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# ANALYSIS OF THE LEGISLATION OF THE REPUBLIC OF KAZAKHSTAN ON THE PREVENTION OF GAMBLING ADDICTION

The article is devoted to the analysis of the legislation of the Republic of Kazakhstan on counteracting the dependence of children and adolescents from gambling addiction (gambling addiction). The analysis is made in comparison with the countries which are the most experienced in the area as the authors believe. Gambling addiction is recognized as one of the most oppressing problems among adolescents and adults. Therefore, the world community has divided into two camps: some are on the path of prevention, and others on the path of emphasis on the use of punitive measures. The authors note that the domestic legislation contains elements of partial prevention, and the measures of legal responsibility do not fully correspond to the realities of the problem.

The purpose of the article is a critical analysis of the measures taken by the government to combat gambling addiction among children and adults. The authors concluded that the steps taken are not entirely adequate and are not fully implemented. At the same time, it is noted that some steps have been taken.

The value of the study and its practical value lies in the fact that the team of authors proposes a set of measures to improve counteracting gambling addiction among adolescents.

The article was written within the framework of the project "Development and implementation of a set of measures for the prevention of Internet addiction and gambling among young people and children", implemented by the Regional Public Organization "United Children and Youth Organization" Zhas Ulan ".

The practical significance of the article also lies in the fact that the attention of the state authorities will be drawn to the problems highlighted in the work and the proposals made will be implemented by making changes and additions to the current legislation of the Republic of Kazakhstan.

**Key words:** childhood, child rights, gambling addiction, addiction, information rights, children rights protection, crime prevention.

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# Қазақстан Республикасындағы құмар ойындарына (ойын құмарлығы) тәуелділіктің алдын алу туралы заңнаманы талдау

Мақала балалар мен жасөспірімдердің құмар ойынына тәуелділігінен (құмар ойыннан) және тәуелділікке қарсы күрес туралы Қазақстан Республикасының заңнамасын талдауға арналған. Әзірлеушілердің пікірі бойынша талдау осы саладағы ең озық болып табылатын бірқатар елдердің тәжірибесімен салыстыру негізінде жүргізіледі. Құмар ойындарына тәуелділік жасөспірімдерде де, ересектерде де ең өзекті мәселелердің бірі болып саналады. Сондықтан әлемдік қауымдастық екі лагерге бөлінді: біреулері алдын алу жолында, ал басқалары жазалау шараларын қолдануға баса назар аудару жолында. Авторлар отандық заңнамада ішінара алдын алу элементтері бар екенін, ал заңды жауапкершілік шаралары мәселенің шындығына толық сәйкес келмейтінін атап өтеді.

Мақаланың мақсаты – балалар мен ересектердегі құмар ойындарына тәуелділікпен күресу үшін үкіметтің қабылдаған шараларына сыни талдау жүргізу. Авторлар осы уақытқа дейін бұл салада қабылданған қадамдар мүлде талапқа сәйкес келмейді және толық орындалмайды деген қорытындыға келді. Бұл ретте кейбір қадамдар жасалғаны да айтылады.

Зерттеудің құндылығы мен оның тәжірибелік құндылығы, ол авторлар тобы жасөспірімдердегі құмар ойындарына тәуелділікті жою бойынша шараларды жетілдіру кешенін ұсынуында болып табылады.

Мақала «Жас Ұлан» Бірыңғай балалар мен жасөспірімдер ұйымы» ӨҚҰ жүзеге асырған «Жастар мен балалар арасында интернетке тәуелділік пен құмар ойындарының алдын алу бойынша шаралар кешенін әзірлеу және іске асыру» жобасы аясында жазылған.

Мақаланың тәжірибелік маңыздылығы сонымен қатар жұмыста көрсетілген мәселелерге уәкілетті адамдардың назарын аударатындығында және ұсыныстар Қазақстан Республикасының қолданыстағы заңнамасына өзгерістер мен толықтырулар енгізу арқылы жүзеге асырылатындығында.

