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## The Influence of Addiction to Gambling on the Civil Capacity of Citizens

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**Abstract:**

*Gambling has a destructive effect not only on those involved, but also on the surrounding environment. In this connection, in December 2012, addiction to gambling was separately identified in the Civil Code of the Russian Federation among the grounds for civil incapacity of physical person.*

*The results of theoretical and empirical study of the influence of the gambling problem on the civil capacity of citizens, obtained using the methods of psychological testing (GAMBLING-UDIT test) and mathematical processing (correlation analysis, Mann-Whitney test) which are presented in this article.*

*The analysis of civil legislation makes it possible to express a proposal to amend the provisions of Art. 30 of the Civil Code of the Russian Federation regarding the grounds for restriction of the legal capacity of an individual.*

*At the same time, it has been noted that timely psychological diagnostics will contribute to identification of such persons and timely provision of the necessary legal assistance to them.*

**Keywords:** addiction to gambling, penchant for gambling, game addiction, addiction, gender features, civil capacity.

**JEL Classification:** L80, L83, K10.

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## 1. Introduction

Gambling has always been an object of study for scientists in various fields of research. In terms of such sciences as philosophy, sociology, psychology and culturology, the game was understood as an activity, the meaning and value of which lied in the process of the game itself. Among the sociological studies, the widespread idea is that gambling is a variation of the game as a social phenomenon, of which, for the most part, the social life consists, and it has its own specific subcultural components: types of rationalization of the motivations, norms, values, and stereotypes (Bern, 2002). Explaining the phenomenon of the game from the standpoint of psychology, scientists emphasize the inner propensity of a person to gambling. Freud considers that the psychological basis of the game is not the physiological irritation, but a certain reflex scheme, namely the psychological irritation, which acts from within and exists as a need, which is satisfied by changing the source of the internal irritation (Freud, 2003).

Gambling as a social phenomenon was reflected in the scientific works of Kovtun and Kovalev (2006), Saprykin (2013), Sevostyanov and Prosvirin (2013), Cnossen (2009), Grinols (2008), Mustard (2008), who studied it mainly in the context of the institution of legal responsibility. Having thoroughly studied the criminal liability for organization of gambling, Legotkin (1993) proposes to define gambling as the *"productive activity related to the redistribution of material goods among the participants, in which an unfair way of redistribution based on the chance, together with a lucrative motive and the absence of a mechanism, restraining the emotional state of the gamblers, are the factors of involvement in this activity"*.

On December 20, 2006, the State Duma of the Russian Federation adopted the Federal Law "On State Regulation of Activities on Organization and Conducting of Gambling and on Amending Certain Legislative Acts of the Russian Federation" (hereinafter – the Law on Gambling) (Federal Law No. 244-FZ, 2006), in which gambling was understood as the games based on the risk of winnings' agreement concluded by two or more parties to such an agreement with each other or with the gambling organizer in accordance with the rules established by the gambling organizer.

According to Grant and Potenza (2006) in the United States, Great Britain, and other Western European countries, the problem of gambling became actual about 30 years ago. In general, according to Blanco *et al.* (2012) the number of pathological gamblers in the adult population varies from 0.4 to 3.4%, and in some regions of the world where gambling is legalized (Las Vegas (USA), Great Britain, Monaco, Malta, etc.) it can reach 7%. According to the International Classification of Diseases (ICD), the normative document developed by WHO, the penchant for gambling, which is characterized by the repetitive actions with no clearly expressed rational motivation, uncontrolled and usually harmful to the gambler and other people, refers to mental disorders, according to the classifier "F63.0 Pathological

attraction to gambling" (F63. Habit and impulse disorders), the essence of which lies in frequent repeated episodes of gambling, which dominate the patient's life to the detriment of social, occupational, material and family values and commitments.

