



1. Safeguard National Lotteries Unique Role for Society

In 2010, the EU Council recognised the positive impact national lotteries make for society. The European Lotteries (EL) – the largest representative European umbrella organisation in the field of gambling – calls on the European Institutions to reaffirm and protect the unique role national lotteries play for society in all EU Member States, the cultural heritage enshrined in their historical traditions and their principles.

Background

As Former EU Council President Herman Van Rompuy said in his speech in Aachen in 2014 when receiving the Charlemagne Prize: “But feeling at home in the Union will also require a sense of that little extra, that *supplément d’âme* which characterises Europe. Beyond striving for peace, prosperity or power, it is also about culture, identity, destiny...”¹

National lotteries have a long-standing tradition in Europe, dating back to 1441, when lotteries were first conceived in Bruges (Belgium). Governments have utilised lotteries to generate revenue for public projects – from infrastructure to cultural initiatives – benefiting society as a whole. This underscores lotteries as extensions of state authority, operating under national ethical guidelines. Traditionally, they have served as community engagement tools, fostering common optimism and excitement. Today, many EU Member States allocate lottery earnings to fund cultural, social and educational initiatives, further emphasising their role in societal progress. Lotteries evoke connections to national identities, illustrated by iconic examples such as “El Gordo” in Spain and the “Koningsdagtrekking” in The Netherlands. They are entwined into the social fabric of national cultures, symbolising important values and customs. For example, in Germany, the phrase “wie ein Sechser im Lotto” signifies extraordinary luck, showcasing how lotteries shape cultural narratives.

The Societal Contributions of Lotteries

In 2022 alone, EL Members – operators of national lotteries and organisers of other games of chance, including sports betting – secured more than €22

billion for society and directly supported valuable projects related to sport, cultural heritage, art, health care, individuals with disabilities/disadvantages, education, science and many other areas. This marks a significant growth of EL Members’ contribution to local societies. Beyond financial contributions, national lotteries create a sense of community and shared purpose by uniting people in anticipation of winnings. The excitement of purchasing a ticket and celebrating winners fosters a communal spirit that transcends social and economic boundaries. This community-building aspect is crucial for shaping societal narratives across Europe. The 2010 Belgian Presidency of the EU Council highlighted the contributions of state lotteries, affirming their importance in funding good causes. Recognising these societal benefits highlights the need for EU-level protection.

As President of the Court of Justice Professor. Koen Lenaerts² noted, lotteries differ from other gambling providers by playing a responsible role on both input and output sides: “Lotteries are not only part of Europe’s cultural heritage; they also play a role in shaping Europe’s social fabric”. His support for recognising their societal contributions reflects a broader consensus on protecting consumers while emphasising the social dimension of lotteries within the EU Treaties

¹ Judgment of the Court of Justice of 8 September 2009, *Liga Portuguesa*, C-42/07, paragraphs 68 and 69.

² Article 3.5.a of the Macolin Convention – n° 215 and observations in Opinion 1-14.

The Need for EU Protection

Advocating for EU-level protection for national lotteries may seem unconventional, but it is essential to understand that they represent sovereign authority of Member States. In light of this, the EU is well-positioned to safeguard this national prerogative. Recognising lotteries at the EU level not only distinguishes them from other gambling providers but also solidifies their position in the regulatory context. This approach will ensure that lotteries continue to operate sustainably while fulfilling their societal roles.

Today it is therefore paramount to take the next step to recognise the important and useful societal role of lotteries in the non-economic context of the Union. The need to protect lotteries is universally recognised throughout the world. In a number of States this protection is explicitly recognised in the Constitution (e.g. Switzerland).

Conclusions

National lotteries are integral to European cultural heritage, with deep historical roots and substantial societal benefits. Their evolution from simple games to vital cultural instruments demonstrates their contributions to public life. Beyond generating revenue for social causes, lotteries foster community solidarity. Recognition and protection of the unique role of national lotteries at the EU level would ensure their continued positive impact on society and affirm their value in promoting cultural heritage and social responsibility. Safeguarding the cultural significance of lotteries is essential for maintaining their contributions to the public good.

2. Fight Illegal Operators and Their Online Content

Any operator offering gambling services to consumers in an EU Member State where it does not hold a national license, is de facto an illegal operator. EU policymakers are therefore called upon to clearly distinguish legal from illegal operators. The European Lotteries (EL) – the largest representative European umbrella organisation in the field of gambling – welcomes the concept of trusted flaggers introduced by the Digital Services Act, as a powerful tool in the fight against illegal content online in the lottery and gambling sector. What is illegal offline, should also be illegal online.

