



**ANALYSIS OF THE BENEFITS OF THE AUSTRIAN ONLINE  
GAMBLING MONOPOLY**

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## PART 1

### A Legal Study under EU Law on Online Gambling & Monopolies

#### Background

1. This legal study is made for the purpose of clarification of the applicable EU legal framework regarding online gambling and monopoly systems in the European Economic Area (EEA), in the context of an ongoing reflection on the Austrian system based on the Gambling Act (*Glücksspielgesetz*, “GSpG”).

As a background, the operation of “electronic lotteries” in Austria is subject to the single lottery licence, thereby constituting a *de facto* monopoly for online gambling.

*This study only reflects the view and the interpretation of the Court’s case law of its authors.<sup>1</sup>*

#### EXECUTIVE SUMMARY

→ As regards compliance of the gambling monopoly with EU law, it has long been clear from the Court of Justice of the European Union (‘the Court’) that **granting exclusive rights to a single organisation (the monopoly system)** is indeed recognised as a **proportionate measure** to achieve the objectives of limiting the exploitation of the human passion for gambling and to avoid the risk of crime and fraud linked to games of chance (I.A).<sup>2</sup>

→ The Court has then, along a rich and extensive case-law, developed a **preference for the monopoly approach** to control online gambling, by stating that exclusive rights granted to a public body subject to direct State supervision is **likely to enable “more effectively”** the State to tackle the risks connected with the gambling sector (money laundering, addiction to gambling, etc.) (I.B).

→ The **controlled expansion** is also praised by the Court in order to channel consumers to regulated activities, which allow the monopoly holder for more attractive offers, including through online channels (II.A). The Court specifically hold that a monopoly holder has more leeway in its **advertising methods** when deploying a controlled expansion (II.B).

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### **I. A GAMBLING MONOPOLY SYSTEM IN ACCORDANCE WITH EU LAW.**

2. From a general internal market perspective, as gambling laws are not harmonized throughout the European Union, it is in principle for each Member States to determine, in accordance with its own scales of values (“*moral, religious and cultural*”), what is required in order to ensure that its interests are protected. Governments are free to set the objectives of their policy on betting and gaming and, where appropriate, to define in detail the level of protection sought.<sup>3</sup>

This also holds true for online games.<sup>4</sup>

3. However, restrictions on the freedom to provide gambling services, grounded on a coherent gaming policy, can in reality only be justified by the objectives of consumer protection and/or public order.

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<sup>2</sup> Judgment of the Court of 21 September 1999 *Läärä*, C-124/97, par. 42 ; see also *Sporting Odds* (C-3/17).

<sup>3</sup> Judgment of the Court of 24 March 1994, *Schindler*, C-275/92.

<sup>4</sup> Judgement of 8 September 2009, *Liga Portuguesa de Futebol Profissional and Bwin International*, C-42/07.

The Court indeed requires in connection with Art. 56 TFEU in this regard that the justification of gambling national legislation **starts with** the two pillars of **consumer protection** and/or **protection of public order as they can only be in compliance with EU law** :

- if they are imposed for 'reasons of public policy, public security or public health'; or
- if they are imposed for 'overriding reasons of public interest' as defined in Article 52 of the TFEU, including consumer protection, the fight against fraud and crime and the fight against money laundering, the prevention of incitement of citizens to excessive gambling expenditure and the prevention of disturbances to the social order in general.<sup>5</sup>

4. In addition, the restrictive measures imposed must be **proportionate** to the objectives pursued and must not go beyond what is strictly necessary. This proportionality test is an important aspect of the Court's case law on national restrictions on gambling. Finally, national legislation is appropriate only if it genuinely reflects a concern to achieve the objective in a **consistent and systematic** manner.<sup>6</sup>

5. The Court has not required Member States to prove that no other conceivable measure could enable that objective to be achieved under the same conditions<sup>7</sup>. The proportionality test is therefore sufficient alone.

