



Notification Number: 2018/462/E

Draft Decree amending the General Regulation on gaming in the Autonomous Community of the Basque Country

Date received : 14/09/2018

End of Standstill : 17/12/2018

Message

Message 002

Communication from the Commission - TRIS/(2018) 02480

Directive (EU) 2015/1535

Translation of the message 001

Notification: 2018/0462/E

No abre el plazo - Nezahajuje odklady - Fristerne indledes ikke - Kein Fristbeginn - Viivituste perioodi ei avata - Καμμία έναρξη προθεσμίας - Does not open the delays - N'ouvre pas de délais - Non fa decorrere la mora - Neietekmē atlikšanu - Atidėjimai nepradedami - Nem nyitja meg a késések - Ma' jiftaħ il-perijodi ta' dawmien - Geen termijnbegin - Nie otwiera opóźnień - Não inicia o prazo - Neotvorí oneskorenia - Ne uvaja zamud - Määräaika ei ala tästä - Inleder ingen frist - He ce предвижда период на прекъсване - Nu deschide perioadele de stagnare - Nu deschide perioadele de stagnare.

(MSG: 201802480.EN)

1. Structured Information Line

MSG 002 IND 2018 0462 E EN 14-09-2018 E NOTIF

2. Member State

E

3. Department Responsible

Subdirección General de Asuntos Industriales, Energéticos, de Transportes, Comunicaciones y de Medio Ambiente.

Dirección General de Coordinación del Mercado Interior y otras Políticas Comunitarias.

Secretaría de Estado para la Unión Europea

Ministerio de Asuntos Exteriores, Unión Europea y Cooperación.

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3. Originating Department



Gobierno Vasco.
Departamento de Seguridad.
Dirección de Juego y Espectáculos.

4. Notification Number

2018/0462/E - H10

5. Title

Draft Decree amending the General Regulation on gaming in the Autonomous Community of the Basque Country

6. Products Concerned

Games of chance

7. Notification Under Another Act

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8. Main Content

Pursuant to Law 4/1991 of 8 November 1991 on gaming in the Autonomous Community of the Basque Country, Decree 120/2016 of 27 July 2016 approving the General Regulation on gaming in the Autonomous Community of the Basque Country was enacted. In turn, this decree was implemented by the Order of 17 March 2017 of the Minister for Security laying down the technical requirements and specifications of gaming machines and their interconnection conditions.

In relation to the aforementioned implementing order, the European Commission issued a communication stating that the 'AR' type amusement machines covered by the draft order were subject to the provisions of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, the scope of which excludes gambling activities, including lotteries, that involve monetary bets.

Basque legislation was brought in line with said Directive by Law 7/2012 of 23 April 2012. This law excluded recreational amusement machines from gaming legislation but did extend the legislation to cover the aforementioned redemption or 'AR' amusement gaming machines, albeit without stipulating any mandatory prior authorisation for them. The difference between amusement machines and these AR gaming machines is that payment gives users not only a usage time but also the opportunity to win cash prizes in addition to the service provided.

It cannot be denied that the legal systems around us have progressively been excluding any references to amusement machines, including AR machines, from gaming legislation. In response to such developments, the Basque Country has informed the European Commission that it has agreed to amend its own legislation in favour of that of the EU. It is for this reason that all references to such recreational machines and thus to amusement arcades shall be deleted from the regulation.

In addition, the membership of the gaming technical advisory committee shall be altered to include representatives from the manufacturing sector, since they may provide relevant input but were not included in the original structure. This committee is merely a forum for participation – it does not decide on or provide information on the related approvals in this area.



The use of the terms 'operating licence' and 'gaming machine' is specified more accurately in some provisions where confusion was possible.

The provision on the consequences of non-compliance with the requirements stated in the gaming machine installation form are also amended for cases where the person responsible is the owner of the business and not the gaming operator, clarifying that in such cases the operating licence may remain in place even if the 10 % limit stipulated in the regulation has been exceeded, since owners cannot be held accountable if this situation occurs unexpectedly.

The authorities are given the option to use the computerised distance measurement tools of the Basque Country Spatial Data Infrastructure (IDE) in order to measure these distances.

The list of events in Annex III to the regulation is deleted. Despite already listing a huge number of federated sports, the annex goes on to extend the scope to cover any other event. As such, it is of little use, since it states that bets may be placed on any event not covered by the scope of the prohibitions included in the text itself. As a result of this amendment, other provisions specifying the events on which bets are permitted within the text also need amending.

Likewise, the Basque Country has taken the opportunity to correct any errors or inaccuracies where the meaning cannot be gleaned from the published text but which need clarification to ensure the regulation is understood.

9. Brief Statement of Grounds

The draft is aimed at abiding by the response to our communication to the European Commission as regards adapting the legislation to the provisions of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, to bring it more in line with the Directive's scope.

Additionally, specific parts of the previous legislation have been amended to correct any inaccuracies or errors or to clarify ideas and terminology.

10. Reference Documents - Basic Texts

Reference(s) to basic text(s): Law 4/1991 of 8 November 1991 on gaming in the Autonomous Community of the Basque Country. (Official Gazette of the Basque Country [BOPV] No 237 of 25 November). Amended by Law 7/2012 of 23 April 2012 amending various laws to bring them in line with Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market. (BOPV No 84 of 30 April).

Decree 277/1996 of 26 November 1996 approving the gaming catalogue of the Autonomous Community of the Basque Country (BOPV No 245 of 20 December), amended by Decree 181/2010 of 6 July 2010, amending for a second time the gaming catalogue of the Basque Country (BOPV No 70 of 15 April).

Decree 120/2016 of 27 July 2016 approving the General Regulation on gaming in the Autonomous Community of the Basque Country (BOPV No 169 of 6 September 2016)

Order of 17 March 2017 of the Minister for Security laying down the technical requirements and specifications of gaming machines and their interconnection conditions (BOPV No 62, Wednesday, 29 March 2017).

The basic texts were forwarded with an earlier notification: 2016/0113/E: 2016/548/E

11. Invocation of the Emergency Procedure

No



12. Grounds for the Emergency

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13. Confidentiality

No

14. Fiscal measures

No

15. Impact assessment

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16. TBT and SPS aspects

TBT aspect

No - the draft has no significant impact on international trade.

SPS aspect

No - the draft has no significant impact on international trade.

No - the draft is neither a sanitary nor phytosanitary measure.

European Commission

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