

THE KINGDOM OF BELGIUM
FEDERAL PUBLIC SERVICE FOR JUSTICE
DRAFT LAW
Preliminary draft law amending the Law of 7 May 1999 on games of chance, betting, gambling establishments and the protection of players
PHILIPPE, KING OF THE BELGIANS,
<i>To all those present and to come, GREETINGS.</i>
On the proposal of the Minister for Justice,
WE HAVE DECREED AND HEREBY DECREE:
The Minister for Justice is responsible for presenting on Our behalf and tabling in the House of Representatives the bill which reads as follows:
CHAPTER 1 — General provision
Article 1. This Law governs a subject mentioned in Article 74 of the Constitution.
CHAPTER 2 – Amendments to the Law of 7 May 1999 on games of chance, betting, gambling establishments and the protection of players
Article 2. Article 4 of the Law of 7 May 1999 on games of chance, betting, gambling

establishments and the protection of players, replaced by the Law of 10 January 2010, is supplemented by two paragraphs worded as follows:

'§4. It is prohibited for any person to use, in any form, personal data not belonging to him/her for the purpose of accessing a gambling establishment or engaging in gambling.

It is prohibited for any person to make personal data available to another person in any form, knowing that such data will be used for the purpose of accessing a gambling establishment or engaging in gambling.

For the purposes of this Article, 'personal data' means personal data as defined in Article 4(1) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

§5. It is prohibited for any person to grant access to a gambling establishment or the practice of gambling to persons for whom such access or practice is not permitted pursuant to Article 54.'

Article 3. The following is added to Article 14/1 of the same Law, inserted by the Law of 7 May 2019:

'Members of the Commission, appointed by the Chair of the Commission on a need-to-know basis, may consult and use personal data and information recorded in EPIS [Excluded Persons Information System] and Log-EPIS for historical, scientific or statistical purposes under the terms and conditions laid down in Chapter 4 of the Law of 30 July 2018 on the protection of individuals with regard to the processing of personal data.

In compliance with Article 28 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), on the basis of a subcontracting contract, the President may call on researchers which do not form part of the Commission.

The result of the use of this data shall in all cases be anonymised.'

Article 4. In Article 15(1)(4)(2) of that law, the words 'and in particular the register of professionals referred to in Article 55/3 and the photos or camera images in their possession' are inserted between the words 'require the communication of all documents" and the words 'may be useful for their investigation;'

Article 5. In Article 15/3(1) of the same Law, inserted by the Law of 10 January 2010 and last amended by the Law of [MSS III], the words '46, 54, 58, 60, 62 and the provisions adopted pursuant to those articles and Article 61(2)' shall be replaced by the words '46, 58, 60, 61(2) and (3) and the provisions adopted pursuant to those articles'.

Article 6. In the same Law, Article 24 is replaced by the following:

'Article 24. §1. In order to strengthen player protection, the Commission shall meet at least once a year with the representatives of the licensees in order to learn about the perspectives and initiatives of operators in relation to behavioural addictions and on the subject of debt and the resources they dedicate to it.

This information shall be communicated in the report mentioned in Article 16.

§2. In matters falling within its competence, the Commission may, after consulting the Federal Public Service for Public Health, draw up binding protocols for the technical and practical implementation of legal and regulatory provisions.

If, within a 30-day period, the Federal Public Service for Public Health does not send the commission any notice or request to extend the period to 60 days, the procedure shall continue.

The Commission shall publish these protocols in the Moniteur belge'.

Article 7. Article 42/1, which reads as follows, is inserted in the same Law:

'Article 42/1. In order to remain the holder of a Class C licence, the applicant must continue to meet the conditions set out in articles 41 and 42'.

Article 8. In Article 43/8 of the same Law, inserted by the Law of 10 January 2010 and amended by the Laws of 7 May 2019 and 28 November 2021, the following amendments are made:

1) in paragraph 2(1), point (e) is repealed;

2) paragraph 4 is supplemented by three subparagraphs, worded as follows:

'The Commission shall also keep an up-to-date list of the URLs of gambling operator websites which it finds to be offering, via information society tools, gambling in Belgium without holding a licence granted by it for this purpose. The updates of this list shall be published in the Moniteur belge.