In 2007, the tenth review of this document, known as ICD-10, was developed. Unfortunately, currently there are no complete published statistical data on the pathogenetic and psychopathological aspects of diagnoses F63.0 according to ICD-10 (International Classification of Diseases (10th revision). Classification of Mental and Behavioral Disorders: Clinical Descriptions and Guidelines for Diagnosis, 2014). ICD-10 developed the diagnostic criteria, which were the basis for the diagnosis of gambling addiction. The addiction is diagnosed if not fewer than three of the following characteristics are defined as:

- ✓ an irresistible desire, an inclination, an acute need for gambling;
- ✓ a state of psychological discomfort, irritability, a decrease in mood, anxiety, when it is necessary to interrupt, to reduce the gambling activity, and a significant improvement in mental health at the time of a second return to the world of the game;
- ✓ a loss of self-control, which is expressed in the inability to stop the game, which is accompanied by a loss of sense of time spent in the game;
- ✓ gradual increase in the frequency of participation in the game with the goal of introducing oneself into a state of good mood and positive emotions;
- ✓ continued participation in the game of chance, even despite the harmful consequences for the gambler, perceived by him/her.

It should also be noted that the phenomena of addiction to gambling, in the opinion of Marks (2010), collectively cover several disjoint categories of ICD-10 (Z72.6; F63.0). It can be stated that in the general case, the propensity to gamble (Z72.6) as a sequential stage in the multilevel pathology structure precedes the pathological attraction to gambling (F63.0). In contrast to propensity, pathological attraction is characterized by frequent repeated participation in gambling, which dominates the life of the subject and results in a reduction of social, material, professional and family values. Consequently, the criterial distribution between the propensity and pathological addiction is precisely the dominance of gambling in the life of person. General scientific views (Hawley *et al.*, 2012; Glenn *et al.*, 2011) on the mechanisms of the emergence of behavioral addictions can be generalized into two groups:

1. Anthropological concepts, in which the main role is assigned to the adverse heredity and certain diseases. It is believed that people are born with the need for games, including gambling.
2. Sociological concepts, in which the main factors of behavioral addictions are considered to be political and economic factors, the nature of social integration of the individual, the impact of social norms on the individual, the reassessment of the

meaning and possibilities of material and financial values, fixed attention to his or her financial condition, cupidity, the desire to stand out at any cost, etc.

Most Russian scientists refer gambling to non-chemical addiction, naming this pathology the "model of behavioral addiction" (the obsessive need for an activity perceived by a person) (Bobrov, 2007; Egorov, 2007). Korolenko and Dmitrieva (2009) and Popov (2012) consider it as a kind of non-chemical addiction, such as addiction of relations, sexual, love, avoidance, urgent, workaholism, addiction to money spending.

Shemchuk (2013) notes several well-studied general and specific factors of addiction to gambling: neurobiological, characterological, personal, social, etc. Thus, the prerequisites for gambling are formed as a result of a combination of biological, psychological and social factors (Shemchuk 2013; Sedova *et al.*, 2017).

The following factors can be attributed to the group of psychological factors: belief in providing fast and guaranteed profits, boredom, loneliness, acute sensation of vital emptiness, psychological trauma, immaturity in the mental aspect, mental disorders. Some people look for emotional relaxation and stress relief in the game, others, on the contrary, look for strong sensations.

The following factors can be attributed to the group of social factors: a variety of social and domestic problems and life troubles, destructive experiences and conflicts in the family; inadequate family values and the model of upbringing (permissiveness, participation of the parents and acquaintances in gambling, the cult of money and material property); the reference groups with which the person identifies himself or herself can practice certain game behavior; wide dissemination and free access; the culture may approve or even recommend various forms of game (Malygin and Tsygankov, 2015). A pathological addiction to gambling leads to somatic, mental and social-domestic disorders.

