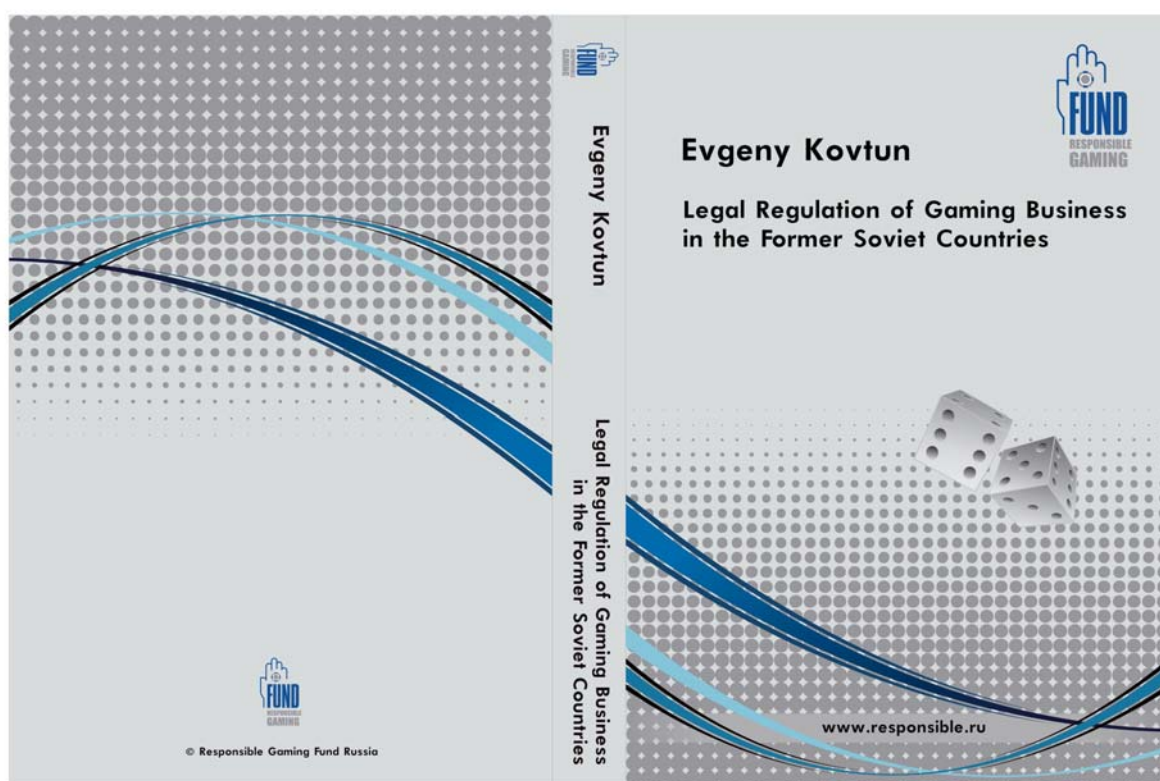


Legal Regulation of Gambling Business in the Former Soviet Countries



The book gives a full and comprehensive analytical coverage of legal regulation of gambling in ex-USSR countries (the Russian Federation, Byelorussia, Ukraine, Moldova, Latvia, Lithuania, Estonia, Azerbaijan, Armenia, Georgia, Kazakhstan, Kyrgyzstan, Uzbekistan, Turkmenistan, and Tajikistan). The author provides a detailed account of the history of gambling regulation in the USSR and a survey of the current legislation.

The publication is recommended for officers of any legislative authorities, civil servants, teachers, post-graduate and under-graduate students of law universities and departments, gambling operators and high readership.

The book is based on the legislature in effect as of July 1st, 2008, unless otherwise stated.

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INTRODUCTION

Gambling is a complicated and unconventional phenomenon. A wish to try one's luck, to challenge one's fate, to experience special feelings, to make a fortune easily and in a short time has always been an integral part of human nature. The history of games where everything is determined by chance, risk has been many-thousand-years long. And in all times gambling has been not only a kind of entertainment but an efficient means of conflict resolution. Up to now certain elements of gambling have been successfully applied to solving important matters of state, and gambling rules can often be found directly in the texts of some foreign states' Constitutions.

