



PROBLEMS OF INVOLVING MINORS IN GAMBLING

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Abstract: The article is devoted to the study of criminal liability for involving minors in illegal gambling activities. The author focuses on a differentiated approach to legal assessment, taking into account the differences in the role of minors: accomplices in a crime or direct participants in gambling. The features of law enforcement practice, international standards and norms, as well as the social consequences of involving children and adolescents in illegal gambling schemes are considered. Particular attention is paid to the analysis of existing studies, identifying gaps in criminal legislation and the ineffectiveness of its application in this matter. As a result of the analysis, proposals were formulated to improve the criminal law framework, including increasing the liability of organizers of illegal games and protecting minors from their involvement. The conclusions of the article are aimed at preventing the involvement of children in the gambling business through updating legislation and improving the law enforcement system, which helps protect the rights and interests of minors in the context of developing modern challenges.

Keywords: *organization of gambling, conducting gambling, minors-players, gambling addiction.*

In modern Uzbekistan, the issues of preventing the illegal organization and conduct of gambling with the participation of minors are increasingly becoming the subject of heated discussions in the scientific community.

Analysis of the state of this problem requires its consideration in the general dynamics of crimes and offenses related to the organization and conduct of gambling. According to some data, in Uzbekistan the number of administrative offenses related to gambling in 2019 was 1454, in 2020 this figure was 2864, in 2021 - 3372 and for 6 months of 2022 - 2325 offenses. Crimes related to the organization of these games were recorded in 2019 55, in 2020 - 86, in 2021 - 103, for 6 months of 2022 - 90 facts [1].

According to various estimates, today in our country thousands of young people and minors suffer from gambling addiction, but the risk of gambling addiction in society seems to be comparatively lower than other social problems.

A significant portion of clients involved in the orbit of the illegal gambling business are children and minors. In particular, according to the results of studies conducted by some authors, for example, about 9.9% of all players in the Russian Federation are people under 18 years of age [2]

Similar results were obtained during a sociological study within the framework of this work. In total, 250 students of higher educational institutions of the Republic of Uzbekistan, as well as students of secondary vocational educational institutions, high school students (grades 9-11) were interviewed in the survey, of which more than 100 were university students, 90 were college and lyceum students, 50 of them were high school students. Only

12% of the students surveyed said that they had experience in gambling, but 25% of this contingent admitted that they regularly place bets at bookmakers during football matches.

Students of secondary specialized vocational and technical institutions suffered more from gambling: 27% had experience of participating in gambling and approximately 15% placed bets in games. Schoolchildren were the least interested in gambling, their share was only 7%. However, given the small contingent of respondents from secondary educational institutions, gambling occurs in 9-10% of all respondents. It would not be an exaggeration to say that a strict fight against crimes in the form of illegal organization and conduct of gambling began after the adoption of the Resolution of the President of the Republic of Uzbekistan dated March 28, 2007 No. PP-608 "On measures to suppress illegal activities related to the organization and conduct of gambling" [3] and the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated August 16, 2007 No. 176 "On measures to further streamline the organization and conduct of gambling" [4]. In particular, the Presidential Resolution notes: "Despite the measures taken, attempts to illegally organize gambling that is alien to national customs and the mentality of the population continue to take place. Law enforcement agencies are uncovering cases of the creation of dens for conducting underground games with the involvement of teenagers and young people." These measures have led to the decline of the gambling sector. According to available data, the number of minors addicted to gambling has decreased by more than half. At the same time, the structural indicators of the propensity for gambling among minors by age group continue to cause serious concern; it can be said that things are not so good in the age group of teenagers from 15 to 16 years old, the numerical indicators of which are quite high throughout the world, including in Uzbekistan, and continue to be stable.

In particular, according to researcher I.N. Mosechkin, 23.3% of minors aged 15 to 16 have experience gambling for money or other property, and it is known that individuals belonging to this age group most often participate in gambling via the Internet. One of the main determinants of the involvement of adolescents in the sphere of illegal gambling business is their age. Minors are characterized by the formation of various addictions, including a serious interest in gambling. From the point of view of psychologists, this is often associated with difficulties in the physiological and mental development of the teenager's personality. It is in adolescence that many experience difficulties in social adaptation, cannot find a common language with adults, face the problem of "fathers" and "children", as a result, do not find an opportunity to solve their problems and leave real life for games in the virtual world. The reason for this is "an uncomfortable situation in the family, unhealthy relationships between parents, their irresponsibility to fulfill their parental duty" [5]. Of particular concern is the tendency of many teenagers to maintain a state of euphoria with the help of alcohol or psychoactive substances during gambling.