*Somatic disorders:* Gambling is associated with stress and emotional tension. In addition, gamblers often fall into the uncontrollable rhythm of life (lack of sleep, unhealthy diet, neglect of personal hygiene), use nicotine, alcohol, etc., which can result in ulcers, cardiovascular diseases, sleep disorders, digestive disorders, respiratory depression, etc. (Chambers and Potenza 2013; Kormishkina *et al.*, 2016).

*Mental disorders.* Typical mental problems of gambling are: emotional disorders (emotional imbalance, irritability, explosions of anger, expressive aggression, loss of self-control), deep apathy, mental disharmony, separation from reality, loss of self-esteem, feelings of guilt and shame, depression, double addiction (often in gamers there are other kinds of dependence), personality disorders (manifestations of sociopathy), in severe cases – suicide attempts (George and Murali, 2005).

*Social and domestic disorders.* According to Griffiths (2013), this category includes financial problems, problems at work/school (low labor productivity/poor academic performance, frequent compensatory holidays, dismissal), family relationships disorders, conflicts, social isolation.

Thus, in our time gambling became an extremely threatening social problem, causing more and more damage, becoming in one row with alcohol dependence and dependence on narcotic substances, which necessitated an empirical study of the characteristics of pathological gambling, the identification of prognostically significant characteristics of the gambling addiction, as well as the development on their basis of the proposals to improve Russian legislation in terms of civil incapacity of the citizens due to their addiction to gambling.

## **2. Methods**

The purpose of the empirical study is to present the results of the empirical study of the age-related characteristics of the pathological tendency to gambling, to determine the prognostically significant characteristics of the gambling addiction. The study sample includes 378 people aged 16 to 45 years, including 218 males and 160 females. The diagnostic tool for the study is the GAMBLING-UDIT (GU) test, developed by a team of authors under the supervision of Linskii (2009), designed to study the presence of the gambling addiction phenomena. The integral indicator of this questionnaire (the total sum of scores, hereinafter – TOTAL) provides the preliminary "raw" information on the addiction of the person under study to gambling (for money) in a 4-level form (enthusiasm (1-7 points), propensity (8-15 points), propensity at the stage of formation of addiction (16-20 points), the probability of the formed addiction (20 or more points)), which allows dividing the people under study according to their inclination to gambling in the form of dichotomy "not inclined/inclined", respectively 0-7 and 8-40 points.

For the purposes of the study, the questions of the GU test are grouped into 4 blocks: the social characteristics of the person (SOC); personal characteristics (PER); signs of obsession (OBS); signs of compulsion and physiological disorders (COMP). At the same time, the blocks SOC and COMP reproduce social, as well as moral and physiological damages, respectively, which determine the participation of person in gambling; the PER block reproduces the adaptive role of game in human life, the somewhat similar role of psychological defense and coping mechanisms; the OBS block designates the obsessive nature of human gaming activity. Thus, the OBS and PER blocks to a certain extent characterize the gambler's personality (as well as his/her playing activity as such), while the SOC and COMP blocks rather characterize the socio-psychological price paid by the gambler. The formed primary data array was subjected to statistical analysis (correlation analysis, Mann-Whitney test) with the subsequent qualitative interpretation and generalization.

### 3. Results

The results of the analysis of the general sample data are presented in Table 1.

**Table 1.** Descriptive statistics of the general sample

Distribution parameters	Indicators*						
	Gender	Age	SOC	PER	OBS	COMP	TOTAL
average	0.58	30.34	0.47	0.47	1.16	0.14	2.24
standard deviation	0.43	12.70	0.94	0.89	1.57	0.41	3.01
Males, n = 218	-	31.33	0.73	1.12	1.57	0.16	3.58
Females, n = 160	-	29.45	0.30	0.40	0.57	0.13	1.40
Level of significance of the reliability of differences **, r	23.4	0.6	0.01	0.01	0.01	0.21	0.01

**Note:** \* – average value; \*\* – by the Mann-Whitney criterion for two independent samples.

The statistical analysis using the Mann-Whitney test shows the presence of gender differences in propensity for gambling, which are quantified by the fact that females, compared to males, have increased values for indicators that differ significantly, namely, the social losses due to gambling activity, the adaptive property of gambling for a person, the obsessive symptoms and integral index of gambling addiction. Having divided the general sample by gender and the level of TOTAL indicator at the same time, the authors obtained the following results (see Table 2).