**A. A monopoly approach is compliant with EU law and considered the most 'effective' system by the Court.**

6. A monopoly system such as that of the National Lottery in Austria, but also in many Member States, is in accordance with EU law, as is clearly shown by the case law of the Court.

7. From the outset, it is long accepted that a gambling monopoly is compatible with EU law :

*"42. In those circumstances, in conferring exclusive rights on a single public body, the provisions of the Finnish legislation on the operation of slot machines do not appear to be disproportionate, in so far as they affect freedom to provide services, to the objectives they pursue.*

*43. Accordingly, the answer to be given to the national court must be that the Treaty provisions relating to freedom to provide services do not preclude national legislation such as the Finnish legislation which grants to a single public body exclusive rights to operate slot machines, in view of the public interest objectives which justify it."<sup>8</sup>*

8. The conditions for which the Member States may seek the protection of their interests by granting exclusive rights, are notably set out in the judgements *Liga Portuguesa*, *Markus Stoß*, *Dickinger and Ömer* and *Zeturf*. Firstly, in *Liga Portuguesa*, the Court stated that :

*"it must be acknowledged that the grant of exclusive rights to operate games of chance via the internet to a single operator, such as Santa Casa, which is subject to strict control by the public authorities, may, in circumstances such as those in the main proceedings, confine the operation of gambling within controlled channels and be regarded as appropriate for the purpose of protecting consumers against fraud on the part of operators."<sup>9</sup>*

Therefore, it is clear that a system of granting exclusive rights to one operator (under strict control by public authorities) is capable of controlling the risks associated with gambling and be justified in view of the public-interest objectives of consumer protection and/or protection of public order.

<sup>5</sup> For example, *Läära and others* (C-124/97), par. 32 or judgment of 6 March 2007, *Placanica and e.a.*, joined cases C-338/04, C-359/04 and C-360/04, par. 46.

<sup>6</sup> Judgment of 24 January 2013, *Stanleybet e.a.*, C-186/11, par. 27 and judgment of 28 February 2018, *Sporting Odds*, C-3/17, par. 33.

<sup>7</sup> See case C-157/94 *Commission v Netherlands*, par. 58 and case C-110/05 *Commission v Italy*, par. 66.

<sup>8</sup> *Läära*, C-124/97, par. 42. See also Case E-1/06 *EFTA v. Norway*.

<sup>9</sup> *Liga Portuguesa*, C-42/07, par. 67.

9. Secondly, in Markus Stoß, the Court confirmed that the fact that some Member States has chosen a licensing system **does not preclude the choice of a monopoly in another Member State** :

*“ 79 As regards, more particularly, the establishment of public monopolies, the Court has previously acknowledged that a national system providing for limited authorisation of gambling on the basis of special or exclusive rights granted or assigned to certain bodies, which has the advantage of confining the desire to gamble and the exploitation of gambling within controlled channels, was capable of falling within the pursuit of the abovementioned public interest objectives of protecting the consumer and public order (see, in particular, Zenatti, paragraph 35, and Anomar and Others, paragraph 74). It has also held that the question whether, in order to achieve those objectives, it would be preferable, rather than granting an exclusive operating right to a licensed public body, to adopt regulations imposing the necessary code of conduct on the operators concerned **is a matter to be assessed by the Member States**, subject however to the provision that the choice made in that regard must not be disproportionate to the aim pursued (Läärä and Others, paragraph 39).*

*80 In that latter regard, it should nevertheless be noted that, having regard to the discretion which Member States enjoy in determining the level of protection for consumers and public order which they intend to ensure in the gaming sector, **it is in particular not necessary, with regard to the criterion of proportionality, that a restrictive measure decreed by the authorities of one Member State should correspond to a view shared by all the Member States concerning the means of protecting the legitimate interest at issue**”<sup>10</sup>*

10. Thirdly, together in Markus Stoß Zeturf and in Dickinger and Ömer, the Court repeatedly held that especially **when seeking a particularly high level of protection**, a Member State is entitled to consider that a **controlled monopoly is the only best approach** to prevent the risks related to the gambling sector:

