

Audit of supervision of the use of lottery revenue

Federal Office of Justice

Key points

In 2014, the cantons and the Swiss Sport-Toto company received overall net revenue of CHF 599 million from lotteries and sports betting. By law, this revenue must be used for charitable and non-profit purposes. In recent years, several press articles took a critical approach to the use of lottery revenue in the cantons. Time and again, criticism was levelled at the cantons for allegedly using lottery money for public-sector tasks or to finance projects which were not charitable and thereby violated the Lotteries Act.

The Swiss Federal Audit Office (SFAO) conducted an in-depth assessment of the situation regarding supervision of the use of lottery and betting revenue.

The outdated Federal Act on Lotteries and Commercial Gambling (8th June, 1923) no longer fulfils the standards required today concerning governance, transparency and supervision. An initial legislative revision in 2002 failed due to resistance from the cantons and the beneficiaries of the lottery revenue. At the request of the cantons, the Federal Council thus agreed to give them the opportunity to eliminate the existing shortcomings in the lotteries area themselves. As a result, they created a concordat, i.e. an intercantonal agreement and three intercantonal authorities.

The Federal Office of Justice (FOJ), as the principal supervisory authority, and an external evaluation conducted in 2010 certify that the cantons have achieved significant improvements in the area of lotteries and betting due to these measures. In spite of this, the SFAO still sees room for improvement in the supervision of the use of lottery revenue:

- The Swiss lottery and betting market is exclusively in the hands of the cantons, from authorisation and conducting of the games to distribution of the net revenue in favour of charitable projects and supervision of this system. This is why there are combined roles between the different bodies involved in the system and, as a consequence of this, potential conflicts of interest.
- The FOJ carries out federal supervision in a very restrained way. It justifies this with the principle of subsidiarity and the special interests and influence of the cantons. The FOJ does not generally deal with the use of funds.
- Comlot, the intercantonal Swiss Lottery and Betting Board, is the authorisation and supervisory authority. It is primarily involved in the use of funds in a reactive capacity if an allocation is criticised by public opinion or clearly appears to be questionable. In addition, it can make recommendations to the cantons concerned but does not have the means to enforce them.
- The Swiss Sport-Toto company, which previously organised sports betting, has not been operational for approximately twelve years now and currently acts only as a distributing entity of lottery revenue for sports projects. Given that both the legal foundations and current practice in the area of supervision are geared to either intercantonal organisers or cantonal distributing entities, Swiss Sport-Toto is not supervised at all, apart from an audit by the statutory auditor.



After the new article on gambling (Art. 106) of the Federal Constitution came into force in 2012, a corresponding bill was prepared, the "Federal Act on Gambling". This is designed to implement the new constitutional article and integrate both previous laws, the Federal Act on Gambling and Gambling Casinos (GambIA) and the Federal Act on Lotteries and Commercial Gambling (LottA), into one law.

The SFAO critically appraised the bill with regard to the observations on the use of funds and supervision. The bill will lead to a clear improvement on the current law, in particular through guidelines in relation to the calculation and appropriation of the net profits for charities. However, not all weaknesses and gaps have been eliminated. In particular, a central supervisory role over the lawful calculation and appropriation of net profits for charities will not be entrusted to a body in the future either.

The SFAO therefore submitted comments as part of the agency consultation on the new Federal Act on Gambling. The proposals and comments aim at:

- Comlot or the intercantonal enforcement authority being explicitly entrusted with the supervision and lawful calculation and appropriation of net profits for charities and also receiving the required powers and sanction options in relation to the distributing entities. In addition, the principal supervisory authority is to ensure Comlot's independence and make its supervisory function clear with a new name;
- the Swiss Sport-Toto company being supervised to the same degree as the cantonal distributing entities;
- federal supervision being regulated by specifying the supervisory instruments in the new federal legislation.

In addition, applications have been made for specifications and additions to the wording of two articles.

In the case of an ongoing legislative revision, it does not make sense to submit recommendations on the old system. Given that the SFAO's findings and evaluations on the bill have already been integrated into the consultation, no recommendations are issued in this report.

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