Background

In the EU the obligation to combat illegal gambling is linked to the protection of social order and the prevention of fraud.¹ However, no legal definition of illegal gambling is set out in EU law. Nevertheless, as the Court of Justice of the European Union (CJEU) has very clearly refused the application of the principle of mutual recognition in the field of lotteries and games of chance²: this means that a gambling operator having a licence in a Member States cannot be regarded as amounting to a sufficient assurance that national consumers will be protected against the risks of fraud and crime in another States³. More fundamentally at international level, the definition of illegal betting in the Macolin Convention – a legal instrument and the only rule of international law on the manipulation of sports competitions – as “any sports betting activity whose type or operator is not allowed under the applicable law of the jurisdiction where the consumer is located” is considered compatible with EU law.⁴

Illegal Online Gambling Operators: A Threat to EU Consumers

EL and its Members provide a secure and transparent, strongly regulated environment for consumers to pay responsibly. Illegal gambling operators offer their services online to players located in multiple EEA Member States without having obtained any license in such markets. These practices are illegal and detrimental for consumers and state budgets. The scale of the phenomenon, which is difficult to precisely measure, varies from country to country. In Italy the Covid period that suspended the sales in physical retailers has created the conditions for an extraordinary growth of illegal

gaming. In 2019, the illegal market represented +/- € 12 billion euros, in 2020 € 18 billion (+ 50%) and in 2021 € 20 billion. In Portugal illegal operators are said to be capturing more than 40 percent of online players (22Bet, Bet Tilt, 1xBet and bet365 being the most established). In France, estimates by the ANJ (November 2023) put the illegal market at between €748m and €1.5bn, or 5% to 11% of annual GGR, most of which is captured by around twenty sites, the vast majority targeting vulnerable players (79% of illegal GGR). Illegal gambling operators (not licensed in the country of consumption):

- Do not respect the laws and regulations set up by the regulators of the EU Member States where they provide their services to consumers;
- Make it practically impossible to protect consumers and especially the more vulnerable population from the risks of over-consumption;
- Can enhance the emergence of social problems and crime and constitute a major problem in the fight against money-laundering;
- Often do not pay taxes in the markets where their players are located and do not contribute to any public good or specific charities;
- Represent unfair competition to licensed and authorised gambling operators, threatening their legal business models and substantial sustainable economic and social contribution they provide to EU Member States.

¹ Carmen Media, C-46/08, paragraph 55

² Judgment of the Court of 8 September 2010, Markus Stoß, C-316/07, paragraphs 111–113..

³ Judgment of the Court of Justice of 8 September 2009, Liga Portuguesa, C-42/07, paragraphs 68 and 69.

⁴ Article 3.5.a of the Macolin Convention – n° 215 and observations in Opinion 1–14.

All over Europe consumers are misled by illegal gambling services and regulating authorities rely on stakeholders to fight illegal operators. The rise of illegal offerings undermines the funding of good causes (social relief, heritage, culture, sport, etc.) and instead tax revenues are directed to international criminal organisations. Fair treatment and the highest standards of consumers are top priorities for EL Members who implement them in their daily operations. Whereas, illegal actors do not fulfil all legal requirements and represent a real danger for consumers. Such illegal actors present misleading user interfaces that shall be considered as dark patterns. Users are often not aware that the operator offering illegal gambling services does not own a license in their country and that they are engaging in an illegal activity. Besides, players have no access to redress mechanisms in the event of a complaint.

Digital Services Act (DSA) and New Tools to Fight Illegal Gambling Operators

EL welcomes the DSA as a key turning point in the regulatory framework for digital services and looks at it as a valuable instrument to fighting illegal gambling operators and their online contents. The DSA entered into force in November 2022 but for the most part became applicable only as of February 2024 establishing a comprehensive regulatory framework for digital services.

While the DSA does not directly target gambling operators, the set of regulations which stem from it effectively play a role in the legal landscape of online gambling, especially regarding illegal content and advertising on online platforms. The DSA does not define what is illegal, but it does set out a framework for how illegal content is tackled: it will henceforth not define which gambling services are illegal since that is and remains a question of national law in each Member State.

The DSA mandates that all online platforms promptly remove any content deemed illegal under EU law, including illegal gambling operations, advertising promoting unlicensed gambling services, and advertising making illegal use of a trademark (something often seen with the infamous “secondary lottery operators” that offer betting on

lottery draws). The DSA also provides for specific measures to protect minors and people in general from certain advertising practices, which may also impact gambling and lotteries advertising.

According to a 2023 PwC France study carried out for the French regulator (Autorité Nationale des Jeux (ANJ)), between 3 and 4 million online gamblers in France played on illegal sites in the previous 12 months representing between €748 million and €1.5 billion in bets, mainly to online casinos and slot machines. In March 2022, France adopted an Act empowering the ANJ President to order the blocking of websites offering or advertising illegal gambling, previously solely held by Courts. The ANJ strongly relies on trusted flaggers, helping to identify and fight efficiently illegal operators in the country. In Germany, the Gemeinsame Glücksspielbehörde der Länder (German gambling regulator, established in 2023) did put in place an online platform where illegal content can be submitted.