URLs included in the list referred to in paragraph 2 shall be transferred to internet service providers pursuant to the Law of 13 June 2005 on electronic communications so that they can block access to them as soon as possible.

The King may lay down other arrangements relating to the list referred to in subparagraph 2'.

Article 9. In Article 44 of the same Law, as amended by the Law of 10 January 2010, the following changes shall be made:

1) in the French text, the words 'and permanently bear the identification card attesting to

the possession of that licence' shall be replaced by the words 'and have proof thereof permanently.';

2) in the Dutch text, the words "in de vorm van een identificatiekaart" are deleted.

Article 10. In Article 47 of that Law, the words 'and the accompanying identification card' are deleted.

Article 11. In Chapter VI of the same Law, Article 53/1 is inserted as follows:

'Article 53/1. §1. Holders of Class A, A+, B, B+, F1+ and F2 licences, with the exception of F2 licensees referred to in Article 43/4(5)(1) are required to identify any person pursuant to Articles 54 and 55/4.

The purpose of this identification is to:

1) verify whether the identity document presented belongs to the person who presents it under Articles 54 and 55/4;

2) consult the EPIS referred to in Article 55 to verify whether the person is authorised to access the gambling establishment or to engage in gambling.

Where there are doubts as to the veracity or accuracy of the identification of the person, the licensee shall refuse access to the gambling establishment or participation in gambling and shall inform the commission thereof.

§2. For the purpose of the identification referred to in paragraph 1, the valid identity documents and residence documents that are admitted are as follows:

1) the Belgian electronic identity card;

2) an electronic residence permit or an electronic registration certificate;

3) a foreign identity card with a chip;

4) special electronic identity cards issued to categories of personnel working on diplomatic and consular missions and to members of their families, pursuant to the Vienna Conventions of 1961 and 1963 and the Royal Decree of 30 October 1991 on the residence documents in Belgium of certain foreign nationals;

5) any other document determined by the King, provided that the royal decree is confirmed by law within six months of the publication of that decree.

The person shall be authenticated in EPIS by means of the e-ID authentication module or by means of identification that meets the requirements of a substantial or high level of guarantee as defined in point 2.2 of the Annex to Commission Implementing Regulation (EU) 2015/1502 of 8 September 2015 on setting out minimum technical specifications and procedures for assurance levels for electronic identification means pursuant to Article 8(3) of Regulation (EU) No 910/2014 of the European Parliament and of the Council on

electronic identification and trust services for electronic transactions in the internal market .

If identification and authentication by means referred to in subparagraph 1 and subparagraph 2 is not possible, only the following valid documents may be accepted:

1) a recognised passport or equivalent travel document;

2) an identity card issued by another Member State of the European Economic Area;

3) a residence permit or a certificate of registration without a chip.

The King may determine any other identity document or residence permit provided that the Royal Decree is confirmed by law within six months of the publication of such decree.

§3. The F2 licence holders referred to in Article 43/4(5)(1) shall verify the age of the player and authenticate it in EPIS pursuant to Article 54, by means of an appropriate computer system placed on the device and provided by the holder of the Class F1 licence.

The player's age is checked and authenticated in EPIS by means of a valid identity or residence document as referred to in § 2(1)(1) to (4).

The device may not be switched on if the practice of gambling is prohibited to the player pursuant to Article 54.

Article 12. In Article 54(3) of that Law, as amended by the Laws of 10 January 2010 and 17 March 2013, the following amendments are made:

1) the introductory sentence is replaced by the following: 'Licence holders A, A+, B, B+, F1+ and F2 shall prohibit access to Class I, II or IV gambling establishments, participation in betting outside Class IV gaming establishments and gaming through information company tools to the following persons who have been prohibited access by the Commission:';

2) point 4 (formerly 5) is replaced by the following:

'4. (formerly 5). persons who have a gambling addiction problem and for whom the commission has, at the request of any interested person, made an exclusion;';

Article 13. Article 55 of that Law, as amended by the Laws of 10 January 2010 and 30 July 2022, is replaced by the following:

'Article 55. §1. A central system for processing information relating to the persons referred to in Article 54, known as the 'Excluded Persons Information System (EPIS)', shall be set up at the Commission, for which it shall be the controller within the meaning of Article 4(7) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation).