*“41. A Member State that is seeking to ensure a particularly high level of protection may, consequently, as the Court has acknowledged in its decisions, be entitled to take the view that it is only by granting exclusive rights to a single body which is subject to strict control by the public authorities that it can tackle the risks connected with the gambling sector and pursue the objective of preventing incitement to squander money on gambling and combating addiction to gambling with sufficient effectiveness”<sup>11</sup>*

11. According to the Court in the same cases, if the measure implemented by the Member State involves the granting to a single undertaking of an exclusive right to make games available, it must be **accompanied by a legislative framework suitable for ensuring that the holder of the said monopoly will in fact be able to pursue**, in a consistent and systematic manner, such an objective **by means of a supply that is quantitatively measured and qualitatively planned by reference to the said objective** and subject to strict control by the public authorities.<sup>12</sup>

12. Fourthly, in those cases, the Court acknowledged that exclusive rights granted to a public body subject to *direct State supervision* is **likely to enable “more effectively” the State** to tackle the risks connected with the gambling sector (money laundering, addiction to gambling, etc.) :

*“(…), it must be acknowledged that the public authorities of a Member State may be entitled to take the view, within the margin of discretion which they have in that respect, **that granting exclusive rights to a public body whose management is subject to direct State supervision or to a private operator over whose activities the public authorities are able to exercise tight control is likely to enable them to tackle the risks connected with the gambling sector and pursue the legitimate objective of preventing incitement to squander money on***

<sup>10</sup> Judgement of the Court of 8 September 2010 Markus Stoß and Others, C-316/07, paras 79-80.

<sup>11</sup> Markus Stoß and Others, C-316/07 para. 81, judgment of the Court of 30 June 2011, Zeturf, C-212/08 para. 41, judgment of the Court of 15 September 2011, Dickinger and Ömer, C-347/09, para. 48.

<sup>12</sup> Markus Stoß and Others, para. 83 and Zeturf, C-212/08 para. 58 and Dickinger and Ömer, C-347/09, para. 57.

gambling and combating addiction to gambling **more effectively** than would be the case with a system authorising the business of operators which would be permitted to carry on their business in the context of a non-exclusive legislative framework".<sup>13</sup>

13. The EFTA Court has also stated that the exclusive right system is likely to be more effective to achieve public interest, in particular in regard to the control over the State-owned monopoly operator :

*"(...) In the Court's view, it is reasonable to assume that a monopoly operator in the field of gaming machines subject to effective control by the competent public authorities will tend to accommodate legitimate concerns of fighting gambling addiction better than a commercial operator or organisations whose humanitarian or socially beneficial activities partly rely on revenues from gaming machines. Furthermore, it is plausible to assume that in principle the State can more easily control and direct a wholly State-owned operator than private operators. Through its ownership role, the State has additional ways of influencing the behaviour of the operator besides public law regulations and surveillance. (...)*

*The Court concludes that the Defendant has sufficiently demonstrated that the **exclusive right system opted for in the contested legislation is likely to be more effective in order to achieve the objectives of the legislation**, considered as a whole, than the other means proposed by the Applicant."*<sup>14</sup>

14. In that respect, in its judgement *Sporting Exchange*, the Court elaborated on the notion of 'strict control', and stated that this can comprise either a public operator whose management is subject to direct state supervision, or a private operator whose activities are subject to strict control by the public authorities.<sup>15</sup>

15. It must be noted that, even if the monopoly system is found to be incompatible with the European law provisions on free movement, **this does not necessarily lead to an obligation to liberalize the market** if the Member State finds that such liberalization is incompatible with the level of consumer protection and the preservation of order in society that it intends to uphold.

