



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 27 November 2008**

**16022/08**

**LIMITE**

**MI 466  
ECOFIN 536  
EF 113  
ETS 17  
JUR 517  
COMPET 507**

**PUBLIC**

**TRANSLATION PROVIDED BY THE PRESIDENCY**

**NOTE**

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from: Presidency

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to: Council (Competitiveness)

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No. prev. doc. 15648/08 MI 437 ECOFIN 501 EF 100 ETS 14 JUR 494 COMPET 468  
15650/08 MI 438 ECOFIN 502 EF 101 ETS 15 JUR 495 COMPET 469

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Subject : Gambling and betting : legal framework and policies in the Member States of the European Union

**Presidency Progress Report**

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Delegations will find attached a progress report on the above topic, drafted by the Presidency with a view to the Competitiveness Council on 1 and 2 December 2008.

## **I. INTRODUCTION**

1. Following the meeting of the Permanent Representatives Committee on 2 July 2008, the Presidency initiated discussions in the Working Party on Establishment and Services on the legal framework for gambling and betting and the policies of the Member States of the European Union thereon.
2. In that context, the Presidency sent the delegations a questionnaire on the rules and policies applied in each Member State. The questionnaire dealt with the general organisation of the sector, the cross-border aspects of gambling, and policy objectives and instruments. The ensuing discussions on the basis of that questionnaire benefited from the delegations' very substantial contributions (see attached summary) which contained many points of relevance to the proceedings of the Council's preparatory bodies.
3. The Presidency's intention was for the discussions during its term in office to be without any preconceived idea as to the outcome. They were conducted in a horizontal working party specialising in matters relating to the internal market in services, without prejudice to the competences of the different European Union institutions and Council bodies.
4. This Presidency report is intended to inform the Council of the outcome of the discussions and to suggest options for further proceedings.

## II. NATIONAL POLICIES FACING COMMON CHALLENGES

*The differences in the national models for organising and regulating the gambling and betting sector*

5. The replies to the questionnaire illustrate the diversity of the models adopted by the Member States to organise the gambling and betting sector<sup>1</sup>. Diverse considerations, such as ethical, philosophical, cultural and social ones have influenced legislation in most Member States, leading to the development of different models, particularly as regards the forms of gambling allowed and how open the sector is, how it is regulated and taxed.
6. In all the Member States, the various forms of gambling and betting are permitted to varying degrees and are submitted to specific regulation rules. Underlying the legislation of half of the Member States (Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Slovakia) is the principle that gambling is illegal unless authorised, whereas in other Member States gambling and betting is more open, though regulated. Casino games, slot machines and betting on events other than sporting contests and horse racing are the most frequently restricted forms. The rules on access to online gambling and betting are frequently more restrictive: six Member States ban it entirely (Cyprus, Germany, Estonia, Greece, The Netherlands, Poland) ; others, while not going as far as banning it, apply additional restrictions on online gambling, particularly regarding casinos. Another group of member States have introduced open, though regulated, systems.

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<sup>1</sup> It should be noted that although most of the various types of gambling exist in all the Member States, definitions may vary. While more in-depth discussions on the subject could clarify matters, the Presidency has wished at this stage to opt for the broadest definition and focus on gambling and betting as a whole.

7. As far as market structure is concerned, in most Member States the different sectors of the gambling and betting industry (lotteries, sports betting and betting on horse racing, casinos, slot machines, bingo and the other forms of gambling and betting) are governed by different rules. Lotteries are in most cases run as monopolies or under exclusive rights granted to state bodies or private, often non-profit, bodies. In almost half the Member States, betting is subject to a system of licences open to a number of operators, while in a large number of Member States there are restrictions on the number of casinos, where they are situated and who can run them.
8. Responsibility for regulating the sector usually lies with one or more ministries, often the Ministry of Finance. However, some Member States have a specific body operating under the aegis of the relevant ministry, which is responsible for issuing authorisations and monitoring operators, and some others have an independent authority. Local authorities are also frequently involved in granting licences for gambling and betting premises.