It is impossible not to mention the influence of gambling on the delicate psyche of minors and the destructive impact on their ideas about morality. On the one hand, harm is caused to teenage clients of gambling, which harms their normal physiological and psychological development. They lose direction in life, the level of leisure culture decreases, and gambling gives them an illusory opportunity to feel like successful people. In addition, destructive feelings in the psyche of teenagers increase, a sense of the meaninglessness of

existence, spending free time in a criminal way becomes a tradition, which inevitably leads to an increase in crime, alcoholism and drug addiction among minors.

On the other hand, minors suffering from gambling addiction are more likely to commit criminal acts, constantly looking for money to continue gambling, including through criminal means. Today, the fact that minors are attracted to gambling on the Internet is of particular concern. In today's reality, the availability of computers to young people is increasing, almost all educational institutions are connected to the Internet, and the number of users among schoolchildren is increasing accordingly. In particular, according to statistics, 5.7 million young people under the age of 14 actively use the Internet, which is about 40% of the Internet audience in our country. The mobile communications market continues to grow rapidly: more than 22 million young people already use mobile phones. On average, 75% of children aged 12 to 19 and 40% of children aged 9 to 12 use Internet access, about half of them browse gambling sites, about 15% of minors are addicted to gambling using mobile communications. Online games play an important role in the lives of modern children and teenagers. Often, for minors, games become an important part of everyday life, determine the style and scope of their communication, influence life values (and become a value and the highest value for them).

Sites for organizing and conducting gambling games in the form of "roulette", "poker", posted on the Internet, are often free and do not require additional registration. Bets in online casinos are made non-cash using bank cards. At the same time, it is impossible to establish the identity and place of residence (location) of the persons who prepared and distributed these materials, since the organizers of these games, as a rule, operate outside the territory of Uzbekistan.

The above points clearly indicate the need to improve the prevention of involving minors in gambling. In the system of preventive measures, an important place is occupied by legal means, that is, administrative and criminal liability for the illegal organization and conduct of gambling.

In recent years, in the context of discussing issues of combating the illegal organization and conduct of gambling, scientists began to highlight the problem of independent liability for involving minors in gambling.

An analysis of existing studies and proposals on this problem allows us to highlight its main aspects:

1. The need to solve the problem of criminalizing the involvement of minors in gambling within the framework of a separate article is obvious and undeniable.
2. The allocation of a separate norm for the involvement of minors in gambling requires determining the place of this socially dangerous act in the system of criminal law. At the same time, it is necessary to take into account the fundamental logic of the structure of the Special Part of the Criminal Code, which allows us to correctly establish the internal connections of the innovations being introduced and the level of their social danger.

On the other hand, if on the first issue scientists unanimously advocate establishing criminal liability for the illegal organization and conduct of gambling with respect to minors in a special norm, then the analysis of the second aspect of this problem reveals different and contradictory approaches. The definition of the concept of involving minors in gambling in the Criminal Code is not so clear.

Some researchers advocate the introduction of a new separate norm of the criminal law and propose to place it in the chapter of the Criminal Code "Crimes against public health and morality" in the form of the article "Involvement in gambling" [6].

Other scientists reject the term "involvement" and propose to supplement this chapter with the article "Creation of conditions for the participation of minors in gambling". Considering that the first part of this norm prohibits persons under the age of eighteen from visiting a gambling hall, it is proposed to establish criminal liability for the intentional provision of access to gambling in a gambling hall by a person who has reached the age of eighteen. The second part of the proposed norm defines criminal liability for the intentional involvement of a minor in organizing and (or) conducting illegal gambling, as well as for the participation in illegal gambling of a person under the age of eighteen [7].

From the point of view of Ya. Semenova, the direct object of attracting a minor to gambling is social relations that ensure the normal spiritual and physical development of the minor [8]. Therefore, she proposes to make the following changes to the Criminal Code: Inducement by a person who has reached the age of eighteen of a minor to regularly consume (drink) alcoholic beverages and alcohol-containing products, intoxicating substances, vagrancy or begging, gambling [9].

There are also proposals to include the age of a minor victim as a qualifying feature in the articles of the Criminal Code [10].