Conclusions

EL stresses the importance of the principle that what is illegal offline should also be illegal online: combating the presence of illegal online operators and their deceptive practices towards consumers must therefore remain a priority. Online illegal gambling operators are posing a real threat for consumers and at the same time they are endangering the sustainable financing of good causes by lotteries for the benefit of society.

In light of published findings of the EU Commission Digital Fairness Check – aiming to evaluate the adequacy of current EU consumer protection rules – a number of key online practices were identified, including dark patterns, addictive design that will likely inform the preparation of the next piece of European regulation – the Digital Fairness Act. EL and its Members have extensive experience in this area and lotteries would be keen to share with the EU institutions their different tools and best practices (adapted to the diversity of their own game ranges).



3. Tax Operators in the Consumers' Country

Illegal operators avoid paying taxes in the countries where they operate. By doing so, they can offer more appealing pay-out rates, creating an unfair competition to national lotteries. The European Lotteries (EL) – the largest representative European umbrella organisation in the field of gambling – urges the European Institutions and EU Member States to ensure that all gambling operators pay taxes in the country of the consumer. However, operators do not become legal solely by paying taxes.

Background

By providing cross-border B2B (business-to-business) services from low-tax countries and using BEPS (Base Erosion and Profit Shifting) strategies, some gambling operators bypass taxes in the EU Member States where they operate. This is especially common among online operators, who may also not comply with national regulations on consumer protection, anti-money laundering (AML) and contributions to the public good. By sidestepping these obligations, they can lower fees and offer higher payouts, making their services more attractive than those of licensed operators, such as lotteries, which fully comply with tax and all other laws. This imbalance not only creates unfair competition, but also undermines national efforts in consumer protection and public order, depriving governments of revenue needed for public interest initiatives.

The Risks of Addiction and Public Good Losses

Tax evasion by illegal operators increases the risk of gambling addiction. Higher payout rates can entice individuals to gamble excessively, leading to negative social consequences and financial difficulties. Since payout rates are a major factor in addiction risk, higher rates make games more attractive and potentially dangerous if not properly regulated. Furthermore, this tax evasion deprives governments of vital revenues that could support public initiatives like education, healthcare and social services. Losing these funds undermines national policies aimed at promoting the public good, hampering efforts to combat gambling addiction and support affected individuals.

Ursula von der Leyen, President of the European

Commission, emphasised this in 2019: "One of the key foundations of our social market economy is that everybody pays their fair share. There can be no exceptions. A race to the bottom on taxation undermines the ability of countries to set tax policies that meet the needs of their economies and people. Where profits are generated, taxes and levies must also contribute to our social security systems, our education systems, and our infrastructure."

The Role of Taxation in Regulating the Various Forms of Gambling

Taxation is not just a fiscal obligation: it is a crucial regulatory tool for managing gambling services and protecting consumers. It provides legal certainty for tax revenue and lottery management and significantly influences the structure of gambling products by determining the portion allocated for taxation or returns to the government. Legal gambling operators are those recognised by national authorities and required to pay taxes in the Member States where they operate. However, in some Member States, non-licensed operators pay taxes on the declared business thereby arguing that this provides them "legal status". EL opposes this "grey market" approach, arguing that merely paying VAT or corporate taxes does not grant these operators legal status as gambling operators.¹

The Court of Justice of the European Union (CJEU) has stated that illegal gambling operators must face the same or comparable tax obligations as legal ones, highlighting the need for tax compliance among all operators.

Gambling taxes allow governments to have an impact on regulating the various gambling markets thereby permitting governments to tax lotteries differently from other forms of gambling due to the lower risk. Indeed recently, the CJEU confirmed the particularity of lotteries in the sense of the principle of fiscal neutrality and that differentiating VAT exemptions between online and offline gambling is also permissible if the differences influence consumer behavior.² A well-structured taxation system promotes fair competition and helps mitigate the risk of gambling addiction by regulating the attractiveness of various gambling products.

Conclusions

The European Commission and Member States should enforce taxation on gambling operators based on the consumer's jurisdiction. Upholding fairness in taxation is essential and exceptions should not be tolerated. While tax policy on gambling remains the exclusive competence of Member States, EL urges the European Commission and Member States to ensure that all gambling operators pay the applicable gambling and corporate taxes in the jurisdiction where the consumer is located. A level playing field in tax matters, along with effective tax enforcement, is critical for achieving broader goals of consumer protection, fair competition and public revenue.

¹ C-283/95 C-453/462/02, as well as C-788/18

² Casino de Spa C-741/22 and Chaudfontaine C-73/23.



4. Strengthen Consumer Protection by Leveraging National Expertise

Due to its peculiar nature, the lotteries and gambling sector is exempt from specific EU legislations, with the European Commission rather opting for non-legislative initiatives on this matter. The European Lotteries (EL) – the largest representative European umbrella organisation in the field of gambling – calls on the European Institutions to maintain such an approach, recognising that EU Member States are best placed to address local needs and achieve the highest level of consumer protection in the gambling sector.