**Түйін сөздер:** балалық шақ, бала құқығы, ойын құмарлығы, тәуелділік, ақпарат құқығы, бала құқығын қорғау, қылмыстың алдын алу.

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# Анализ Законодательства Республики Казахстан по профилактике лудомании (игорной зависимости)

Статья посвящена анализу Законодательства Республики Казахстан по противодействию зависимости детей и подростков от лудомании (игромании). Анализ проводится на основе сравнения с опытом ряда стран, которые, по мнению разработчиков, наиболее продвинулись в этой сфере. Лудомания признана одной из актуальных проблем как в подростковой, так и во взрослой среде. Поэтому мировое сообщество разделилось на два лагеря: одни идут по пути профилактики, а другие по пути упора на использование карательных мер. Авторами отмечается, что в отечественном законодательстве присутствуют элементы частичной профилактики, а меры юридической ответственности не в полной мере соответствуют реалиям проблемы.

Целью статьи является критический анализ мер, предпринимаемых правительством для противодействия игромании в детской и взрослой среде. Авторами сделан вывод о том, что предпринимаемые шаги являются не вполне адекватными и не реализуются в полной мере. Вместе с тем, отмечается, что некоторые шаги сделаны.

Ценность исследования и ее практическая ценность заключаются в том, что авторским коллективом предлагается комплекс мер по совершенствованию мер по противодействию лудомании именно в подростковой среде.

Статья написана в рамках проекта «Разработка и реализация комплекса мер по профилактике интернет-зависимости и азартных игр среди молодежи и детей», реализуемого РОО «Единая детско-юношеская организация «Жас Ұлан».

Практическое значение статьи заключается также в том, что на выделенные в работе проблемы будет обращено внимание уполномоченных лиц и внесенные предложения будут реализованы посредством внесения изменений и дополнений в действующее законодательство Республики Казахстан.

**Ключевые слова:** детство, права ребенка, лудомания, зависимость, информационные права, защита прав ребенка, профилактика правонарушений.

## Introduction

In 2013, Internet Gaming Addiction (IGD) was included in Title III of Diagnostic and Statistical Manual of Mental Disorders (DSM-5) and is included in the International Classification of Diseases (ICD-11) as "Play disorder", which is characterized as persistent or repetitive play behavior characterized by impaired control over games, increasing the priority given to games over other activities, to the extent that games take precedence over other interests and daily activities, and the continuation of gaming despite the occurrence of negative consequences".

The vast majority of countries has a policy to protect children and adolescents from gambling addiction, which is in line with Principle 9 of the Declaration of the Rights of the Child, adopted by the UN General Assembly on November 20, 1959, according to which minors should not be allowed to engage in activities that would be harmful to their health or education, or hinder them physical, mental or moral development (https://www.un.org/ru/documents/decl\_conv/declarations/childdec.shtml).

#### Materials and methods

In Kazakhstan, the gambling market is subject to government regulation. In accordance with the Law of the Republic of Kazakhstan "On the gambling business" dated January 12, 2007 No. 219-III the activities of electronic casinos and online casinos

are prohibited, as well as their advertising is prohibited in accordance with the Law of the Republic of Kazakhstan "On Advertising" dated December 19, 2003 No. 508-II (https://adilet.zan.kz/rus/docs/Z030000508).

At the same time, any user of a computer will say that when watching films on YouTube, etc., such advertising is widely represented and continues to perform its functions.

It is important that gambling and (or) betting in Kazakhstan by individuals under the age of twenty-one is prohibited (clause 1 of article 15 of the Law "On the gaming business"). All other conditions for the organization of work and admission to games, as well as the types of games are determined by the administration of gambling premises (https://adilet.zan.kz/rus/docs/Z070000219).

The legislation strictly defines the places where casinos, slot machine halls, bookmakers and sweep-stakes can be established, namely it is the Almaty region on the coast of the Kapshagai reservoir and in the Burabay district of the Akmola region and that territories shall be determined by local executive bodies.