*Significant similarities in gambling policy objectives and instruments*

9. While the legal frameworks differ, there are **significant similarities in the Member States objectives** as regards gambling and betting. These similarities result from recognition of the specific nature of gambling and betting, particularly the risks involved. The Member States are widely influenced by considerations of public order and prevention of crime (combating money laundering, organised crime, fraud, corruption etc.), social order (prevention of addiction, protection of minors and vulnerable persons etc.), and consumer protection (ensuring that gambling operations and operators are trustworthy, etc.).

10. A variety of arrangements have been devised and implemented to attain these converging aims. The following tools are used in a large number of Member States: a ban on access to gambling by minors or vulnerable persons; obligatory identity checks at the entrances to casinos and gaming halls; restrictions on amounts of bets or winnings; advertising restrictions and obligation to inform players of the risks of gambling; checks on the owners and managers of private companies before granting authorisations or licences; rules on the player return rate; mandatory reporting of transactions.

*An industry with major economic and social implications*

11. Whatever the exact form of organisation used, another major similarity between almost all Member States is the importance of the sector in funding certain activities in light of the general interest objectives involved.
12. Apart from the state levies to which they are subject, gambling and betting very frequently contribute substantial amounts, totalling billions of euros annually EU-wide, to numerous causes: social, charitable or cultural activities, support for sport or equine organisations <sup>2</sup>, etc.

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<sup>2</sup> On the importance of the industry in sports funding, see the European Parliament's Resolution of 8 May 2008 on the white paper on sport (2007/2261 (INI)).

13. **The development of online gambling** raises new challenges. Online gambling and betting is permanently available, crosses borders, is widespread and easy to access. The Member States have opted for widely differing responses to this development, ranging from opening up the market in a regulated framework to a complete ban. However, there are common issues surrounding the regulation of cross-border operators and the services they offer in terms of the objectives of public order, social order and consumer protection, including the adoption of tools to control and tax online gambling and to combat unauthorised gambling operators.
14. The Member States also have to take into account **recent legal developments** in the area when developing their national policies and rules. In the absence of specific secondary law, the organisation of the sector falls within the competence of the Member States. They must comply with the rules of the Treaty, in particular those on freedom of movement, as interpreted by the Court of Justice, which has consistently ruled that gambling and betting are economic activities which thus fall within the scope of Articles 43 and 49 EC, but whose special nature is recognised. In this framework, every Member State is free to determine how its gambling sector is organised and if necessary partition it in line with the objectives it is pursuing and the special nature of the market. While restrictions may therefore be imposed, they must be proportionate, non-discriminatory, consistent and systematic in keeping with the case law developed over time.
15. These common issues and challenges are of particular relevance at this time, when over half of the Member States have begun **reforming their national legislation**<sup>3</sup> or have recently carried out such a reform<sup>4</sup>.

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<sup>3</sup> Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Estonia, Finland, France, Hungary, Ireland, Lithuania, Poland, Romania and Sweden.

<sup>4</sup> Germany, Italy, Latvia, United Kingdom and, in 2002, Malta.

### **III. COMMON THEMES FOR DISCUSSION**

16. Until now, the issues related to gambling and betting could be dealt with in a national framework. However, the common challenges identified would appear to make new reflections at EU-level appropriate. In accordance with the principle of subsidiarity, the different national models developed in compliance with Community law should be respected, be that they include a heavy regulation or a prohibition of online gambling and betting, and the focus should be on how to safeguard the objectives assigned to gambling policies.
17. Any progress will help the industry to operate more efficiently, be better regulated and increase confidence among Member States. Where access to a market requires the issue of a licence or authorisation, moving towards shared principles, especially on control, could facilitate the approval of operators already authorised in other Member States. In the absence of harmonisation, each Member States will nevertheless remain free, in keeping with Community law, to regulate gambling and betting and to require operators established outside its jurisdiction to obtain authorisations in accordance with its own rules.

#### *Protection of public order*

18. In safeguarding public order, in particular combating money laundering, fraud and corruption, enhanced cooperation between national regulatory bodies appears to be necessary. This could involve exchange of good practice and information on authorised gambling operators, the requirements of national legislation to which they are subject and checks carried out.

19. Exchanges would also be useful on the instruments and procedures operated by the Member States to control gambling and betting, particularly online gambling and betting. Topics for discussion could include methods for real-time checking of players and transactions, or mandatory reporting of transactions and verification methods. Exchanges could also be conducted with sporting bodies, to examine the potential for fraud and cheating in betting and possible solutions.
20. The Presidency believes that consideration could also be given, in due course and with due respect to the competences of different institutions and Council bodies, to the idea of extending the requirements regarding customer identification and reporting under the third money-laundering Directive (Directive 2005/60/EC) <sup>5</sup> to all gambling operators established in the Community, as has already been done in some Member States.

