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LEGAL PRINCIPLES FOR ENSURING THE IMPLEMENTATION OF THE PRINCIPLE OF FIGHTING GAMBLING ADDICTION (LUDOMANIA) IN UKRAINE

Olga Denysenko,

Postgraduate Student, Scientific Institute of Public Law (Kyiv, Ukraine)

ORCID ID: 0009-0006-6968-3702

szykraine@ukr.net

Abstract. The article is devoted to the analysis of the legislation of Ukraine on the search for legal positions to ensure the implementation of the principle of fighting gambling addiction (ludomania) in the activities of various state bodies. The author emphasizes that with the legalization of the gambling business in 2020, Ukraine began to pay attention to the issues of the gaming environment. But the last game addiction is a mental illness, the principle of "fighting game addiction" is incorrect, the next disease can be diagnosed and treated, reduce its spread in society, but not fight it. The author concludes that a lot has been done by Ukraine in 2024: the NSDC (National Security and Defense Council) decision on the protection of gamblers was adopted, which provides for its own plan at the levels of various state bodies to help gamblers with gambling addiction. This year, the Ministry of Health adopted a protocol for the treatment of gaming interaction, which should significantly improve the availability of psychiatric care and the need for gaming addiction of its quality. It is expected to adopt a standard for the provision of social services for socio-psychological rehabilitation of persons with gaming addiction, which will contribute to the resolution of difficult life situations in the player and his return to normal life after treatment. Problematic issues today remain the protection of players who play illegally gambling, after which such players are brought to administrative responsibility and cannot be recognized as victims in criminal proceedings initiated for engaging in illegal gambling business, so this legislation needs to be updated.

Key words: gambling business, gambling addiction, ludomania player protection, legal principles.

Introduction. In 2020, gambling business is allowed in Ukraine. As you know, the gambling business is a high-risk type of activity, since gambling can form a person's gambling addiction (Toporetska, 2022a: 47). This requires the state to take special approaches to the state regulation of this market, which would ensure consideration and protection of the public (public) interest and public values before the interests of business protection or the interests of filling the budget (Toporetska, 2022b: 154).

The Law of Ukraine "On State Regulation of Activities Regarding the Organization and Conduct of Gambling Games" provided among the principles of state regulation of the gambling market in paragraph 9, part 2 of Article 4 such a principle as the fight against gambling addiction (ludomania). Additionally, in the context of the protection of society, it is also necessary to mention such stipulated (hereinafter – Law No. 768) principles as protection of the rights, legitimate interests, life and health of citizens and ensuring the principle of responsible gaming (Law No. 768, 2020).

Separate issues of administrative and legal regulation and control over gambling are devoted to the works of the following Ukrainian scientists: Yu. V. Bodorov, O. P. Hetmanets, D. O. Hetmantsev, O. R. Gladkikh, B. R. Kondratov, O. P. Kostyuchenko, D. V. Kutsevol, S. V. Mykhaylov, O. M. Muzychuk, N. V. Nestor, O. P. Parokhomenko-Kutsevil, M. M. Pohoretskyi, O. V. Polulakh, K. V. Profatilo, N. B. Savina, R. O. Stefanchuk, K. O. Torgashova, Z. M. Toporetska, S. V. Khomyuk, S. O. Shatrava and others. However, the issue of the legal basis for ensuring the implementation of the principle of combating gaming addiction was not investigated in their works.

The purpose of the Article is an analysis of the legislation of Ukraine with the aim of finding legal bases for ensuring the implementation of the principle of combating gaming addiction (ludomania) in the activities of various state bodies.

Methodology statement. Special legal methods formed the methodological basis of the research. The formal-legal (dogmatic) method made it possible to study the construction of legal grounds for establishing the principle of combating gaming addiction and establishing mechanisms for its implementation, to analyze their features and structure. The comparative legal method was used to compare the norms of normative legal acts of different legal forces in order to find legal grounds for implementing the principle of combating gaming addiction. The logical-legal method made it possible to study and explain legal norms, identify contradictions or collisions between them, and clearly form a legal basis for implementing the principle of combating gaming addiction. The system-structural method was used to find mechanisms for implementing the principle of combating gaming addiction and form the conclusions of this study.

Results of the study. The only legal basis for the implementation of the principle of combating gambling addiction is the above-mentioned Law No. 768, which enshrines the principle of state policy in the field of gambling business market "combating gambling addiction (ludomania)" (Law No. 768, 2020).