Background

National lotteries have a long-standing history dating back to 1441 when they were first conceived in Bruges (BE). The games involve many participants, each contributing low individual stakes, making them low-risk games compared to other games of chance. Despite the low odds of winning, lotteries generate profits traditionally allocated to good causes for the benefit of society from cultural initiatives to sports. Public authorities oversee lottery operations to ensure integrity and uphold public trust. Over time, lotteries have been regulated according to local traditions, fostering strong ties with community values and protecting those most vulnerable. They embody the values of responsibility and integrity, with consumer protection incorporated into their DNA. This is what sets them apart from other game of chance operators that often prioritize short-term profits over player rights.

Subsidiarity Principle

EL and its Members strongly support the continued application of the subsidiarity principle in the lottery and gambling sector. The subsidiarity principle holds that the EU may only intervene if it is able to act more effectively than Member States at their respective national or local levels. Backed further by the extensive case law from the Court of Justice of the European Union (CJEU), lotteries and other gambling services are regulated at national or regional levels and should remain so. This local approach enables to effectively better enforce consumer protection and builds public trust. It is essential for protecting consumers, especially minors and other vulnerable groups,

fighting gambling addiction and preventing illegal operations. The closer the oversight is to players, the more effectively it guards against the negative effects of gambling.

The CJEU has confirmed that a gambling operator having a licence in a Member States cannot be regarded as amounting to a sufficient assurance that national consumers will be protected against the risks of fraud and crime in other States¹. That is why the Member State where the consumer resides, is the best place to protect the consumer against the risks of excessive gambling.

Commitment to Consumer Protection

At the national level, gambling operators must meet strict requirements, including underage gambling prevention and security standards that often exceed EU requirements, such as those stipulated in the eCommerce Directive (2000/31). EL Members have a strong track record in consumer protection and responsible gaming, which are vital for ensuring the integrity of the sector. All of them have developed tailored responsible gaming strategies to protect their players.

¹ Judgment of the Court of Justice of 8 September 2009, Liga Portuguesa, C-42/07, paragraphs 68 and 69

While the nature of the game has remained the same, lotteries have evolved by investing in digital technologies, such as Artificial Intelligence, to secure a sustainable future for their operations. These technologies enhance consumer protection by integrating safer gaming practices into daily activities. Additionally, lotteries often implement voluntary measures to enhance consumer protection and promote responsible practices, demonstrating their commitment to maximizing social impact while minimizing harm.

Conclusions

EL calls on EU policymakers to respect the current national lottery model defined by national gambling regulations on consumer protection and responsible gaming as specified by the CJEU. By supporting national frameworks, policymakers can ensure that consumer protection remains responsive to the unique needs and values of each community.

5. Take a Risk Based Approach to Advertising

Advertising plays a crucial role in channelling consumers towards legal and safer offerings of games. It should be handled responsibly at national level in strict observance with a risk-based approach, where high-risk games should be subject to different and stricter rules than low-risk games (lottery games).

Background

National lotteries and gambling services are economic activities of a peculiar nature entailing specific risks. Due to overriding reasons of general interest, there are justified restrictions to advertising that may apply to the sector. The Court of Justice of the EU (CJEU) has indicated as a traditional principle that advertising of games of chance must remain measured and strictly limited to what is necessary to channel consumers towards controlled gambling networks¹. Therefore, when such measures do not take into account the specific degree of risk involved in certain games of chance, or the commercial policies of licensed operators, there is a fair chance that the welfare of society is not effectively protected.

Hierarchy of Risks and the Channelisation Role of Advertising

The vast majority of existing scientific studies², as well as the CJEU and the European Commission³, recognise that there is a certain "hierarchy of risks" between different types of gambling, where different types of games lead to different risks of addiction. That is why different regulatory measures should apply to different types of games of chance. In particular, online slot machines and casinos are often closely related to problem gambling, whilst in other types of games, the association with problem gambling is more moderate. Finally, in virtually all cases, lotteries are considered to have a very small link to problem gambling and are included among the low-risk products. Considering that lottery games carry a lower risk, EL Members are dedicated to promoting mainly lower risk games with consumer protection in mind. One of the core missions for lottery operators is to channel the population's desire for gambling towards a regulated and responsible offer of gambling

products. Advertising of lotteries and other gambling activities offered by licensed operators plays an important role in directing consumers towards a legal and controlled offer, conducted in a socially responsible manner⁴. To execute this mission of channelling towards lower-risk games, national lotteries must present a safe but at the same time attractive alternative, which includes a wide range of games, advertising on a certain scale and the use of new distribution channels such as the Internet. Any restrictions on advertising should thus be accompanied by an effective restriction of the illegal gambling offering. These restrictions can only make sense in the framework of a holistic approach encompassing all gambling offerings available on the considered market, including illegal offers. Failing that, the implementation of any advertising restrictions could be counterproductive and preclude EL members from achieving the objective of channelising the demand for gambling.