#### Results and discussion

It should be noted that the Mazhilis of the Parliament of the Republic of Kazakhstan denied the Ministry of Culture and Sports of the Republic of Kazakhstan to launch new play zones, which were supposed to be located in the Talgar and Panfilov districts of the Almaty region and on the coast of the Caspian Sea in the Mangistau region. And above all, this was predetermined by the fact that "We can lose young people who are also actively attracted by various means. Including by means of advertising for the gaming business. Young people are attracted, but since they may not have such well-established principles of life, they lose the motivation for success. They also develop a dependent psychology, and, of course, families suffer. Therefore, it was decided to abandon this initiative" (https://liter. kz/48440-2/).

Organization of illegal gambling business, is prohibited by Art. 307 of the Criminal Code of the Republic of Kazakhstan. The positive role of the location of the gambling business in special places is discredited by the work of illegal casinos and bookmakers (https://adilet.zan.kz/rus/docs/K1400000226). So, in 2020 according to the Ministry of Finance of the Republic of Kazakhstan the work of 765 illegal gambling establishments and 20 illegal online casinos were stopped. Such indi-

cators show demand for this sector. Their presence attracts young people who have unlimited access to them and becomes one of the frequent visitors. The established criminal liability does not frighten the organizers due to the fact that they "raise" 20 million tenge per night.

Accordingly, the coordination of the efforts of the police, volunteers, educational institutions, etc. to identify such offenders is a primary task to counteract the gambling addiction of young people.

In the domestic legislation, there are no norms prohibiting the organization and operation of computer clubs near schools, universities, colleges.

As the main measure for the prevention of gambling among young people is the provisions of Art. 15 of the Law "On the gambling business" on participation in gambling and (or) betting by individuals under the age of twenty-one as well as persons restricted in participation in gambling and (or) betting. But at the same time, paragraph 3 of Art. 11 of the Law of the Republic of Kazakhstan "On the Gambling Business" establishes that "Casinos, slot machine halls, bookmakers 'offices and sweepstakes (bookmaker's and (or) sweepstakes' cash desks) must be located in non-residential premises. It is prohibited to place them in non-residential premises of residential buildings (residential buildings), buildings of industrial enterprises and their complexes and other industrial, communal and warehouse facilities, religious buildings (structures), buildings of state bodies and institutions, educational organizations, healthcare, culture, airports, train stations, at stations and stops of all types of public transport of urban and suburban communication". In fact, the legislator limited itself to a ban on immediate proximity, namely, a ban on the work of clubs directly in the building of a cultural and educational institution. At the same time, this is not a solution to the problem, since most scientific psychologists argue that the presence of gaming computer clubs within walking distance is a serious incentive for the involvement of young people.

Another important step in countering addiction to gambling is the rule that establishes the possibility for a person to independently declare their dependence (from 6 months to 1 year) on the basis of a statement that can't be overruled or recalled. Close relatives and family members have the right to apply to the court for the recognition of a person as a partially incapacitated due to abuse of gambling, bet, alcoholic beverages or narcotic drugs, psychotropic substances, their analogues (clause 1 of article 323 of the Civil Procedure Code of the Republic of Ka-

zakhstan dated October 31, 2015 No. 377-V) if the dependent puts a family in a difficult financial situation (clause 1 of article 324 of the Civil Procedural Code of the Republic of Kazakhstan) (https://adilet.zan.kz/rus/docs/K1500000377). The names of such persons are included in the list of persons restricted in participation in gambling and (or) betting.

The Article 444 p.2 of the Code of Administrative Offenses of the Republic of Kazakhstan establishes responsibility for the involvement and admission of citizens of the Republic of Kazakhstan under the age of twenty-one into gambling and (or) betting on money, things and other valuables, and it entails a fine for individuals in the amount of 200 monthly calculation indexes (https://adilet.zan.kz/rus/docs/K1400000235).