*Social and consumer protection*

21. On social and consumer protection, the discussions within the Council could focus on common issues and measures, taking account of any input from the other EU institutions<sup>6</sup>.

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<sup>5</sup> Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on prevention of the use of the financial system for the purposes of money laundering and terrorist financing.

<sup>6</sup> See the current proceedings in the European Parliament on the integrity of online gambling.



– Preventing and combating problem gambling

22. This is widely regarded as a key issue, and information on approaches to the problem and any current rules could be shared. This could cover the framework for the provision and uptake of gambling (for example rules limiting the size of the stakes or the winnings, or putting a ceiling on the player return rate) and national research programmes on gambling addiction. The idea of a joint research programme on this subject could be explored as well as joint actions on public awareness campaigns, promotion of responsible gambling and education.

– Protection of minors and vulnerable persons

23. The protection of minors and vulnerable persons is a concern already shared by all Member States. There could be exchanges on the relevant rules, exploring the possibility of a common approach on access of such persons to gambling and betting. It would also be useful to identify collectively the appropriate tools for ensuring that such rules work properly, particularly online (e.g. schemes for age and credit card checks). The following tools could also be looked into: banning gambling on credit; obligation to propose self-restriction or even self-exclusion schemes to gamblers.

– Consumer protection

24. The guarantee of trustworthy gambling operators and operations is an essential component of gambling policy and it is important to ensure that legal gambling should be seen as fair and transparent. Arrangements are at present essentially a matter for the Member States. However, exchanges could be conducted within the Council on matters such as consumer information (common principles, practical arrangements).

25. Gambling operators, particularly at European level, have also adopted schemes such as charters and codes of good conduct. Initiatives such as these could be presented to the Council's preparatory bodies and then examined, in order to identify their possible contributions and to draw appropriate conclusions.

– Advertising

26. The advertising of gambling and betting could be discussed. Topics could include the introduction of obligations to inform the public of the risks or the regulation or even restriction of certain forms of advertising, e.g. to minors.

*Combating gambling regarded as illegal*

27. Because of the wide range of approaches adopted in response to the growth of online gambling, particularly its cross-border dimension, the definition of unauthorised operator varies from one Member State to another. The different national rules are nevertheless united in their desire to prevent the development of gambling regarded as illegal and to channel demand towards legal provision. Cooperation in seeking common methods of identifying and combating illegal gambling would thus seem useful. The differences between what precisely is intended by authorised operator in the different Member States must be disregarded in this discussion, given that every Member State is free to set its own level of regulation in compliance with Community law.
28. The following instruments have been considered in a number of Member States: penalties against unauthorised operators and advertising of their sites, obligation to provide information when unauthorised sites are accessed (or even filtering) or blocking financial transactions with the operators concerned. Given the different levels of protection in the Member States, the discussions could initially focus on the conditions under which such tools could be used. Cooperation between the relevant national authorities would also help to make those tools more effective, particularly if there were shared lists of operators (authorised or, conversely, prohibited) for the use of said authorities.

29. The Presidency believes that the Council bodies competent to discuss police cooperation matters could also consider more specific cooperation between the services responsible for combating illegal websites. This cooperation could take the form of information exchange and concerted action on controls.

#### *Taxation*

30. **Tax issues** could also be raised in due course in the ECOFIN Council's subordinate bodies. This is an important dimension of gambling policy which, following the development of online gambling, raises specific questions. The Presidency considers that those bodies could, *inter alia*, look into the question of the place of taxation with the aim of ending double taxation, possibly by taxing gambling operations at the place of consumption.