¹ Judgment of the Court of 15 September 2011, *Dickinger and Ömer*, C-347/09, paras. 67 and 68; see also C-316/07, para. 103.

² Lea Meyer, "Risk Level of Lottery Games and Gambling Advertising: a Literature Review", 2019; Binde 2011, Binde 2013, Heiskanen y Toikka 2015, Philipps et al. 2013; Delfabbro and Parke, "Empirical Evidence Relating to the Relative Riskiness of Scratch Card Gambling", 2021.

³ See the Opinion of Advocate General Bot in Case C-347/09 *Dickinger and Omer*, 31 March 2011, paras. 127-130 and Judgment of the Court of 8 September 2010, *Carmen Media*, C-46/08, para 102. Furthermore, with regard to money laundering risks, according to the EC's latest SNRA 2022, online gambling is considered at level 4: the highest risk while the EU Regulation 2024/1624 recital 63 states that "Gambling activities vary in nature, geographical scope and associated risks."

⁴ This principle has been clearly stated both by the European Commission recommendation 2014/478/EU of 14 July 2014 and by the European Court of Justice settled case-law Joined Cases C-338/04, C-359/04 and C-360/04

EL Best Practices for Responsible Advertising

Lotteries have always been at the forefront of self-imposed advertising restrictions for consumer protection. EL and its Members are firmly committed to maintaining the highest standards of player and minor protection, with the Association's mandatory and independent EL Responsible Gaming (RG) Certification Framework, serving as a foundational element of this commitment. This framework, under which all EL Members are certified, emphasises the safeguarding of vulnerable groups – particularly minors – and ensures that comprehensive protective measures are in place across all operations. Key elements in protecting minors include designing lottery products that avoid specific symbols, language or visual elements appealing to them; advertising restrictions to ensure that promotions do not target or appear in media primarily consumed by minors. EL also supports these efforts through its Responsible Gaming Framework and specific Advertising and Marketing Guidelines which emphasise the protection of minors with the following principles:

- **Representation** Individuals depicted in advertisements should not be/appear to be minors.
- **Avoidance of Minors Advertisements** should not suggest that minors can participate in gambling or present it as a sign of maturity.
- **No Gifting Gambling** should not be marketed as a gift that children can give or receive.
- **Controlled Exposure Marketing** communications should not target or be likely to attract minors, including through animation or characters appealing to them.
- **Media Placement** Avoid placing ads in channels primarily viewed by minors and control the placement of ads around content targeting minors.
- **Social Media** Careful management of social media channels is required to prevent exposure to minors, including filtering mechanisms and appropriate advertising identifiers.

EL welcomes the 2024 European Commission's Fitness Check, aiming to ensure that EU consumer protection laws are fit for the digital age. Through

its own submission to the Commission consultation, EL highlighted its concerns over manipulative advertising on gambling websites and applications that exploit consumer vulnerabilities, such as financial distress and emotional issues. In the first findings of the Fitness Check, deceptive tactics, such as falsely claiming low stock or high demand, are reported, particularly among frequent gamblers. Hidden influencer marketing of gambling products were also flagged. The European Consumer Organisation – BEUC is explicitly quoted as calling for a prohibition on influencer marketing in areas such as gambling directed at children.

Conclusions

Instead of restricting advertising of gambling products in general, a risk-based approach to advertising restrictions that supports the legal offer and takes into account the different risk levels of each product would help to channel players to lower risk games. As a result, the protection of players – particularly the most vulnerable – would be more effective. EL and its Members call on the EU institutions to consider the specificities and unique nature of lotteries in their upcoming efforts in drafting and amending the next forward the Digital Fairness Act.

6. AI in Digital Gambling: Explore Opportunities, Prevent Misuse

While artificial intelligence (AI) can play an important role in consumer protection and responsible gaming, it also poses risks when misused. To ensure integrity, AI implementations in the lottery and gambling sector must be carefully assessed and ethically deployed, in line with EU and applicable national legislation.

Background

Whilst this position paper focuses on AI considerations specific to lotteries, there are several general considerations that apply to any large, consumer-facing companies handling sensitive information and financial transactions, as outlined for instance in the EU AI Act. EL members – operators of national lotteries and organisers of other games of chance, including sports betting – must of course comply with those broader considerations.

AI in the Lottery Sector, a Risks and Benefits Assessment

AI holds significant potential within the lottery and gambling sector. When used responsibly, it can enhance the sector's ability to deliver more effective customer support, reinforce corporate governance and transparency of the operations and facilitate an increased compliance with national and international regulations and guidance. Potential benefits for AI implementations within the lottery sector include:

- **Promoting Responsible Gambling:** through continuous monitoring and behavioral analysis, AI can assist in detecting early signs of problem gambling and enable proactive interventions. By setting personalized thresholds, AI allows lotteries to tailor interventions like play limits and support resources, thereby preventing excessive gambling and fostering a healthier gaming environment.
- **Protecting (Vulnerable) Players and Minors:** thanks to bespoke algorithms, AI can play a crucial role in protecting vulnerable individuals, particularly minors by helping in the

prevention of unauthorized accesses to gaming platforms, ensuring regulatory compliance and safeguarding young people and at-risk individuals from gambling-related harm.