At the same time, the Code of Administrative Offenses of the Republic of Kazakhstan does not provide for liability for the admission of persons from the list with limited access to gambling and (or) betting (on the basis of a voluntary application and on the basis of a court decision on limited legal capacity). We believe that the composition of such a violation is always intentional. There is a requirement to present an ID in accordance with the rules for organizing the work of casinos in Kazakhstan.

But the rule needs adjustments, as follows:

- 1. Liability should be established for the admission of persons with limited access to gambling and (or) betting;
- 2. It is proposed to introduce gradation of penalties, depending on the status of the organizer. So, some public figures propose to install a fines for medium-sized businesses in the amount of 300, for large-scale businesses in the amount of 1,000 monthly calculation indexes with or without license suspension;

That is, paragraph 2 of Art. 444 of the Administrative Code of the Republic of Kazakhstan shall be stated as follows:

2. Involvement and (or) admission of citizens of the Republic of Kazakhstan under the age of twentyone as well as persons with limited access to gambling and (or) betting for money, things and other values - entail a fine for individuals in the amount of 200 MCI, for medium-sized businesses in the amount of 300 MCI, for large businesses – in the amount of 1,000 MCI with revocation of the license for activities in the field of gambling business.

In addition, the responsibility of parents should be established in the event that their child (under 18 years old) is found in gambling establishments. Namely, clause 3 of Art. 127 to state in the following content: 3. The act provided for in part 1 of this article, committed by a parent or other person entrusted with these duties, as well as a teacher or other employee of an educational organization, health care or other organization, who is entrusted with the responsibility for upbringing and (or) education, resulting in the use of minors of alcoholic beverages, narcotic drugs, psychotropic substances, their analogues, or engaging in vagrancy or begging, or being in gambling establishments, or committing a deliberate act containing signs of a criminal or administrative offense,

- entails a fine in the amount of 20 MCI or administrative arrest for up to ten days.

However, the rule of parental responsibility will not affect persons between the ages of 18 and 21, as these are adults who are independently responsible for their actions. And in these cases, the responsibility lies entirely with the administration of gambling establishments.

In this regard, it is necessary to detail the organization of the activities of casinos and slot machine halls, through the adoption of a single Regulation on their work. Such legal acts operate in Belarus. This standard provision allows you to consolidate the main criteria for organizing the provision of services in the field of gambling business, the rights and obligations of the administration and clients. Currently, each casino has its own rules, which are analyzed during the licensing procedure.

The same provision should be adopted for computer clubs and Internet cafes. The current rules for the provision of Internet access services (Appendix 3 to the order of the Acting Minister for Investment and Development of the Republic of Kazakhstan dated February 24, 2015 No. 171) are general in nature and do not cover all aspects and specifics of work, which attracts more and more attention of parents and the public and states as potentially harmful and seeking to minimize harm (https://online.zakon. kz/Document/?doc id=39350222#pos=4;-108). Accordingly, the business sector in this area should also strive to provide services in strict accordance with the law, while raids by police and volunteers constantly identify children at night in Internet establishments.

All of these measures are aimed at counteracting gambling addiction. The state and the public are aware of the social significance of this problem.

### Conclusion

Gambling addiction is also recognized as a type of addiction, aimed at drug addiction and alcoholism

and requires serious work to prevent it, identify and combat it, and treat it. Currently, gambling addiction has moved to the online format, which requires adequate measures and has become another form of Internet addiction, which children and young people are most susceptible to.