**Table 2.** Descriptive statistics of the selected subsamples \*

Subsample parameters	Subsamples		Level of significance of the reliability of differences **, r	
	"0-7"	"8-40"		
Total number, people ***	354/93.65	24/6.35		
Total number of females, people/%	152/42.94	8/33.3		
Total number of males, people/%	202/57.06	16/66.6		
Average value	Age	30.48	28.28	0.558
	SOC	1.32	3.63	0.001
	PER	1.53	5.44	0.001
	OBS	0.93	4.51	0.001
	COMP	0.29	1.95	0.001
	TOTAL	4.07	15.53	0.001

**Notes:** \* – the values are shown rounded; \*\* – by the Mann-Whitney criterion for two independent samples; \*\*\* – indicates the percentage of the general sample.

It was found out (Table 2) that the ratio of the number of the inclined/non-inclined to gambling among the people under study could be represented as a fraction of 6.35%/93.65%. According to the calculations, in both isolated subsamples, designated conventionally as "0-7" and "8-40", the majority are males: 57% and 66%, respectively. The results of the study made the following conclusions possible. First, between females and males there are the features of the propensity for gambling and these features are essentially different. The propensity for gambling has a specific gender characteristic. Secondly, gender differences in gambling tendencies are quantitatively determined by the fact that females, compared to males, have the increased values for indicators that differ significantly, namely, the social losses from gaming, the adaptive propriety of gambling for a person, the obsessive symptoms, and the integral index of addiction to gambling.

#### **4. Discussion**

In the framework of this study, let us consider whether the results of the psychological study congruent to the abovementioned can be the rationale for a court to recognize a citizen as partially incapacitated. It is known that in accordance with P. 1, Art. 30 of the Civil Code of the Russian Federation, addiction to gambling is the rationale for the court in terms of restriction of the civil capacity of a person.

The analysis of this problem requires, first, a clear definition of the purpose of introduction of this institution into the Civil Law. Proceeding from the provisions of Art. 31, 33 of the Civil Code of the Russian Federation, the guardianship is established over an individual whose civil capacity is restricted, with the aim of approving the completion of all transactions that go beyond the limits of small households and for the purposes of financial control over the receipt of earnings, pensions, scholarships, other incomes of an incapacitated person and their disposal. Thus, it can be concluded that the civil capacity restriction institution is aimed at creating some sort of guarantees for the financial security of the person, if such a person suffers from a mental disorder that significantly affects his/her ability to understand the meaning of his/her actions and (or) control them (P. 2, Art. 30 of the Civil Code of the Russian Federation). It is important, that the legislator deems possible to restrict the civil capacity of a natural person if such a person has a propensity for gambling and thereby puts him/herself or his/her family, as well as other persons whom he/she is legally required to support, in a difficult financial situation (P. 1, Art. 30 of the Civil Code of the Russian Federation).

That is, two legal constructions, different in their essence, are formed: according to the provisions of P. 2, Art. 30 of the Civil Code of the Russian Federation, the rationale for the restriction of the civil capacity is a mental disorder (and that will do), which significantly affects a person's ability to realize the significance of his/her actions and (or) control them, while in accordance with the norm of P. 1,

Article 30 of the Civil Code of the Russian Federation, the abuse of certain substances or inadequate behavior should be combined with the mandatory condition to put someone from the family (or him/herself) in a difficult financial situation.