The purposes of EPIS are as follows:
1) to enable licence holders to comply with their obligations under Article 53/1(1)(2), (2)(3) and Article 54;
2) to allow the commission to carry out the task of player protection assigned to it by this Law.
§2. For each person referred to in Article 54, the following data shall be recorded in EPIS:
1) surnames and forenames;
2) date of birth;
3) identification number in the National Register of Natural Persons or, if this is not available, the place of birth;
4) the reason, the start date and the end date of the exclusion.
The data referred to in paragraph 1 shall be kept for a period of five years from the date on which the exclusion ends.
§3. Access to EPIS data is limited to the following persons:
1) the President of the Gambling Commission;
2) police officers referred to in Article 15(3);
3) the members of the committee secretariat whose duties so require and who are appointed by the committee;
4) persons responsible for computer developments for the management of EPIS on behalf of the Gambling Commission.
§4. The King determines the methods of managing EPIS, the methods of data processing and the methods of consulting EPIS without, however, broadening the categories of recipients'.
Article 14. Article 55/2, which reads as follows, is inserted in the same Law:
'Article 55/2. §1. All EPIS consultations shall be stored in a log file, known as 'Log-EPIS', for which the committee is the controller within the meaning of Article 4(7) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).
The purposes of Log-EPIS are as follows:
1) permit the commission to carry out the tasks assigned to it by this Law, in particular to verify whether a licensee properly fulfils its legal obligations under Article 54;

2) allow the Commission to carry out the mission of player protection assigned to it by Article 54(3)(4);

3) to enable members of the police service, appointed by their commanding officer, director or chief executive on a need-to-know basis, to carry out the duties referred to in article 15 of the Police Functions Act. In this context, only the data referred to in points 1 to 3 of paragraph 2 may be reported;

4) allow the members of the investigation service of the Standing Committee P to carry out the tasks referred to in Article 16 of the Organic Law on the Oversight of Police and Intelligence Services and the Coordinating Body for Threat Analysis;

5) to enable members of the Inspectorate General of the federal and local police to carry out the duties referred to in Article 4(3) and (4) of the Law of 15 May 2007 on the Inspectorate General and laying down various provisions relating to the status of certain members of the police to carry out its statutory duties.

§2. For each EPIS consultation, the following data is recorded in the Log-EPIS:

1) the date and time of the consultation;

2) the data referred to in Article 55(2)(1) to (3);

3) the licence number of the gaming establishment from which the EPIS system was consulted;

4) the licence D number of the person who consulted EPIS or the identity of the person referred to in Article 55(3);

5) the result of the EPIS inspection;

6) the purpose of the consultation;

7) the means of identification referred to in Article 53/1(2).

The information referred to in the first subparagraph shall be kept for a period of five years from the date of the EPIS consultation.

§3. Access to Log-EPIS data is limited to:

1) the President of the Gambling Commission;

2) police officers referred to in Article 15(3);

3) members of the committee secretariat whose duties so require and who are appointed by the committee;

4) the persons responsible for computer developments for the management of EPIS on behalf of the Gaming Commission'.

Article 15. Article 55/3, which reads as follows, is inserted in the same Law:

'Article 55/3. §1. The operator of a gaming hall of a Class I or II gambling establishment or of a Class IV fixed gambling establishment shall keep a register for the identification of persons who access his establishment for a professional reason, known as the 'register of professionals', for which he is the controller within the meaning of Article 4(7), of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation).

The purpose of the register of traders is to enable the operator to identify each person who accesses his gambling establishment for a professional reason.