The Member State concerned is consequently **not obliged to liberalize** but may adjust its restrictions to become fully consistent and therefore fully compliant with EU legislation and case law :

*"(...) It should be borne in mind that, in the specific area of the organisation of games of chance, national authorities enjoy a sufficient measure of discretion to enable them to determine what is required in order to ensure consumer protection and the preservation of order in society and – provided that the conditions laid down in the Court's case-law are in fact met – it is for each Member State to assess whether, in the context of the legitimate aims which it pursues, it is necessary to prohibit, wholly or in part, betting and gaming or only to restrict them and, to that end, to lay down more or less strict supervisory rules (Garkalns, paragraph 38 and the case-law cited).(...)*

46 *Accordingly, the refusal to allow a transitional period in the event of incompatibility of national legislation with Articles 43 EC and 49 EC does not necessarily lead to an obligation for the Member State concerned to liberalise the market in games of chance if it finds that such a liberalisation is incompatible with the level of consumer protection and the preservation of order in society which that Member State intends to uphold. Under European Union law as it currently stands, Member States remain free to undertake reforms of existing monopolies in order to make them compatible with Treaty provisions, inter alia by making them subject to effective and strict controls by the public authorities."*<sup>16</sup>

<sup>13</sup> *Markus Stoß and Others*, C-316/07, par. 81, *Zeturf*, C-212/08 par. 67 and *Dickinger and Ömer*, par. 49.

<sup>14</sup> Case E-1/06 EFTA v. Norway of 5 March 2013, paras. 51-52.

<sup>15</sup> Judgement of the Court of 3 June 2010, *Sporting Exchange* (Betfair), C-203/08, par. 59.

<sup>16</sup> Judgement of the Court of 24 January 2013, *Stanleybet and others* C-186/11, par. 46.



16. Finally, according to the Court, the use of gambling revenues to finance activities of general interest or public interest cannot be a reason for a restrictive policy, but may only be a **beneficial ancillary effect**<sup>17</sup>. In other words, the collection of funds through gambling taxes must not be the primary purpose of a restrictive policy.

**Therefore, EU Member States may organise gambling as they wish, without taken into account other national systems, and in particular may organise their system in a way that comply with the Court's case law.**

**Monopoly system is recognised by the Court as the 'more effective' system in the gambling sector to pursue public-interest objectives. In any way a Member State is obliged to choose a multi-licensed system for any types of games, certainly not based on revenues from potential taxes to the State.**

**B. Absence of competition and confirmation of a lack of mutual recognition in the field of gambling.**

17. The Court has always been opposed to call for (more) competition in the gambling service area. It has in fact stated on several occasions that **free and undistorted competition on the lotteries and games of chance markets may have seriously detrimental effects**, since lotteries and/or games of chance operators would have to compete in inventiveness to make their offer more attractive, thereby increasing consumers' expenditure on games and their risk of addiction :

*"45 It is also common ground that, unlike the introduction of free, undistorted competition in a traditional market, the presence of that kind of competition in the very specific market of games of chance, that is to say, between several operators authorised to run the same games of chance, is liable to have detrimental effects owing to the fact that those operators would be led to compete with each other in inventiveness in making what they offer more attractive and, in that way, increasing consumers' expenditure on gaming and the risks of their addiction".*<sup>18</sup>

18. More fundamentally, the Court, as well as the EFTA Court, has explicitly (and very early on) **refused the application of the principle of mutual recognition in the field of lottery and games of chance**, meaning that one Member State does not have to recognise the controls and rules established by another Member State :

*"The mere fact that a Member State has chosen a system of protection different from that adopted by another Member State cannot affect the assessment of the necessity and proportionality of the provisions adopted in that regard. Those provisions must be assessed solely in the light of the objectives pursued by the competent authorities of the Member State concerned and the level of protection which they intend to ensure."*<sup>19</sup>

19. The Court thus clarified that for online gambling :

***"A Member State is therefore entitled to take the view that the mere fact that an operator such as Bwin lawfully offers services in that sector via the internet in another Member State, in which it is established and where it is in principle already subject to statutory conditions and controls on the part of the competent authorities in that State, cannot be regarded as amounting to a sufficient assurance that national consumers will be protected against the risks of fraud and crime, in the light of the difficulties liable***

<sup>17</sup> E.g. C-275/92 Schindler, C-67/98 Zenatti and C-243/01 - Gambelli e.a.