This principle is formulated very incorrectly, which leads to problems in its implementation. Thus, according to the International Classification of Diseases (ICD) issue 10, which is currently used in Ukraine, ludomania is defined as a pathological tendency to gamble (F63.0), which is classified as a disorder of habits and urges (ICD-10, 2010).

It is extremely wrong to identify among the principles such a principle as the fight against mental illness, because diseases are not fought, they are diagnosed and treated, or the spread of non-communicable diseases is prevented or prevented (Denysenko, 2023: 167). We share the position of scientists who indicate that the gambling business can be a social problem in general if it is not regulated by the state by appropriate legal means (Toporetska, 2022a: 207). Therefore, we suggest considering gambling addiction as a social problem, which is a negative consequence of gambling. The prevalence of this disease in society is a consequence of the failure of the state to properly regulate the legal gambling business and to fight effectively against the illegal gambling business, and therefore the failure to protect the gambler.

It was because of the ineffectiveness of the provisions of Law No. 768 that the problem was brought to the level of the National Security and Defense Council of Ukraine and the level of the President of Ukraine. The Decree of the President of Ukraine No. 234/2024 dated April 20, 2024, put into effect the decision of the National Security and Defense Council of Ukraine dated April 20, 2024 "On countering the negative consequences of gambling on the Internet" (Decree no. 734, 2024). This decision provides for the introduction of a ban on advertising of gambling games, the obligation to set game limits for players (regarding time and costs), the obligation for the Cabinet of Ministers of Ukraine to implement the State Online Monitoring System, blocking of illegal internet sites of gambling organizers. Also, in order to prevent the spread of the disease, a national information campaign is planned regarding the dangers of gambling, threats of gambling addiction, methods of prevention and treatment of gambling addiction, and contacts of institutions that provide assistance to people with gambling addiction. Separately, it should be noted that the state recognized the inadequacy of means of protection for gamblers, therefore, by this decision, the Ministry of Health is directly obliged to adopt a protocol for the treatment of gambling addiction, and the Ministry of Social Policy – a standard for social and psychological rehabilitation of persons with gambling addiction, because this is the basis without which to overcome game addiction is impossible (Toporetska, Shcherbyna, & others, 2024: 243).

Because the diagnosis of ludomania does not appear in a player in one day, but, like any other disease, goes through certain stages of its origin (emergence) and development. Thus, it takes at least 12 months for a player to develop this disease (Toporetska, Slobodnichenko & others, 2023: 21), that is, a person already has problems in the family, professional, educational, social or other spheres of life for a year because of his passion for gambling. Therefore, for this disease, it is very important for medical professionals to be aware of the signs of this disease for the purpose of its prevention, early detection and proper treatment, for this disease, like any other, it is important to have national medical standards (protocols, clinical guidelines) for prevention, detection and treatment of gaming addiction. The Ministry of Health of Ukraine, by order No. 1204 dated July 10, 2024, approved a new clinical protocol for medical care "Gaming addiction (gaming addiction)" (Order no. 1204, 2024). Until now, psychiatrists were guided by foreign sources, but not every doctor speaks English or other languages, so access to such treatment protocols was quite difficult for doctors. Specialized medical assistance to people with gaming addiction is provided by a psychiatrist.

However, before the formation of gambling addiction, as we have already indicated above, about a year passes, during which a person already has problems with gambling, manifestations of problematic behavior when he cannot control certain episodes of the game. In such a case, the legal basis for providing medical assistance to a person diagnosed with gaming addiction, but with gambling problems, will be the order of the Ministry of Health of Ukraine dated 12.23.2023 No. 2118 "On the organization of providing psychosocial assistance to the population", granting the right to family doctors to provide psychosocial assistance to the population (Order No. 2118, 2023). Such help can be provided by family doctors or psychologists. A capable network of health care institutions of Ukraine has been created to ensure the availability of medical care for the population of Ukraine (Bilan, 2022: 159). All psychosocial care is free for the patient.

However, ludomania is not only a private problem of a player who has contracted such a disease. Pronounced gambling addiction has negative social consequences for those around him in the personal professional or social sphere, because the player has problems in family relationships, problems at work, problems with friends and colleagues due to debts, other health problems, which as a result can lead to difficult circumstances both in the life of the patient and in the life of his family. Therefore, during the formation and implementation of the state policy on gambling, it is necessary to consider the risks for society of the emergence of pronounced gaming addiction among players and warn them in a timely manner.

