentially connected to money laundering or other criminal activity is reported in accordance with the provisions of this Directive;

45. Calls on the Council to proceed in a swift and ambitious manner with the negotiations on the Commission proposal for a Directive on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing (COM(2013)0045), and to address all types of gambling, including online gambling, in order to prevent the exploitation of online sports-betting activities by criminal interests for money laundering purposes;

46. Emphasises that solid registration and unambiguous verification systems are key tools in preventing any misuse of online gambling, such as money laundering; notes that, for such identity verification purposes, advantage can be taken of existing and developing online structures, such as online bank and credit-card verification systems;

47. Takes the view that all the online gambling companies operating in the EU area need to be registered as legitimate entities in the EU;

48. Stresses that all the Member States must identify and designate the responsible public authority in charge of monitoring online gambling; stresses that the authority will also be authorised to intervene should any suspicious online gambling appear; gaming companies should also be required to inform the authority about any suspicious gaming activity;

***Integrity of sports***

49. Stresses that, in view of the transnational nature of match-fixing, the fight against it requires more effective cooperation between all stakeholders, including public authorities, law enforcement agencies, the sport industry, gambling operators and gambling regulators, athletes and supporters, while emphasis should also be given to education and prevention actions in this regard; welcomes, in this respect, the recent Commission 2012 Preparatory Action, which supports transnational educating projects in order to combat match fixing; notes that match fixing occurs in both the offline and the online gambling markets and that, in the majority of cases, online betting-related match-fixing occurs through gambling operators established in unregulated markets outside the EU;

50. Calls for a code of conduct, as a part of a self-regulatory initiative containing a general ban on all staff (in particular players, coaches, referees, medical and technical staff, owners and managers of clubs) involved in sporting events who may have a direct influence on the result from placing bets on their own matches or events; also emphasises, in this context, the need for strict and reliable age and identity verifications systems at Member State level; calls on sports organisations to use education campaigns and codes of conduct to educate – from an early age – sportspersons, referees and officials on the illegality of manipulating sports results;

51. Recognises that efforts to combat sport organisations’ involvement in corrupt activities like match-fixing or money laundering, such as codes of conduct, need to address all stakeholder groups (officials, owners, managers, agents, players, referees and supporters) and all organisations (clubs, leagues, federations, etc.);

52. Calls on the Member States to increase the priority given to preventing corruption in sport and stresses the need for increased focus on efficient law enforcement in this regard; calls for the adoption at national level of effective measures to prevent conflicts of interest, notably by avoiding wagers of all stakeholders from the world of sports on betting organised on competitions in which they are involved; calls upon all sports governing bodies to commit to good governance practices in order to reduce the risk of falling victim to match-fixing; calls on the Commission, in this regard, to take into account the work of the Council of Europe on the assessment of the risks of certain types of bets and to assess the possible risks of spot betting, where it is possible to bet on certain bets during a competition and to take appropriate action accordingly;

53. Calls on sport federations and gambling operators to include, in a code of conduct, a ban on betting on so-called negative events, such as yellow cards, penalty kicks or free kicks during a match or event; calls on Member States and gambling operators to ban all forms of live sports betting since these have proved to be very vulnerable to match-fixing and therefore pose a risk to the integrity of sport;

54. Calls for an obligation for cooperation and exchange of information on suspicious activities at national as well as European level, among sports bodies, public authorities, Europol and Eurojust, in order to combat criminal cross-border online gambling activities;

55. Welcomes the Commission’s intention to promote a better exchange of good practice in regard to combating match-fixing; highlights the importance of the support of the European Union to the ongoing work within the Council of Europe towards the negotiation of an international convention on the protection and the promotion of sports integrity; highlights that match fixing is not always related to betting, and that this non-betting side to match fixing, which also poses a problem to the integrity of sports, needs to be addressed as well; stresses the need for strengthened cooperation at EU and global level in the fight against match fixing; calls on the Commission to take the lead in the creation of a global platform for exchange of information and best practices and in the coordination of joint prevention and enforcement actions between regulators, sports organisations, police and judicial authorities and gambling operators;

56. Considers that a consistent policy on criminal sanctions is essential to a pan-European approach to regulating the online gambling sector and, to this end, urges the Member States to ensure that the fraudulent manipulation of results for financial or other advantage is prohibited by establishing as a criminal offence any threat to the integrity of competitions, including those linked to betting operations; urges the Commission to take action at EU level against unregulated online gambling and to support the fight against match-fixing;

57. Recognises that in some Member States gambling revenues and lotteries represent a considerable source of income that can be channelled to support publicly beneficial and charitable purposes, cultural works, grassroots sports and horse racing and equine sector; underlines, furthermore, the significance of this sustainable contribution and specific role that should be acknowledged in discussions at the European level; reaffirms its position that sports bets are a form of commercial use of sporting competitions; recommends, while fully respecting the Members States’ competence on the issue, that sporting competitions should be protected from any unauthorised commercial use, notably by recognising the property rights of sports event organisers, not only in order to secure a fair financial return for the benefit of all levels of professional and amateur sport but also as a means of strengthening the fight against sports fraud, particularly match-fixing;

58. Calls for more cooperation at European level, under the coordination of the Commission, to identify and prohibit online betting operators engaged in illegal activities such as, inter alia, match-fixing or betting on junior competitions involving minors and expects the online gambling industry to respect this ban through self-regulation;

59. Encourages the Member States to consider a ban on all forms of spot fixing, such as gambling on corner kicks, free kicks, throw-ins and yellow cards, as these has proven to be very vulnerable to match-fixing;

60. Calls up the Commission to install a European alert system for betting regulators in order rapidly to exchange information about fixed sporting events;

61. Welcomes transnational education projects to combat match-fixing on a global level;

62. Stresses that athletes need effective protection mechanisms to oppose corrupting influences, including the safeguarding of the moral and physical integrity of athletes, proper working conditions and the safeguarding of salaries or remunerations, including bans on participation at different levels of competition for sports organisations failing to regularly fulfil these obligations towards their athletes;

63. Emphasises that match-fixing allegations are often tried in public courts as well as by sports arbitration and that, under both procedures, international minimum procedural standards, as laid down in Article 6 of the European Convention on Human Rights, must be observed;

64. Calls for the strict regulation or the prohibition, after an evaluation conducted at the level of each Member State, of dangerous forms of gambling;

o

o o

65. Instructs its President to forward this resolution to the Council, the Commission, and the governments and parliaments of the Member States.

1. Texts adopted, P7\_TA(2013)0098. [↑](#footnote-ref-1)
2. Texts adopted, P7\_TA(2012)0025. [↑](#footnote-ref-2)
3. OJ C 153 E, 31.5.2013, p. 35. [↑](#footnote-ref-3)
4. OJ C 87 E, 1.4.2010, p. 30. [↑](#footnote-ref-4)
5. see, to that effect, Case C 275/92 Schindler, paragraphs 57 to 60; Case C 124/97 Läärä and Others, paragraphs 32 and 33; Case C-67/98 Zenatti, paragraphs 30 and 31; Case C-243/01 Gambelli and Others, paragraph 67; Case C-42/07Liga Portuguesa, paragraph 56; Joined Cases C 316/07, C 358/07 to C 360/07, C 409/07 and C 410/07, Markus Stoß and others, paragraph 74; Case C 212/08, Zeturf Ltd, paragraph 38; Case C-72/10 Costa paragraph 71; Case C 176/11 Hit Larix, paragraph 15; Joined Cases C 186/11 and C 209/11 Stanleybet and others, paragraph 44. [↑](#footnote-ref-5)