Based on the interpretation of P. 1, Art. 30 of the Civil Code, it would be logical to conclude that the propensity for gambling is not absorbed by the structure of P. 2, Art. 30 of the Civil Code of the Russian Federation, only if this is not a mental disorder and such behavior does not significantly affect the ability to realize the meaning of the actions and (or) to control them, but this is not so. However, in our opinion, the propensity for gambling, which is defined by the Civil Code of the Russian Federation as a psychological dependence, "which, in addition to the intractable attraction to a game, is characterized by disorders of behavior, mental health and well-being of a citizen, manifesting itself in a pathological attraction to gambling, loss of game control, and also in the long-term participation in gambling in spite of the onset of unfavorable consequences for the material well-being of the members of his family" (Resolution of the Plenum of the Supreme Court of the Russian Federation No. 25), completely distorts the perception of existing reality. Moreover, according to ICD-10, this deviation is recognized as a mental disorder (section F).

It should be noted that the provisions of the Federal Law of the Russian Federation of December 30, 2012 No. 302-FZ (2012) establish the same legal consequences associated with the addiction to gambling, as well as in the abuse of various kinds of psychoactive substances. This approach seems somewhat disputable to the authors, since the abuse of alcohol, drugs and the propensity for gambling are diverse mental disorders and should not be mixed, because the first ones belong to the group "F10-F19 Mental and behavioral disorders due to the use of psychoactive substances", while the propensity for gambling is attributed to "F63.0 Pathological passion for gambling" (F63. Habit and impulse disorders).

As for the additional mandatory condition, covered by P. 1, Art. 30 of the Civil Code of the Russian Federation, namely, the obligatory condition to put one of the family members (or oneself) in a difficult financial situation, here the authors have a point of view, different from the one of the legislators. The restricted legal capacity institution is primarily aimed at protecting the property interests of the individual, whose civil capacity is restricted, and the members of his/her family and dependents, thus, the application of this institution based on the fact of being in a difficult financial situation is not only intempestive, but also inappropriate. The possibility of restriction of the civil capacity of a person should not depend on the damage already caused to oneself, one's family or dependents. Even the very risk of causing such harm is enough to recognize a person as incapable of fully realize the significance of his/her actions or control them. Moreover, the legislator has neglected the risk of non-pecuniary damage (for example, to the life and health of family members), which should also affect the amount of civil capacity of an

individual. Therefore, it is appropriate and enough to consider such a rationale as the presence of a mental disorder in a physical person (as provided for by P. 2, of Art. 30 of the Civil Code of the Russian Federation) enough for the recognition of a person as partially incapacitated.

Addiction to gambling, as well as other abuses, listed in P. 1, Art.30 of the Civil Code of the Russian Federation, are the variations of mental disorders, significantly affecting the ability of an individual to understand the value of his/her actions and (or) to control them. Therefore, the main issue that arises in the interpretation of P. 1, Art. 30 of the Civil Code of the Russian Federation, is the *uncertainty of conduct*, which may become the rationale for the initiation of a separate proceeding on restriction of the civil capacity of an individual. It is worth bringing into focus that the institution of restriction of the civil capacity is of a special nature in Russia, somewhat different from that of European countries. These relations are most widely regulated in the Civil Code of Poland (Civil Code of Poland, 1964), which in Art. 16 notes that a person may be recognized as having restricted civil capacity based on mental illness, mental retardation or another kind of mental illness, especially alcoholism or drug addiction. Moreover, it notes that in those cases when the above-mentioned grounds are not serious enough to deprive the person of full civil capacity, then the so-called "curator" is assigned to help such a person in business conduct.

If we consider the civil legislation of Germany and France, then the main emphasis should be laid not on the judicial procedure for recognizing a person as having limited civil capacity, but on the very fact of a "state of limited civil capacity" at a moment in time. Thus, §827 of the German Civil Code (1896) provides for the possibility of releasing an individual from civil liability for the damage caused in cases where the harm was caused in an unconscious state or in a state of painful mental disorder that excluded the possibility of realizing one's own actions. An exception is only the infliction of harm in a state of intoxication, to which the person has brought him/herself.