Critically assessing these positions, we present the following opinions on this issue:

Firstly, while supporting the need to introduce criminal liability for organizing and conducting gambling with the participation of minors, we believe that it is absolutely wrong to place this provision in the chapter "Crimes against the family and minors" of the Criminal Code. Since the direct object of the offense is a priority when deciding on the inclusion of the proposed articles. The main direct object of organizing and conducting gambling is public relations that protect the interests of entrepreneurs and consumers in the field of gambling. Social morality and health of the population, as well as normal physical and psychological maturity of a minor are directly optional objects even in cases where the clients of the gambling business are minors. Often, in the articles of the Special Part of the Criminal Code, the legislator gives priority to a less important, but main object, despite the great importance and place of the additional object of the crime. In this regard, in our opinion, criminalization of liability for involving minors in illegal gambling implies placement of this content in the chapter entitled "Crimes against public order".

At the same time, excessive complexity of the legal technique of the composition with aggravating features does not allow to fully see all the elements of the crime of involving minors in the illegal organization and conduct of gambling. In addition, minors should be assessed not only as criminals, but also as victims. Therefore, it is necessary to characterize the term "participation" in a socially dangerous act from the objective side of this crime. In this regard, we propose to define in the Criminal Code a new composition of the crime called "Illegal organization and conduct of gambling with the participation of minors".

The above considerations allow us to draw the following conclusions:

- the state of the problem of organizing and conducting gambling with the participation of minors requires its solution at the legislative level. The absence of special provisions devoted to the prevention of the problems under consideration contributes to the "survival" of the illegal gambling business and complicates the fight against this negative phenomenon. - it is

necessary to provide for special provisions on criminal liability for the organization and conduct of gambling with the participation of minors. In this case, the term "participation" should include not only the involvement of minors in illegal gambling, but also the direct participation of minors as "participants" in gambling.

References:

- 1.Официальный сайт. https://uza.uz/uz/posts/qimor-va-tavakkalchilikka-asoslangan-oyinlar-uchun-zhavobgarlik-belgilanmoqda_432111.
- 2.Панов С.Л. Нравственно-психологический портрет игромана //Психопедагогика в правоохранительных органах. 2006. - № 2 (26). С. 85 - 86.
- 3.Ўзбекистон Республикаси Президентининг 2007 йил 28 мартдаги ПҚ-608-сонли «Қимор ўйинларини ташкил этиш ва ўтказиш билан боғлиқ ноқонуний фаолиятнинг олдини олиш чора-тадбирлари тўғрисида»ги қарори // Ўзбекистон Республикаси қонун ҳужжатлари тўплами, 2007 й., 13-сон, 116-модда
- 4.Ўзбекистон Республикаси Вазирлар Маҳкамасининг 2007 йил 16 августдаги 176-сонли «Қимор ўйинларини ташкил этиш ва ўтказишни янада тартибга солиш чора-тадбирлари тўғрисида»ги қарори // Ўзбекистон Республикаси қонун ҳужжатлари тўплами, 2007 й., 33-34-сон, 344-модда
- 5.Зиядова Д.З. Теоретические и прикладные проблемы преступности среди учащихся общеобразовательных учреждений: региональный аспект: Автореф. дис. ... д-ра юрид. наук. - М., 2006. - С. 34..
- 6.Лихолетов Александр А Преступления в сфере игорного бизнеса: проблемы квалификации и совершенствования законодательства// Бизнес. Образование. Право. Вестник волгоградского института бизнеса. - 2013, № 2 (23). - С. 283..
- 7.Севостьянов, Р. А. Проблемы уголовной ответственности за организацию и ведение незаконного игорного бизнеса: Автореф. Дисс. ...к.ю.н. -Саратов, 2009. - С.10.
- 8.Семенцова И.А. Профилактика игровой зависимости как основа предотвращения преступного поведения несовершеннолетних с психическими расстройствами, не исключающими вменяемости// Вестник Северо-Кавказского гуманитарного института». -2016, № 1. - С.303.
- 9.Семенцова И.А. Профилактика игровой зависимости как основа предотвращения преступного поведения несовершеннолетних с психическими расстройствами, не исключающими вменяемости// Вестник Северо-Кавказского гуманитарного института». -2016, № 1. - С.303- 304
- 10.Руководство по аддиктологии. - СПб., 2007.