

Brussels, November 10, 2017

EU Commission

Subject: Comments on the planned amendments of the Belgian Act on Games of Chance, Gaming Establishments and the Protection of Players

Dear Sir/Madam,

On behalf of the **European Organization for Gaming Law (EOGL)**, I am writing to You in regard to the Draft Law amending the Belgian Act on Games of Chance, Gaming Establishments and the Protection of Players. The above mentioned Draft Law was proposed by the FPN Justice Department of the Belgian Federal Government (hereinafter «**Draft Law**»). On October 17th, 2017, Directorate-General for Legislation, Freedoms and Fundamental Rights officially referred to the European Commission for the later to determine whether there are any legal obstacles adopting the Draft Law, especially in terms of the potential obstacles to the Internal market, as foreseen by the (EU) 2015/1535 procedure.

EOGL is a non-profit organization based in Brussels. It represents European gaming and betting operators, all licenced and complied with the provisions of the EU law. You can find all the detailed information about us at: www.eogl.eu. In recent years, the Organization has been an active member and juristic authority operating in the European gaming/gambling community. After careful reading of the proposed amendments, we would like to submit several commentaries and constructive arguments regarding the Draft Law.

1. Security of gaming establishments and the minors

The proposed amendments introduce a wider authority of the Gaming Commission in terms of a stricter and more direct sanctioning of any **disturbance of peace** that is of the penal policy which is proportionate to the gravity of the violation committed. Furthermore, the **widening of the scope of the access ban for minors** is introduced, for the persons under the age of 21 will be prevented from entering the Class IV gaming facilities in which the automatic games are affixed.

These two measures reinforce implementation of the principle of responsible gambling, in terms of the security of player. Above mentioned principles are also priorities in the code of conduct of all our Organization's members.

2. Security of the game

As a new legal solution, by which the legislator introduces a more advanced mechanism of protecting the interests of players and the security of the game, another strengthening of the Gaming Commission's powers are envisaged, in the sense that it is henceforth **authorized to consult with the representatives of the Credit Centre for Individuals of the National Bank of Belgium** on whether a player (that is, a natural person) is in default of payment (Article 55 bis).

We find these provisions to be the **example of a good legal practice** in terms of protecting both the interests of players and the imperatives of security of the game, and the protection of the latter from potential negative external influences (primarily organized crime and the integrity of sports competitions).

3. Vicinity of the Gaming Establishments

By proposed amendments to the Article 43/5 of the Act, the extensive arbitrary and discretionary power is given to the Local Self-Government units, when it comes to interpreting and applying the legal provision which is to encompass the provision of 'vicinity', i.e. the required sufficient vicinity of the Class IV gaming establishments from the places of youth gatherings. The reason for that is the fact that the proposed legal norm **does not dully nor unambiguously explain the exact minimal required vicinity of the gaming establishments from other categories of objects** encompassed by this Draft Law and the Act itself.

Additional obscure definition is notable in the proposed article that foresees that above mentioned norm can be derogated "by the reason of a derogation motivated by the municipality of commune", since it remains unclear how and under what conditions the norm can be derogated. **In that respect, we suggest removal of these provisions from the Draft Law.**

4. Distance of the Class IV gaming facilities from the hospitals

The same Article 62 of the Draft Law includes **hospitals** in provisions of the legal norm dealing with the distance of the Class IV gaming facilities. We consider this provision **obsolete on several grounds**. It is about the regulation dealing with social activities which are completely out of focus and priorities of the above mentioned Act and the Draft Law itself. During preparations of comments on this Draft Law, **we haven't found a single study on gambling which outlines the vicinity of hospitals and medical facilities as a risk factor for developing problematic behaviour or underage gambling**. Moreover, we haven't found similar solutions in national legislation of other countries. If we set aside special addiction rehabilitation facilities, which are already encompassed by regulatory mechanisms on all representative Industry markets on the EU level, not only that most of the patients in medical facilities are without interest for games of chance, but they are adults as well, meaning that they are **not of importance and relevance to the legal norms dealing with betting and other types of gambling**.

If this was the intention of the law maker, we consider that it would produce overregulation which will disrupt the market and therefore, **we propose deleting of provisions related to hospitals as well.**

5. The Data on Place of Birth and Education

The foreseen amendments to the Article 62 of the Draft Law, by which mandatory documenting of occupation and place of birth of players while entering a gaming facility, at operators - is also applied on the Class IV gaming facilities, are in our view a continuation and expansion of **bad practice that penetrates players' privacy**. We consider this regulation to be expanded on irrelevant and unauthorized types of personal data.

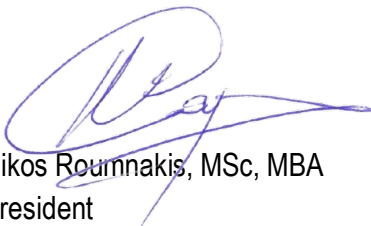
The data on name, family name and date of birth, are sufficient for meeting the imperatives of security and the highest standards of responsible gambling. On the contrary, the information disclosing details about occupation or place of birth of a player should be enclosed to authorities only, and only upon their explicit request. The players are otherwise exposed to the excessive public insight which is **opposed to the citizens' rights to privacy and right of players to anonymity**, which are fundamental values of our Industry.

In that respect, we find the envisaged amendment to Article 62 unnecessary. **Therefore, we suggest its removal from the procedure.**

If you have any questions or believe that the arguments we have presented here need further explanation and clarification, please let us know.

I thank you for your attention.

Yours sincerely,



Nikos Roumnakis, MSc, MBA
President

Email: nikos.roumnakis@eogl.eu

European Organization for Gaming Law

Rue de la Presse 4, 1000 Brussels, Belgium