Accordingly, based on the analysis of international legislation, the experience of foreign countries, and domestic realities, we consider it possible to draw the following conclusions and make recommendations:

- 1. To develop the Concept of information security of children and youth, in which the issues of Internet addiction and addiction to Internet games should be fully analyzed;
- 2. It is necessary to recognize children and youth as equal participants in the formation of the information society, to recognize the need to protect their consciousness;
- 3. To consolidate the responsibility of the state and the family for the observance of the legitimate interests of children and youth in the information sphere;
- 4. Along with measures to create a favorable and developing information environment, develop a set of measures to protect consciousness from negative impacts, minimizing the risks of desocialization, development and consolidation of deviant and illegal actions of children, adolescents and youth;
- 5. Form a system of measures aimed at increasing the level of media literacy of the younger generation;
- 6. To consolidate a set of measures to counter Internet addiction and gambling addiction in the following areas:
- Legislative measures development of legislation establishing a complex of preventive and punitive measures;
- Administrative measures of control, monitoring, expertise and legal response;
  - Medical measures;
- Educational measures and measures to involve parents;
- Public measures involving the IT business with the stimulation of social responsibility in their activities;
- 7. Develop and adopt the Law of the Republic of Kazakhstan on the issue of protecting children and young people from negative information impact and to consolidate the principles of state policy in this direction;
- 8. Develop a program to counteract Internet addiction and gambling addiction, including the above areas;

- 8. Determine the circle of responsible state bodies whose competence should include the functions of preventing and combating Internet addiction and gambling addiction, which should include the Ministry of Health, the Ministry of Information and Social Development, the Ministry of Digital Development, Innovation and Space Development, the Ministry of Culture and Sports as well as the Ministry of the Interior. Determine the terms of reference and functions of each of the listed bodies in the information security policy for children and young people, and consolidate them by law;
- 8. Develop a system of educational measures to teach literacy to meet cognitive and entertainment needs and interests by introducing such courses into the school educational environment;
- 9.In order to block information channels of penetration of elements of criminal psychology, the cult of violence, other open antisocial tendencies and the corresponding attributes of the Ministry of Education and Science of the Republic of Kazakhstan through mass media sources into children and adolescents, develop rules for using the Internet in schools and other educational institutions, boarding schools, etc.;
- 10. To develop a system of incentives for the development of IT technologies by national IT companies to protect the consciousness of children and adolescents on the Internet, taking into account the principles of respect for the rights of children and the freedom of other Internet users, possibly on the principles of public-private partnership;
- 11. Develop a standard for determining the distance of the location of computer clubs to schools, kindergartens and other educational and educational institutions;
- 12. clause 2 of Art. 444 of the Administrative Code of the Republic of Kazakhstan shall be stated as follows:
- 2. Involvement and (or) admission of citizens of the Republic of Kazakhstan under the age of twenty-one, as well as persons with limited in participation in gambling and (or) betting for money, things and other values -

entails a fine for individuals in the amount of 200 MCI, for medium-sized businesses in the amount of 300 MCI, for large businesses – in the amount of 1,000 MCI. with revocation of the license for activities in the field of gambling business.

- 13. p. 3 of Art. 127 of the Administrative Code of the Republic of Kazakhstan shall be stated in the following content:
- 3. The act provided for in part one of this article, committed by a parent or other person entrusted

with these duties, as well as a teacher or other employee of an educational organization, health care or other organization, who is entrusted with the responsibility for upbringing and (or) education, entailing the use by minors of alcoholic beverages, narcotic drugs, psychotropic substances, their analogues or engaging in vagrancy or begging, or being in gambling establishments, or committing a deliberate act containing signs of a criminal or administrative offense,

- entails a fine in the amount of twenty monthly calculation indices or administrative arrest for up to ten days.
- 14. Develop Model Regulations on the Operation of Computer Clubs and Internet Cafes;
- 15. To oblige the owners of computer facilities to notify district police officers about cases when

a minor spends more than 4 hours a day playing a computer game. What the precinct must react to, and notify the parents about the child's pastime. All conditions for the control of the administration of the clubs for clients have been created (provision of documents, video surveillance, keeping registration logs). Accordingly, the administration of such establishments should provide assistance in countering Internet addiction and gambling addiction;

16. Taking into account the wide practice of foreign countries in teaching parents the prevention of Internet addiction and gambling addiction, domestic teachers and psychologists need to develop methodological material, widely disseminate it on social networks with the recommendation of special parental control programs.

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