Gambling was mentioned for the very first time as long ago as 3500 years BC. Archaeologists came across **Ancient Egyptian** statues and drawings on the stones which depicted people or gods throwing astragali – hucklebones or knuckles of a sheep or a dog. The latter were also found in excavations of pre-historic people's dwelling sites of even an earlier period. In addition, gambling was mentioned in **Ancient Greece** and its mythology. For instance, according to a legend, after Zeus took the upper hand over titans, and, together with his brothers Poseydon and Hades, they became lords of the Universe, they cast a lot to decide who would get which part of it. Zeus won Olympus, Poseydon – sea depthsm and Hades – the underground world.

Six-sided dice appeared long before we were born, too. In the Indian epos of Mahabharata, created, probably, over two thousand years ago, a game of dice is described frequently and in detail. The collection of Vedic hymns, Rigveda, contains a poem called "Gambler's Complaints". In one of its verses God Savytr's appeal is not to play dice. "Bhavishia Purana" ancient book also features a story related to gambling: a prince lost everything, including his own wife, because of playing dice.

Nothing is known for certain about the origin of gaming cards, as well as of gambling itself. One of the versions relates that cards were invented in 12th century to entertain concubines of Huai Song, an Emperor of China. According to another one, they appeared in **Ancient India**, still another says – in **Persia**, the motherland of chess. One can only be sure that in Europe cards initially sprang in **Italy**, in a commercial capital of that time, Venice, in about 13th-14th centuries.

First gambling dens came into being as early as under **Ancient Rome**. In the Middle Ages gambling spread throughout the Europe, becoming an integral part of rich and famous people's high life. They play in palaces and taverns, on cloth-covered tables and oak boards. They lose estates and wives and win gluts of wealth and would-be concubines.

A strive to peep into the future, to know one's fate and change it is inherent in any peoples in any ages. The human interest to gambling must have appeared at the moment they first became aware of their ability to influence the destiny – to make a choice. It is not by chance that we call our destiny “a lot”, and a happy accident – “a fortune”.

The ranks of gambling amateurs and connoisseurs include historical figures and our contemporaries of all nationalities and occupations. Girolamo Cardano, an Italian mathematician, physicist and astrologist, is known to have been the first to make a mathematical analysis of playing dice in 1526. His undertakings were then supported by Niccolo Tartaglia, another famous Italian mathematician. Galileo Galilei proceeds with studying dice games at the end of 16th century, and Blaise Pascal does the same in 1654 (he is also believed to have invited the French Roulette layout). In 1657, the first book “On Calculations in Dice Games, or On Calculations in Gambling” written by Christian Huygens, sees the light. Another book, Jacob Bernoulli's “Art of Assumptions”, is published in 1713 – the study of the theory of chances in it is also connected with games of chance. A lot of time is spent in chance models research based on games of chance by outstanding astronomers and mathematicians: Pierre de Fermat, Pierre-Simon Laplace, Johann Kepler, Isaac Newton, Carl Friedrich Gauss, Simeon Poisson and Abraham de Moivre.

We often hear the phrase “he's somewhat of a gambler”. And what is gambling? It is a willingness to take risks for the sake of achieving a goal, a form of self-expression and personality manifestation. Everyone is prone to gambling; however, if some are able to stop in time, others, believing that there is only one step left to achieving the cherished goal, proceed to the very completion. But what kind of completion will it be?

The popularity of games of chance can be explained by two mutually exclusive components of gambling – abstractedness of the theory of chances and emotions a person experiences during the game. Gambling is the core of all sports and contests – in sports it is called “a will to win”, though. And what is winning if not the outcome of gambling? To win or to lose? To be or not to be? – an eternal question being solved by people throughout ages.