Social rehabilitation can help a person with gaming addiction and solve life problems. The provision of such a service for social and psychological rehabilitation of persons with gaming addiction is provided for by the legislation of Ukraine. Social service includes the following set of services: counseling; psychological assistance (counseling, support, diagnosis, counseling, correction, psychotherapy, rehabilitation); assistance in obtaining free legal aid; representation of interests (Order no. 429, 2020). The service is also provided free of charge for citizens. However, the rules for its provision have not yet been determined.

The draft order of the Ministry of Social Policy of Ukraine "On approval of the State Standard of Social Services for Social and Psychological Rehabilitation of Persons with Gaming Addiction" was published for public discussion on 07/09/2024, but has not yet been adopted (Draft order, 2024). Its adoption is very important for Ukraine, because it will allow to train social workers to properly provide such a social service, will allow to expand the network of providers of such a social service.

It is almost impossible to overcome the disease if a person continues to gamble, so a very important tool for protecting people from gambling addiction is the functioning of the Register of people who are restricted from access to gambling establishments and/or participation in gambling, the creation of which is provided for by Law No. 768 (Law no. 768, 2020). The Register functions based on the Procedure for the Formation and Maintenance of the Register of Persons Who Are Restricted

from Access to Gambling Institutions and/or Participation in Gambling Games, approved by the Decision of the Commission for the Regulation of Gambling Games and Lotteries on April 22, 2021, No. 167 (Decision no. 167, 2021). In the Register, a person can enter himself or herself on the basis of a court decision issued at the request of relatives, if a person spends more than he earns and this puts his family in a difficult financial situation, if he has debts in the amount equivalent to more than 7 thousand USD, a person's evasion of alimony payments for more than three months, or if a person or members of his family are recipients of a housing subsidy or benefits for the payment of housing and communal services.

So, currently, Ukraine has created a rather powerful legal field to protect players from the development of gaming addiction. But the task of the state as a whole should not be to fight gambling addiction, but to take measures to protect society from the harmful effects of gambling and thereby create mechanisms to reduce the prevalence of gambling addiction among the population by preventing problematic gambling behavior.

However, one should not transfer all the responsibility for the negative consequences of gambling only to the organizers of gambling and disclose the content of this principle exclusively because of his duties. After all, it is a well-known fact that even in the case of a complete ban on the gambling business, players suffer from gambling addiction, because the state is unable to completely combat the illegal gambling business, especially on the Internet (Pohoretskyi, & Toporetska, 2015: 23). At the same time, if the player is not protected from illegal gambling by the state, he is brought to administrative responsibility for participating in illegal gambling under Art. 181 of the Administrative Code of Ukraine (Nestor & Pohoretskyi, 2024: 280). It is completely unfair when the state transfers its responsibility for the illegal gambling business to the player.

Thus, gambling addiction is not only a medical, but a social problem, as it requires the state to take measures to protect society from the harmful effects of gambling. It is necessary to activate state mechanisms to protect society from gambling addiction and to change legislation to create legal grounds for protecting players from participating in illegal gambling and thus protecting against the development of gambling addiction, because illegal gambling is much more dangerous for the player from the point of view of the formation of a gambling addiction. Addictions than legitimate legal ones (Toporetska, 2013: 115).

Conclusion. Having legalized the gambling business in 2020, Ukraine created the legal basis for the creation of a legal gambling business market and the protection of gamblers from gambling addiction. Ukraine has done a lot in 2024: the NSDC decision on the protection of gambling players was adopted, which provides for a kind of action plan at the level of various state bodies to help gamblers with gambling addiction. This year, the Ministry of Health adopted a protocol for the treatment of gaming addiction, which should significantly improve the availability and quality of psychiatric care for patients with gaming addiction. We expect the adoption of a standard for the provision of social services for the social and psychological rehabilitation of people with gambling addiction, which will contribute to solving difficult life circumstances of the player and returning him to a normal life after treatment. Today, the protection of players who play illegal gambling remains a problematic issue, as players are subject to administrative liability and cannot be recognized as victims in criminal proceedings initiated for engaging in illegal gambling business, so this legislation needs to be updated.

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