<sup>18</sup> *Stanleybet and Others*, C-186/11 par. 45 ; *Sporting Exchange*, C-203/08, para. 58 and in judgment of 30 April 2014, *Pfleger and Others*, C-390/12, par. 46.

<sup>19</sup> *Läärä*, C-124/97, and of 21 October 1999, *Zenatti*, C-67/98, par. 34: *Liga Portuguesa*, C-42/07, paras 68 and 69 ; EFTA Court of 30 May 2007, E-3/06, *Ladbrokes v. Norway*, par. 87.

to be encountered in such a context by the authorities of the Member State of establishment in assessing the professional qualities and integrity of operators".<sup>20</sup>

20. Finally, mutual recognition was therefore ruled out, in very clear terms, for the entire gambling sector in the *Markus Stoß* judgment, in which the Court (Grand Chamber) stated :

" 76 In that context, the Court has, moreover, often stated that moral, religious or cultural factors, as well as the morally and financially harmful consequences for the individual and for society associated with betting and gaming, may serve to justify a margin of discretion for the national authorities, sufficient to enable them to determine, in accordance with their own scale of values, what is required in order to ensure consumer protection and the preservation of public order.

111 (...) it should however be noted that, having regard to the discretion, referred to in paragraph 76 of this judgment, which Member States have in determining, according to their own scale of values, the level of protection which they intend to ensure and the requirements which that protection entails, the Court had regularly held that assessment of the proportionality of the system of protection established by a Member State cannot, in particular, be influenced by the fact that another Member State has chosen a different system of protection (...).

112 Having regard to that margin of discretion and the absence of any Community harmonisation in the matter, **a duty mutually to recognise authorisations issued by the various Member States cannot exist having regard to the current state of EU law.**

113 It follows in particular that each Member State retains the right to require any operator wishing to offer games of chance to consumers in its territory to hold an authorisation issued by its competent authorities, without the fact that a particular operator already holds an authorisation issued in another Member State being capable of constituting an obstacle."<sup>21</sup>

21. It was reiterated in the *Dickinger and Ömer* case (Austria).<sup>22</sup>

22. Similarly, the Macolin Convention on the manipulation of Sports Competition defines 'illegal sports betting' as any sports betting activity whose type or operator is not allowed under the applicable law of the jurisdiction where the consumer is located.<sup>23</sup>

23. Finally, the Court considered that the **responsibility for an effective enforcement system and the fight against illegal online gambling lies with the Member States.**<sup>24</sup>

**Thus, the lack of mutual recognition in the gambling sector, cited by private gaming operators established in other Member States as limiting the free movement of services, is definitely not an obstacle to extending the systems for combating illegal gambling and betting, including within the framework of the Macolin Convention.**

<sup>20</sup> *Liga Portuguesa*, C-42/07, paras 68 and 69.

<sup>21</sup> *Markus Stoß*, C-316/07.

<sup>22</sup> *Dickinger and Ömer*, C-347/09, par. 96: "it should be pointed out at the outset in this regard that no obligation of mutual recognition of authorisations issued by the various Member States can exist in the light of the current state of Union law".

<sup>23</sup> Article 3.5.a, <https://rm.coe.int/16801cdd7f>.

<sup>24</sup> Judgement of 8 September 2010, *Carmen Media Ltd*, C-46/08, par. 55.

## II. CONTROLLED EXPANSION ON ONLINE OFFER BY THE MONOPOLY HOLDER AS A PREFERRED POLICY.

### A. A consistent online gambling development by the monopoly holder seems necessary to control the risks inherent to that particular channel.