To gamble or not to gamble – it is up to you! However, it should be borne in mind that gamblers are much better at solving ambiguous and complicated life situations than those who tend to make choices only based on the results of a thorough logical analysis of the situation. And decisions made by rule of gambling mainly turn to be worthwhile at least.

It is not by chance that in ancient times, before hunting, people performed a sacred cast of arrows to a carcass of a killed animal – “for good luck”, and it was a part of Roman warlord’s official rite to cast a lot before making most crucial decisions. Centuries-old experience of conducting warfare proved that carefully elaborated and grounded decisions do not always result in a victory; quite often actions contradictory to common logics and thus unpredictable for the enemy lead to success.

A lot of time has passed since gambling emerged in the life of humanity. However, simple forms of gambling, designed by ancient people, have remained virtually untouched by civilization. The dice, cards and roulette nowadays used for gambling have lived to see the present. Within the same term, almost all the forms of our being have been subject to modification. Architecture, fashion, gambling houses where games of chance have been conducted and bets made have changed completely but the dice look exactly the way they looked 3500 years ago. The roulette layout and fundamentals have not changed since their invention. Playing cards have come down to us unaltered, and one may be sure that they will stay the same many a hundred years more. The same principle – from deuce to ace, the same back and the same scoring system in practically all the games.

Having read this book in a thousand years, you may be sure – nothing but gambling will reach our ancestors in its primeval shape.

CHAPTER I. WORLDWIDE DEVELOPMENT OF GAMES OF CHANCE AND GAMBLING LAWS

As it was once mentioned by Dutch philosopher of the 1st half of the 20th century Johan Huizinga, the author of the most fundamental up to now study of the game phenomenon, *“in the history of humanity game is but the most ancient display of life as it had been born before culture was formed”*. Gaming for money appeared once the

humanity invented the equivalent of natural goods cost.

Gambling – as a social fact – has never been able to be, and should have never been, unattended by the state. Meanwhile the attitude of the state to it has always been determined by two exactly converse factors. On the one hand, gambling has always been an opportunity for the state to considerably replenish its budget. The history has known various options of the replenishment: conducting lotteries, granting licences for opening gambling facilities, special taxation, the state monopoly to print playing cards, etc. On



the other hand, gambling arrangement seems to be quite a contradiction to religious dogmas, morality and and virtue doctrines as it can accumulate many of human vices around. Therefore there is a negative attitude to gambling from a certain part of the population, the opinion of which can not be ignored by the authorities¹. However, the history proves that even the popular opinion does not always play a major role in the matters of gambling bans or legalization.

¹ These cases are typical of the USA. Legalisation of various gambling forms takes place at the state referendums. Referendums of gambling legalization did fail sometimes, for example, referendums on casinos in Oklahoma and New Mexico in 2002, on lotteries and totes in Nebraska in 1992 and 1996, on totes in Utah in 1992, on dog races in Massachusetts in 2000, etc.

The history of legal regulation of gambling activities is mostly connected with prohibiting them. The first laws of regulatory, not of prohibitive nature start emerging in the middle of the 12th century, when the authorities finally realize that gambling bans are not that efficient in practice; to be more exact, extremely inefficient. The bans have to be continuously repeated, toughening the sanctions for the infringement of the law in effect and increasing costs for maintaining the state fight against illegal gambling. However, people go on gambling in spite of all the prohibitions, and this is what becomes the main reason of games of chance subsequent legalization and gambling becoming a kind of entrepreneurship.

The legalization of gambling in each country daring to make such a step is connected with different inducements. It has been historical that the opening of the first



casino in **Monaco** made this small state one of the richest in Europe in terms of income per capita. The impossibility to control gambling within China having billions of population has encouraged the government of the country to pass prohibitive measures with regards to gambling activities in the country and

to turn a blind eye to gambling development within its enclaves where it is legal (**Macau** and **Hong Kong**). The religious component, not allowing some of the countries to let their own citizens in gambling facilities, contributes to opening of gambling houses for tourists (**Egypt, Tunisia**).