§2. For each person who accesses the gambling establishment for a professional reason, the following data shall be recorded in the register of professionals:

1) surnames and forenames;

2) the reason, date and time of the visit;

3) the signature, preceded by the following: 'Access to this gambling establishment is only granted to me in the context of my professional activity and I undertake not to take part in any games of chance operated in this context'.

The information referred to in subparagraph 1 shall be kept for a period of one year.

§3. Without prejudice to Article 15(1)(4)(2) and §3(2) access to the register of professionals shall be limited to the operator or the person delegated by the operator'.

Article 16. Article 55/4, which reads as follows, is inserted in the same Law:

'Article 55/4. §1. If, for any reason beyond the control of the operator, it is impossible to consult EPIS, players' data must be recorded in a separate back-up register kept by the licence holder referred to in Article 53/1(1), referred to as the 'back-up register', for which it is the data controller within the meaning of Articles 4(7), of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation).

If, for any reason, beyond the control of the operator, it is impossible to consult EPIS using the computer system referred to in Article 53/1(3), the licence holder referred to in Article 53/1(3) may turn on the device by means of an operating card after verification of the identity and age of the potential player.

The purpose of the back-up register is the protection of the player in the event that EPIS is not searchable.

§2. For each player, the data recorded in the back-up register is as follows:

1) surnames and forenames;
2) date of birth;
3) identification number in the National Register of Natural Persons or, if this is not available, the place of birth;
§3. Without prejudice to Article 15(1)(4)(2) and paragraph 3(2), access to the backup register is limited to the licence holder or the person delegated by the licence holder.
§4. The licence holder shall immediately inform the Gambling Commission and the subcontractor chosen by the Gambling Commission to host the EPIS system and manage access to the EPIS system, of the impossibility of consulting EPIS.
When EPIS is again searchable, all players on the back-up register must be checked by the license holder with the date and time of the visit. If these players are excluded, they must be denied access or participation immediately and the Gaming Commission must be informed immediately.
After this check, the list is immediately destroyed by the license holder’.
Article 17. In Article 61(3) of that Law, inserted by the Law of 10 January 2010, the words ‘and the licence holders referred to in Article 43/5(5)(1)’ are inserted between the words ‘of Classes I, II, III and IV’ and the words ‘leaflets’.
Article 18. Article 62 of the same Law, as amended by the laws of 10 January 2010, 7 May 2019 and 30 July 2022, is repealed.
Article 19. In Article 63 of the same Law, as amended by the Law of 10 January 2010, the words ‘imprisonment for between one month and three years and a fine of between 26 francs and 25 000 francs or one of these penalties.’ are replaced by the words ‘a fine of between EUR 26 and EUR 120 000.’.
Article 20. Article 64 of that Law, as last amended by the Law of [MSS III] is replaced by the following:
‘Article 64. The perpetrators of infringements of the provisions of Articles 4(2)(4) and (5), 43/1, 43/2, 43/2/1 43/3, 43/4, 60, 61(2) and (3), and the measures taken to implement these articles, shall be punished by a fine of EUR 26 to EUR 72 000’.
CHAPTER 3 - Transitional provisions
Article 21. Article 7 shall apply to all applications for licence C renewal made after this Law enters into force.
CHAPTER 4 - Entry into force

Article 22. For holders of an A, A+, B, B+, F1+ licence and holders of an F2 licence which allows bets to be placed on behalf of class F1 licence holders in a class IV fixed gambling establishment, articles 2, 11, 12, 13, 15, 16 and 18 shall come into force on the first day of the twelfth month following the date of publication of this Law in the Moniteur belge.

For holders of an F2 licence that allows bets to be placed on behalf of class F1 licence holders in a class IV mobile gambling establishment and holders of an F2 licence that allows bets to be placed outside class IV gambling establishments, articles 2, 11, 12, 13, 16 and 18 come into force on the first day of the twenty-fourth month following the date of publication of this Law in the Moniteur belge.

Article 23. Article 14 shall enter into force on the first day of the [twelfth] month following the date of publication of this Law in the Moniteur belge.