- **Fighting Illegal Gambling and Fraud:** AI can be a powerful tool in the fight against illegal gambling. It can detect irregularities and fraud, such as match-fixing, at an early stage, which helps maintain the integrity of sports and betting. Additionally, AI enhances account security, protecting both operators and players from potential threats.

Nevertheless, together with these benefits EL acknowledges that AI application in the lottery sector also comes with risks. Regarding data protection, as AI systems can handle large volumes of personal information, it is necessary to foresee robust privacy measures and regular audits. Moreover, for what concerns gambling addiction, if AI implementations would be directed to enhance users engagement without the appropriate safeguards, there could be an objective risk of exacerbating gambling addiction. Alongside discussions on IP rights, the wrong use of AI algorithms may introduce biases, making regular audits followed by adjustments essential to ensure fairness and maintain trust in the sector. EL believes that it is of utmost importance that AI implementation must be guided by human oversight as foreseen by the EU AI Act to ensure its ethical and effective use: AI should be seen as a tool to support human decision-making, not to replace it. The inherent complexity of AI technologies underscores lotteries' responsibility in implementing AI in the products they are offering, and to do this it is important to distinguish its applications in two categories: Predictive AI and Generative AI.

Predictive AI uses large customer data sets to assess the likelihood of specific types of behavior, such as engagement, transactions or churn, and leverages these predictions to personalize consumers' choices. Predictive AI has been used by lotteries for several years but in light of the enhancement and ubiquity of these models, European Lotteries sees in this paper an opportunity to clarify the context, in which they operate, specifically. All algorithms aim at optimising specific metrics: lotteries must be transparent in what they optimise. Transparency is needed in what metrics are being optimised, and under what constraints. Given the above, lotteries should monitor their algorithms to ensure that they perform according to the expectations on average, and that they rectify them in the cases where they don't. Lotteries should monitor and identify anomalous behaviours of such algorithms to protect players.

Generative AI has instead reached the mainstream in the past two years. It is evolving very rapidly and opens completely new opportunities in terms of e.g., automatically generated content, summarization, conversational interfaces. EL clarifies that Lotteries must be transparent in any use of Generative AI, especially if customer-facing, e.g., in customer service, or even as part of players' experiences, e.g., interactive play or chat boxes. As these systems are not predictable and operate as black boxes, any type of customisation needs to be monitored to prevent possible adverse experiences and, in this case, players should be informed. Lotteries must be cautious when sharing proprietary data with third parties; this is especially true in case of Generative AI, as it is not clear how these third parties may use their proprietary data, and whether this can have adverse consequences.

Conclusions

AI applications offer a positive potential for both players and national lotteries. AI should be deployed in an ethical and transparent manner, and in full compliance with the applicable legislation(s). EL believes that in order to guarantee the highest players protection standards (avoiding dark patterns or unacceptable risk applications), the deployment of AI in the gambling sector must

be transparent. In particular when it comes to providing players with full information whether AI applications are active in the services they use as provided in the EU AI Act, in training data and compliance with copyright and data protection laws. Documentation for AI models by the general-purpose AI providers must therefore contain clear information to downstream providers.

EL encourages the European Institutions to continue taking into account the specificities of the gambling sector in their ongoing work related to AI, including the development of the Code of Practice for general-purpose AI, as well as any related (legislative) initiatives.

EL remains committed to encouraging that AI is used responsibly by its members thereby enhancing player protection and safeguarding the trustworthiness of its Members' operations. By adopting transparent practices, carefully assessing and mitigating risks, and developing specific guidelines, the lottery sector can continue to thrive in the digital age while maintaining its longstanding commitment to the public good. EL looks forward to actively contributing to discussions and developments in this critical area.



7. Sport Integrity: Urge the ratification of the Macolin Convention

The European Lotteries (EL) – the largest representative European umbrella organisation in the field of gambling – supports the Council of Europe’s Convention on the Manipulation of Sports Competitions (Macolin Convention) and its key definition of “illegal sports betting”: “any sports betting activity whose type or operator is not allowed under the applicable law of the jurisdiction where the consumer is located”. EL invites the European Institutions and all EU Member States that have not done so, to ratify the Convention.