#### **IV. POSSIBLE FUTURE PROCEEDINGS**

31. The discussions and issues identified provide ample food for detailed thought and discussion within the Council. This will first of all require continued information and experiences sharing and seeking of synergies between national authorities. Detailed knowledge of the different **national regulatory and control arrangements** is a necessary prelude to joint discussion and to the development of increased cooperation between the Member States, for example concerning the best responses to the challenges raised by unauthorised operators.
32. The Presidency also considers that, with due regard for the competences of each European Union institution, there are already grounds for **seeking common approaches** in certain areas. There could be discussion of instruments that could deliver in terms of policy objectives, such as the protection of minors, controls on the size of amounts bet and transactions and advertising or even combating money laundering. They could in due course lead to discussion of the usefulness of policy tools, be that legislative or non legislative instruments.

33. For a successful outcome of the Council's proceedings, and to take due account of the public policies issues identified in the present report, an active participation of the Commission is important. Discussions conducted within the Council and in the other European Union institutions will call for **the Commission to conduct detailed studies and consultations and possibly in due course make proposals to identify ways forward.**

**V. CONCLUSION**

34. Given the delegations' substantial and constructive exchanges in the Working Party on Establishment and Services, the Presidency considers that discussions should continue on the issues detailed above.

35. The Competitiveness Council is invited to:

- § Take note of this progress report of the Presidency;
- § Instruct its preparatory bodies to continue discussions on these issues.

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**SUMMARY OF DELEGATIONS' REPLIES  
TO THE QUESTIONNAIRE**

*General remarks*

1. Almost all the delegations replied, often at some length, to the questionnaire from the Presidency<sup>7</sup>. The purpose of the questionnaire was to provide delegations with an overview of the legal framework and the policies on gambling and betting in all the Member States. It therefore supplements information already available<sup>8</sup>.
2. By way of introduction, it should be noted that although most of the various types of gambling exist in all the Member States, definitions may vary. In particular, in some Member States gambling and betting are two distinct concepts that are sometimes even mutually exclusive, whereas in others betting is a form of gambling. While more in-depth discussions on the subject could clarify matters, the Presidency wishes at this stage to opt for the broadest definition and focus on gambling and betting as a whole.
3. In addition, more than a third of Member States stated that they had undertaken or were contemplating substantial reform of their national legislation, partly to take account of the development of Internet gambling and to strengthen controls (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Estonia, Finland, France, Hungary, Ireland, Lithuania, Poland, Romania, Sweden). Other Member States have recently carried out a reform (Germany, Italy, Latvia, United Kingdom and, in 2002, Malta).

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<sup>7</sup> This summary is based on the 26 contributions received from all Member States except Spain. It takes no account of some specific local arrangements.

<sup>8</sup> Cf. in particular the report of the Swiss Institute of Comparative Law, *Study of Gambling Services in the Internal Market of the European Union, Final Report*, 14 June 2006.

## *Organisation of the gambling and betting sector*

4. For moral, philosophical and cultural reasons in particular, Member States have developed their own organisational models for the gambling and betting sector. They have introduced a variety of rules depending on the forms of authorised gambling and betting, as well as with regard to market structures and authorised operators.

### - Forms of authorised gambling and betting

5. All Member States have specific legislation dealing with gambling and betting. In this framework several prohibit gambling and betting as a general principle, subject to authorisation being granted (Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Slovakia, United Kingdom). Conversely, in other Member States such prohibition principle does not apply.
6. The heaviest restrictions are on casinos and automatic gaming machines, such as slot machines. These activities are sometimes prohibited (casinos in Cyprus and Ireland; slot machines outside casinos in Estonia, Greece, France, Luxembourg and Portugal). The setting up of both casinos and, to a lesser extent, of automatic gaming machines, is mostly subject to specific rules aimed at limiting their number.
7. All Member States permit at least some forms of betting. However, there are often specific restrictions depending on the conditions or the purpose of the betting. While some Member States permit the placing of bets on any kind of event from the point at which no participant can influence the outcome, several only permit betting on sporting events (Austria, Belgium, Germany, Estonia, France, Hungary, Luxembourg, the Netherlands and Portugal) or even only on the results of these competitions for some of them. Furthermore, live betting is prohibited in six Member States (Belgium, Germany, France, Hungary, the Netherlands and Portugal). These rules also apply to betting on horse racing, subject to certain reservations; four Member States permit only the organisation of pari-mutuel betting (Greece, France, the Netherlands and Portugal).