If we consider the Civil Code of France (1803), then the legal regulation of the restricted civil capacity, even though it is mentioned in Title X "On the minority, custody and release from parental authority" and Title XI "On adulthood and adults under the protection of the Law", is aimed mainly at protecting the family rights and relates to the protection of property interests only partially. At the same time, according to the Civil Code of France, dementia or mental disorder can be the rationale for the provision of a person with one of the methods of protection stipulated in the Civil Code of France (Art. 490). Such methods of protection include the establishment by the court of a custody or guardianship (depending on the severity of the mental illness) at the request of close relatives or the prosecutor (Art. 493, 508 of the Civil Code of France). As it can be seen, in the European traditions, the legal doctrine equates such behavior as the abuse of narcotic drugs or psychotropic substances to mental disorders, since it is believed that such behavior

is not adequate and can arise only because of mental disorders. If we consider the characteristics of mental disorders, then they should include not only the "classic" diseases, for example, schizophrenia, Alzheimer's disease, mental retardation and the like, but also those that have a negative property effect (the so-called "property disorder" (Shershenevich, 2001; Borisova *et al.*, 2015)).

Thus, according to the decision of WHO, the pathological attraction to gambling was included in the list of mental diseases under the international code F63.0. Its main feature is the constantly repeated participation in gambling, which entails the formation of stable dependence and eventually leads to the impossibility of a person to refuse to participate in such games. This leads to the formation of the so-called "dominant", which in the mind of the person becomes the main and necessarily need to be met. All other needs are reduced to secondary ones and are met only in case of emergency (sleep, food). The social needs are eliminated, which leads to a complete disregard for family and civic responsibilities. Spendthrift in all its manifestations – the purchase of unnecessary things (shopping), the collection of expensive things, the excessive waste of jointly purchased property for charitable purposes and the like can be attributed to the same type. Such disorders are included in the list of mental illnesses as chronic personality changes that are not related to brain damage and disease (F62), habit and impulse disorders (F63).

Certainly, it is much easier for the Russian legislator to single out addiction to gambling as a separate reason for the restriction of civil capacity, but then Art. 30 of the Civil Code, after the analysis of ICD-10, sounds tautological in essence, and Part 1 actually reproduces Part 2 – "due to addiction to gambling, abuse of alcoholic beverages or narcotic drugs (read, "due to a mental disorder") puts his/her family in a difficult material position". That is, the difference between Part 1 and Part 2 is only in relation to the difficult material situation of a category of persons.

Thus, it can be stated that the Civil Code of the Russian Federation tries to fully regulate these legal relationships, but this desire is reduced to legally false designs that lead to repetition of the legal norms and ambiguity of their interpretation and application. Therefore, the authors propose to attribute to the rationale for the restriction of the civil capacity of physical person only the fact of mental disorder, regardless of whether the person puts other people in a quandary or not. With the corresponding amendments to the Civil Code of the Russian Federation, the timely conduct of psychological diagnostics, like that presented in this study, will contribute to identification of the people with addiction to gambling.

## 5. Conclusion

The propensity for gambling is a special phenomenon. The emergence of addiction to gambling is seen because of the interaction of psychological, sociocultural and situational factors that result in a decrease in the psychological stability of the

individual. In order to improve Russian legislation on the basis of the analysis, including the experience of enforcement of the restriction of the civil capacity in European countries, the authors propose to attribute to the rationale for restriction of the civil capacity of physical person only the fact of mental disorder, regardless of whether the person puts other people in a quandary or not, because it is this position of the legislator that will make it possible to protect most fully the rights and interests of an individual suffering from a "classical" mental disease or "addictive behavior". The timely conduct of psychological diagnostics will help to identify such persons and to provide them with the necessary legal assistance in a timely manner.

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