Macau and **Monaco** are one of the wealthiest world areas, and they have reached it due to gambling development, attracting major investments to this sector. Some Indian reservations in the **USA** have a living standard incomparable with many European countries – only because of gambling facilities operating within their territories.

Not every state has natural resources able to ensure its well-being for many years. It may deserve a different attitude that some countries make money on the transit

through their territories (**Egypt, Panama**), other – on selling its workforce (**Philippines, Pakistan, Bangladesh**), the third – on the registration of offshore firms and banks (**Gibraltar, Antigua and Barbuda, the Caiman Islands, Vanuatu, Nauru**), the fourth provide their jurisdictions on tonnage of commercial ships (**Liberia, Panama**), the fifth open tax-free zones for natural persons (**Monaco**), the six – tax-free zones for legal entities (**Cyprus, the Virgin Islands, Gibraltar**), but it is obvious that the countries benefit due to their policies.



Every country has its own mechanisms of gambling regulation. The key ones are as follows: industry legislation, licensing, special taxation, certification of gaming equipment, etc. Some of the European states have not changed their laws related to gambling for dozens of years, and only at times

are they complemented with the required amendments.

At present gambling is officially allowed in all European countries (but for **San Marino** and **Lichtenstein**), almost in the entire North and South Americas (but for **Cuba**) and in many states of Asia, Africa, Central America, Australia and Oceania.

To be fair, it should be mentioned that not all the countries have chosen the way of gambling legalization. In one form or another, gambling is forbidden today in **China** (but for **Macau** and **Hong Kong**), **Afghanistan, Pakistan, Saudi Arabia, Iran, Bahrain, Kuwait, Qatar, Cyprus** (the Greek part), **Oman, Bhutan, Brunei, Azerbaijan, Uzbekistan, Bangladesh, Indonesia, Fiji, Micronesia, Thailand, Algeria, Libya, Mauritania, Eritrea, Ethiopia, Burundi, Rwanda, Somalia, San Marino, Lichtenstein, and Cuba**. However, currently the decisions on gambling restrictions are rather influenced not by ethical and religious views so crucial in the past (however, these are the ones of the major influence in Islamic countries) but social criteria – class differentiation originating in the ancient times. It is a well-known fact that Roman emperors played the dice often and long, but common citizens of Rome were allowed the game of dice only in certain times of the year. Totes in the Roman

hippodromes and later in the Byzantium Empire were also just a pastime for the well-to-do. In England, Richard 1st the Lion Heart forbade any gaming for money in its army for common warriors. In the meantime, the ban was not applied to the knights. Even later Henry the IV and Henry the VIII impose bans for common citizens to participate in gambling. The bans, however, do not apply to the nobility and the clergy. For quite a long time gambling was accessible for the Royal Household of **France** and prohibited for the plain folk. The cards, dice, roulette, horse-course and races were an element of elite leisure, for high-stepping gentlemen seeking entertainment in wining and dining, gambling, ladies' society and duels.

Pro- and persecution of gambling organizers and participants has always been there. Long and vain would be the attempts to look for a nation where gambling entertainment was absent due to lack of gambling. Gambling is an inherent feature of a human nature showing itself, by the way, in various spheres of human life. To make life interesting, a person just needs a share of gambling – a strong, comprehensive and many-sided sensation, the scope of which can be comparable to love only. And if a sparkle of gambling flares up in a human's eyes no longer, we can sadly state that the person has lost an ability to risk and to fight, that he will do nothing even a bit out of the ordinary anymore.

Games of chance are just a particular manifestation of gambling, one of the sides of the phenomenon. And however numerous are the laws banning the cards, dice, roulette, horse-course and races, it will be impossible to ever eliminate gambling in full. A game can not be abolished as, according to Johan Huizinga's Homo Ludens research, *“Game can not be denied. Almost any abstract notion can be denied: law, beauty, truth, good, spirit, god. Sobriety can be denied as well. Game can not.”*²

..... to be continue

If you want to buy the book, please send a request to the following e-mail: Gubin@responsible.ru

² J. Huizinga. Homo Ludens (Man the Player). Iris Press. 2003



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