Background

A strong visibility for sport over the past years – from EURO 2024 to the Olympic and Paralympic Games – represents a valuable opportunity to recall the important role sport plays in our European society, as recognised by the Treaty on the Functioning of the EU. National lotteries have long-standing traditions and have been contributing for decades to the sustainable development of grass root and amateur sports. In 2022 alone, EL members allocated almost 2 billion euro to supporting sports initiatives, contributing to the wider European sport model. This important contribution has allowed athletes to train and compete at the highest levels, as well as reinforcing a sense of unity and shared success across Europe. Even recent case law of the Court of Justice of the EU has reaffirmed the specificity of sport, which carries considerable ‘social and educational importance’.¹

Sport attracts European citizens, with a majority of people taking part in sporting activities on a regular basis. It generates important values such as team spirit, solidarity, tolerance and fair play, contributing to personal development and fulfilment. It promotes the active contribution of EU citizens to society and thereby helps to foster active citizenship². However, the commercialisation of sports and its growing extensive media coverage have led to an increase in the economic stakes involved in achieving certain sports results, which has resulted in a growing number of “match-fixing”, or more generally to the “manipulation of sports competitions”. EL reaffirms its strong commitment to the fight against match-fixing and the safeguarding of sport integrity.

The Manipulation of Sports Competitions A Threat to EU Consumers

The Macolin Convention offers a definition of the manipulation of sports competitions which has become since 2014 the most widely used at the international level: “Manipulation of sport competitions means an intentional arrangement, act or omission aimed at an improper alteration of the result or the course of a sport competition in order to remove all or part of the unpredictable nature of the aforementioned sport competition with a view to obtaining an undue advantage for oneself or for others”. The manipulation of sports competitions poses a challenge to the rule of law because it is linked to fraud, corruption and organised crime³.

EL is dedicated to raising standards in the field of integrity and adopts a zero-tolerance policy towards unethical behaviours, particularly in sports betting. By enforcing strict standards, EL and its Members ensure secure and fair operations while mitigating the risks associated with fraud and criminal infiltrations. In jeopardising sports ethics and the unpredictability that underlies every sporting contest, it calls into question the very nature of sport, and therefore the public’s interest in sports and the willingness of public and private sponsors to finance it.

¹ 21.12.2023, Super League C-333/21, ISU C-124/21P and Antwerp Football C-680/21

² COM(2007) 391 final, White Paper on Sport

³ Explanatory Report to the Council of Europe Convention on the Manipulation of Sports Competitions, point 6

Efforts in Fighting the Manipulation of Sports Competitions

The lottery and gambling sector has a strong track record in tackling match fixing issues. Most lotteries operators are sports betting operators and, as such, contribute to ensuring sports competitions integrity through:

- Close collaboration with national authorities in order to ensure the early detection of suspicious patterns in betting activities and reporting;
- Implementation of sophisticated data analytics to monitor betting patterns for anomalies that could indicate manipulation or match-fixing;
- Strict risk assessment to avoid collecting bets on events with identified risks of match-fixing;
- Development and financing of educational and awareness-raising campaigns to educate the public about the risks of match-fixing and the importance of integrity in sports;
- Creation of reporting mechanisms, for whistle-blowers to report suspicious activities, providing anonymity to protect those who come forward;
- Founding and continuous strict collaboration with organisations like the United Lotteries or Integrity in Sports (ULIS), which actively monitors emerging threats on sports competitions on a global scale, while sharing sport integrity's best practices;
- Conduction of audits and compliance checks also helps ensure that processes are followed and potential vulnerabilities are addressed.

These activities are embedded in national lotteries' values of responsibility, player protection, sustainability and integrity. In 2009 several joined forces to establish an international Association of state lotteries to safeguard the integrity and core values of sports from corruption and from the manipulation of sports competitions: the Global Lottery Monitoring System (GLMS), now known as the United Lotteries for Integrity in Sports (ULIS).

ULIS provides its stakeholders with a global, systemic, surveillance framework for the monitoring of sports betting in order to detect suspicious betting patterns. Bringing together state lotteries, national and international actors in the field of sport integrity, ULIS seeks to act as a platform for sharing information, best practices and experience

among its members. During the 2024 Paris Olympic Games, the Olympic Movement's Competition Manipulation Prevention Unit, through its Betting Integrity Information System (IBIS), monitored sports betting on a total of 32 sports and 329 events, 24 hours a day, 7 days a week. In this major undertaking, the unit was supported by ULIS, one of its long-standing partners, sharing intelligence and information. Together with the International Olympic Committee (IOC) and Interpol, ULIS is one of the three observers to the Statutory Committee of the Council of Europe Convention on the Manipulations of Sports, the Macolin Convention, which is the only international, legally binding instrument focusing specifically on the topic.

Conclusions

As a legal instrument and the only rule of international law on the manipulation of sports competitions, the Macolin Convention requests public authorities to co-operate with sports organisations, betting operators and competition organisers to prevent, detect and sanction the manipulation of sports competitions. It proposes a common legal framework for an efficient international cooperation to respond to this global threat. Since its entering into force on 1 September 2019, 12 State parties have ratified the Convention. Given there is no legal objection anymore under EU law, EL urges the EU and all Member States that have not done it yet, to ratify the Convention with no further delays.