8. Lotteries exist in all Member States. On the other hand, almost half of them (Czech Republic, Denmark, Finland, Hungary, Ireland, Italy, Latvia, Malta, The Netherlands, Poland, Portugal, Sweden, United Kingdom) have specific legal arrangements authorising and regulating bingo.
9. Forms of gambling and betting that are permitted in the various Member States are also mostly permitted on line. In general, the authorisations, licences or concessions granted apply to all gambling, real and remote. However, several Member States have established a general prohibition principle for Internet gambling (Cyprus, Germany, Estonia, Greece, The Netherlands, Poland<sup>9</sup>), whereas others impose specific restrictions on Internet gambling, prohibiting in particular on-line casino and slot machine gambling (Belgium, France, Finland, Hungary, Lithuania, Portugal, Slovakia). One Member State issues licences specifically intended for the provision of those services via Internet.

- Market structure and authorised operators

10. In the overwhelming majority of cases, the rules laid down regarding market structure differ depending on the forms of gambling authorised. Only three Member States have the same rules governing all aspects of gambling (Latvia, Malta and Romania).
11. As regards lotteries, almost two-thirds of the Member States have established monopolies or exclusive rights that are awarded to public operators or private operators who are non-profit-making or under the direct supervision of a public authority. In most cases, these arrangements do not exclude the existence of specific rules on local and traditional lotteries. Where lotteries forms a market segment open to competition, that segment is subject to similar licensing and regulation rules that govern betting, or even casino and slot machine gambling (Austria, Cyprus, Czech Republic, Italy, Lithuania, Latvia, Malta, Romania, United Kingdom).

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<sup>9</sup> Where, according to the regulations applying to games and mutual wagering, such games may be organised only in games salons, mutual wagering points and slot machine games with low price points.

12. Wider divergences between Member States are seen in sports betting and betting on horseracing. In over half of the Member States, this segment is open to competition (Austria, Belgium, Cyprus (except betting on horse racing), Czech Republic, Germany (except sports betting), Estonia, Hungary (except for pari-mutuel sports betting), Ireland (except for on-course Tote betting), Italy, Lithuania, Luxembourg, Latvia, Malta, Poland, Romania, Slovakia, United Kingdom). Operators must obtain a licence, concession or agreement in advance and for that purpose are subject in most of the Member States concerned to controls aimed at guaranteeing their good repute and even their financial viability. Operators awarded sole rights are bodies subject to State supervision and/or are non-profit-making.
13. Casinos, where they are not prohibited, are in most cases subject to restrictive rules, involving either a *numerus clausus* or restrictions on establishment (population thresholds, specific urban situation). In most Member States prior authorisation from a national or local administrative authority must be obtained in order to open a casino. In seven Member States only a public operator or one closely supervised by the State can manage a casino (Germany, Greece, Finland, Hungary, the Netherlands, Sweden, Slovenia).
14. Offering other games of chance, in particular slot machines, outside casinos, is the most common option (except in Greece, France, Luxembourg and Portugal). As a general rule, this gambling requires a licence or authorisation. However, the applicable rules turn out to be more flexible than those governing casinos, given in particular the lower stakes involved.

#### *Regulation of the gambling and betting sector*

15. While gambling and betting in all the Member States is governed by a specific regulatory framework, this varies according in particular to national traditions, the degree of openness of the sector or the rules on operators' access to the market.



16. Specific independent regulatory bodies have sometimes been set up. Four Member States have one or more independent authorities (Belgium (except for the national lottery), Lithuania, Malta, United Kingdom). These bodies are responsible for examining and awarding licences to operators, supervising compliance and, where necessary, initiating the appropriate procedures when the obligations imposed are breached (administrative penalties extending to withdrawal of the licence, referral to the judicial authorities).
17. In the other Member States one or more ministers are responsible for the regulation or supervision of the sector, together with the State's judicial authorities and the police. This responsibility lies mostly with finance minister, but, depending on the case, it may be the sole or additional responsibility of the justice, interior, agriculture, economy or social affairs ministers. Nine Member States have a structure specifically dedicated to gambling within the ministries responsible (Bulgaria, Denmark, Greece, Italy, Latvia, the Netherlands, Romania, Sweden and Slovenia). In addition, the activities of operators in those States who enjoy sole rights are generally subject to close supervision by the administrative authority.
18. In a number of Member States the local authorities also have powers as regards, in particular, casinos and slot machines installed outside casinos. They are usually responsible for issuing authorisations and licences or are consulted before the latter are issued.