The Macolin Convention: European Lotteries and the Council of Europe

The European Lotteries have supported the Council of Europe (CoE) since the very first steps in the drafting of its Convention on the Manipulation of Sports Competitions. The Macolin Convention entered into force on 1 September 2019 and as of today, it has been ratified by Belgium, France, Spain, Greece, Iceland, Italy, Lithuania, Norway, Portugal, the Republic of Moldova, Switzerland and Ukraine while it has already been signed by 29 other European States, as well as by Australia and Morocco.

The Macolin Convention, formally known as the Council of Europe's Convention on the Manipulation of Sports Competitions, was adopted to promote the integrity of sports and prevent the manipulation of sports competitions, including match-fixing. Its key objectives are to:

- **Prevent and combat manipulation:** Establishing measures to prevent, detect, and sanction the manipulation of sports competitions.
- **Foster international cooperation:** Fostering collaboration among countries to effectively tackle issues related to match-fixing across borders.
- **Promote integrity measures:** Promoting good governance and integrity in sports organisations through education, awareness-raising, and the establishment of ethical standards.
- **Ensure the protection of athletes:** Ensuring the protection of athletes from corruption and exploitation by organised crime.
- **Encourage data sharing and analysis:** Encouraging the sharing of information and data among sports organisations and law enforcement authorities to identify suspicious activities.

The Convention emphasizes a holistic approach, involving various stakeholders, including governments, sports federations, and law enforcement authorities, to ensure a comprehensive response to the challenges posed by match-fixing.

The Convention is without prejudice to the sports autonomy and to the competence of the Member States on gambling and its regulation, in accordance with the principle of subsidiarity and the established case law of the European Court of Justice.

European Lotteries and its Members have been and continue to be trusted partners of the Council of Europe in supporting and promoting its ratification process among EU Member States and the EU institutions themselves.



8. Shifting from Environmental to Social Classifications

In any future discussions on the review of the environmental taxonomy or the future social taxonomy, EU policy-makers should take into account the unique characteristics of lotteries. A broad sectoral exclusion would harm national lotteries by hindering their collaboration with investors and insurers.

Background

In September 2015, the 193 countries of the UN General Assembly adopted the 2030 Development Agenda titled "Transforming our world: the 2030 Agenda for Sustainable Development". Based on this Agenda, the Taxonomy Regulation (2020/852) was adopted by the European Commission in June 2020. The EU taxonomy is a classification system, establishing a list of environmentally sustainable economic activities which should provide companies, investors and policymakers with appropriate definitions as to what can be considered environmentally sustainable. The main aim is to prevent greenwashing and to help investors make responsible green choices.

Lotteries for the Benefit of Society

EL Members – operators of national lotteries and organisers of other games of chance, including sports betting – are united by core values of sustainability, responsibility and integrity, emphasising that social and public order concerns must take precedence over other interests. While profit generation remains relevant, all lottery activities are conducted in society's best interest, balancing social costs with adherence to individual countries' regulatory frameworks.

In 2022 alone, EL Members secured more than €22 billion for society and directly supported valuable projects related to sport, cultural heritage, art, health care, individuals with disabilities/disadvantages, education, science and many other areas. Lotteries also play an important role in supporting non-economic goals of the EU. For example, EL Members extend their dedication beyond Responsible Gaming to include a comprehensive corporate social responsibility (CSR) framework. EL Sustainability Guidelines, inspired

by ISO 26000, promote sustainable practices and social responsibility throughout the lottery sector. Launched in 2022, the EL Environmental Initiative emphasises sustainability, urging lotteries to implement concrete commitments, such as using certified sustainable paper and monitoring greenhouse gas emissions. By linking financial contributions to sustainable practices, EL Members integrate responsible actions across all operations, ensuring that the benefits to society are both impactful and enduring.

From Environmental to Social Taxonomy

In its work, the European Commission is supported by a dedicated forum, the Platform on Sustainable Finance. Among other, the Platform was tasked with advising on further development of the EU taxonomy, including a possible expansion to social objectives and delivered a key report in February 2022. Lotteries welcome the efforts to have as many companies as possible committing to corporate social responsibility. In case of further discussions at the EU level, however, further analysis could be beneficial in order to assess whether such expansion would be technically and legally feasible, as well as whether it would be appropriate given the specific nature of social policies and the clear division of competences between the EU and national level.

Conclusions

In case of any future discussions and possible initiatives related to a dedicated framework defining social criteria at the EU level, lotteries call on all policy makers to continue taking into account the specificities of the gambling sector. Most notably, to acknowledge that regulation of the sector at the national level should be maintained, due to significant moral, religious and cultural differences among Member States, as recognised by the EU Court of Justice in its numerous rulings. The current widespread and successful model of national lotteries and their significant contributions to society in Europe deserves to be safeguarded.