#### *Cross-border gambling and betting*

19. In order to monitor activities on their national territory, Member States have sometimes imposed specific restrictions on the cross-border gambling and betting operations of operators to whom they issue authorisations, licences or concessions. Two Member States explicitly stipulate that the authorisations, licences and concessions granted are valid only on their national territory (Austria, Germany). In most cases, however, there is no such explicit rule. Authorised operators may therefore offer gambling and betting in other Member States provided that the State in which they are established does not pose obstacles by virtue of its supervisory role. Furthermore, a cooperation agreement has been concluded between two Member States (Greece and Cyprus) allowing under certain conditions nationals of the latter to participate in real gambling activities provided by operators of the former.

20. As regards the possibility of a provider established in the European Union or the European Economic Area offering gambling operations on the territory of another Member State, the situation differs depending on the way the sector is organised. In Member States that have awarded a monopoly or sole rights, the latter are seen as an obstacle to competition from a provider established in another Member State. On the other hand, where a Member State allows several operators to carry out their activities provided they have a licence or authorisation, operators from another Member State are generally allowed to apply for a licence or authorisation to be granted.

*Objectives of gambling policies and implementation instruments*

21. All Member States recognise the distinctive nature of gambling and betting on account in particular of the associated risks. They therefore take particular care to ensure that such activities are compatible with the preservation of public and social order and consumer protection.

- Protection of public order

22. Combating crime, fraud and money laundering is a priority for all Member States. They apply a range of common international or European Community rules in this regard.
23. Some Member States have gone further and laid down specific rules and arrangements: extending obligations under the Directive on money laundering beyond casinos (Greece, France, Italy, Malta, Slovenia) or tightening the rules on the compulsory declaration of transactions exceeding a certain amount (Austria, Belgium, France, Lithuania, Poland, Portugal); specific obligations to communicate to the administrative authority information on transactions conducted (Czech Republic, Latvia, Malta, Slovenia, United Kingdom), allowing real-time supervision (Finland, Italy, Malta).
24. In order to prevent fraud, many Member States also prohibit the organisers of sporting events from having any involvement in the placing of bets (Bulgaria, Germany, Estonia, Greece, France, Hungary, Italy, Latvia, Portugal, Romania, Slovenia).

- Protection of social order

25. The risks of gambling addiction make the protection of social order a major objective throughout the European Union. Special attention is paid to the most vulnerable groups. For example, all Member States prohibit access by minors to some or all forms of gambling, in particular the most addictive (casinos, slot machines). Some Member States extend this protection to vulnerable people (Austria, Belgium, Bulgaria, France, Malta, the Netherlands, Portugal, Slovenia, United Kingdom), e.g. by drawing up a list of people banned from gambling. A person may be placed on this list compulsorily or at his or her own request. This goes hand in hand with an obligation to check the identity of gamblers when they enter casinos and gaming halls (Austria, Belgium, Bulgaria, Czech Republic, Germany (for casinos), Denmark, France, Italy, Lithuania (for casinos), Latvia, Malta, The Netherlands, Poland (for casinos), Portugal, Sweden, Slovenia, United Kingdom).
26. The following measures have also been implemented: demarcation of zones in which gambling is banned, e.g. near schools (Austria, Belgium, Lithuania, Poland, Portugal); restriction on the size of the stake or the winnings (Austria, Belgium, Germany, Denmark, Greece, Finland, France, Hungary, Italy, the Netherlands, Poland, Sweden, Slovenia, United Kingdom); prohibition on credit gambling (Belgium, Estonia, Greece, Finland, France, Lithuania, Portugal).
27. Particular attention is also paid to publicity. A majority of Member States have drawn up specific rules limiting publicity as regards gambling and/or making it mandatory to inform people of its dangers (Belgium, Bulgaria, Czech Republic, Germany, Denmark, Estonia, France, Hungary, Ireland, Lithuania, Latvia, Poland, Portugal, Sweden) or are contemplating such rules (Finland). In other Member States these restrictions stem from codes of conduct (Austria, Malta, the Netherlands, Portugal, United Kingdom).

- Consumer protection

28. In order to protect consumers, Member States have drawn up rules for maintaining the trustworthy gambling operators and operations of operators. Besides the relevant Community provisions, more specific arrangements have been put in place: owners of private undertakings applying for a licence or authorisation are identified and/or checked (Austria, Belgium, Germany, Denmark, Estonia, France, Ireland, Italy, Lithuania, Latvia, Malta, Poland, Portugal, Slovenia, United Kingdom); the managers and/or the staff of gaming establishments are issued with an authorisation (Austria, Belgium, Greece, France, Lithuania, Malta, Portugal, Slovenia, United Kingdom); checks on gaming equipment (Belgium, Bulgaria, Germany, Denmark, Greece, France, Malta, the Netherlands, Poland, Portugal, Slovenia, United Kingdom).
29. In addition, the player return rate is closely controlled in most Member States in order to protect gamblers from over-attraction to gambling (France) or to guarantee them a fair return in relation to their outlay (Belgium, Bulgaria, Germany, Denmark, Finland, Hungary, Italy, Lithuania, Luxembourg, the Netherlands, Poland, Portugal, Sweden, Slovenia).

*Financing activities in the public interest and taxation*

30. In almost all Member States a substantial part of the profits from gambling and betting, or even all, is allocated directly or via the State budget to certain activities in light of the general interest objectives involved. In relation to the total outlay, the amounts involved can turn out to be quite considerable; they generally represent 10% of gross gambling profits<sup>10</sup>, or even, in some Member States and for gambling either wholly or in part, 10% or more of the amounts bet (Belgium, Bulgaria, Germany, Denmark, Finland, the Netherlands, Poland, Portugal).

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<sup>10</sup> The total amount of gross gambling profit throughout the European Union in 2003 was put at 51.5 billion euros (source: report by the Swiss Institute of Comparative Law cited above).

31. National moral, philosophical and cultural traditions determine how this money is ultimately spent. The fact is, however, that in the great majority of Member States it is by and large social, charitable or humanitarian works that benefit from these transfers. Furthermore, legislation in several countries provides for some of the money from, in particular, betting on sporting events and horse racing to be ploughed back into sports and equine organisations (Austria, Belgium, Bulgaria, Cyprus, Germany, Denmark, Greece, Finland, France, Ireland, Italy, Poland, Portugal, Romania, Sweden, Slovenia, United Kingdom). In other Member States, this money can go towards cultural or educational projects (Belgium, Bulgaria, Germany, Denmark, Greece, Finland, France, Italy, Poland, United Kingdom) or tourism (Slovenia).
32. As regards taxation,<sup>11</sup> gambling and betting are generally subject to specific tax rules. Nevertheless, few Member States apply an identical rate throughout the sector (Latvia, The Netherlands). Where different rates are provided for, these differ according to the type of gambling or betting. Whether the gambling is on line or not does not seem to be taken into account in most cases.
33. It is mostly gross gambling profit or the amount of money bet that is subject to tax. While a flat rate is most frequently applied, several Member States have progressive rates. Also, operators in many Member States may be subject to market access rights linked to the granting of a licence or authorisation (Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Lithuania, Latvia, Malta, the Netherlands, Romania, Slovenia, United Kingdom).

#### *Action to combat illegal gambling*

34. Action to combat illegal gambling, real and remote, is a task of the police or, where appropriate, specialised services in all Member States. In the event of non-compliance with requirements imposed on them, authorised operators are generally liable to administrative penalties. Criminal sanctions are also laid down in many Member States, in particular to prevent unauthorised operators carrying out their activities on national territory.

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<sup>11</sup> Several Member States regarded this matter as being within the remit of the Ecofin Council and refused to reply.

35. In several Member States, especially those which prohibit on-line gambling or impose special provisions governing access to their market, action to combat gambling considered illegal on the Internet is now an important challenge. New instruments involving Internet service providers and financial institutions have been mentioned.
36. As regards financial institutions, some Member States have decided to make it obligatory to block bank transactions with unauthorised sites, or are contemplating such a measure (Belgium, Germany, Estonia, Finland, France, Lithuania, the Netherlands).
37. Internet service providers likewise are involved or might be involved once the discussions underway are concluded. The following measures are envisaged: mandatory information of users connecting to an illegal site (Belgium, Estonia, France, the Netherlands); blocking access to these sites (Germany, Estonia, Finland, Italy).

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