24. In terms of the general framework of a gambling policy, the theory of “*controlled expansion*” with the objective of attracting players engaged in illegal gaming and betting activities was developed by the Court in its judgement *Placanica* in 2007.<sup>25</sup>

As such, in order to achieve this objective, authorised operators **must** provide a **reliable**, but at the same time **attractive, alternative** to a prohibited activity, which may be a **monopoly system** in itself that **imply the offer of a wide range of games**, a certain amount of **advertising** and the use of **new distribution techniques** (i.e. online) :

*“it is possible that a policy of controlled expansion in the betting and gaming sector may be entirely consistent with the objective of drawing players away from clandestine betting and gaming – and, as such, activities which are prohibited – to activities which are authorised and regulated. (...)”*

*in order to achieve that objective, authorised operators must represent a reliable, but at the same time attractive, alternative to a prohibited activity. This may as such necessitate the offer of an extensive range of games, advertising on a certain scale and the use of new distribution techniques.”*

25. Another key element in the reasoning of the Court is that **internet-based games of chance involve specific features and different and more substantial risks of fraud owing to the lack of direct contact between consumer and operator**.<sup>26</sup> The Court recognises that the provision of gambling on the internet has certain specific risks which may affect consumers as regards possible fraudulent practices by operators which are of a **more serious nature** compared with the traditional markets for such games.

26. In the *Zeturf* case (C-212/08), the Court reiterated it to that effect that the internet is merely a “*channel for offering games of chance*”.

The Court has then specified that the **policy adopted by a Member State must take account** of the **different risks according to the type of games involved**, lotteries being less dangerous than betting or casino games<sup>27</sup>. The principle of controlled expansion shall therefore be applied even more on the online channel.

27. The Court also found that a **gambling monopoly can ensure a particularly high level of consumer protection** when based on a finding that criminal and fraudulent activities linked to gaming are a problem in the territory of the Member State (illegal gambling), **which the expansion of authorised and regulated activities would be capable of solving**.<sup>28</sup> As the Court repeated that competition is detrimental in the gambling sector, controlled expansion does indeed not as such mean to provide for more operators, but rather to enlarge the scope of activities of the exclusive operator.

28. Finally, the Court has taken the view that a Member State cannot be denied the right to extend to the internet the application of the unilateral restrictive rules which it adopts for legitimate

<sup>25</sup> Judgement of 6 March 2007, *Placanica*, joined cases C-338/04, C-359/04 and C-360/04, **par. 55**.

<sup>26</sup> *Liga Portuguesa*, C-42/07 par. 70, and *Carmen Media Ltd*, C-46/08 **par. 100**.

<sup>27</sup> The primary risks are those linked to the behaviour of the player, and depend on the types of game: see Advocate General Bot's opinion in Case C-347/09 of 31 March 2011, *Dickinger and Ömer*, paras 127 to 130 and *Carmen Media*, C-46/08, par. 100. It is also recently stated by the Court on 12 September 2024 in *Chaudfontaine Loisirs* C-73/23, **par. 44**. Moreover, with regard to the risks of money laundering, according to the latest EC SNRA 2022, online gambling is considered to be at level 4: the highest risk ; while **lotteries are at level 2 : low risk**.

<sup>28</sup> *Zeturf Ltd*, C-212/08, para. 72.



purposes in the public interest simply because that technological medium has a character that is in essence transnational.<sup>29</sup>

29. In essence, enlarging the scope of low-risk games is the most appropriate policy to channel the gambling desire into controlled areas, based on the Court's findings :

1. Authorised operators '*must*' represent a reliable, but at the same time attractive, alternative to a prohibited activity. This necessitates the offer of an extensive range of games, advertising on a certain scale and the use of new distribution techniques (*Placanica*, par. 55) ;
2. Amongst the authorised operators, **exclusive operators confines the desire to gamble and the exploitation of gambling within controlled channels *more effectively*** than a system of licensed but private operators (*Zeturf Ltd*, par. 72 and *Markus Stoß*, par. 82) which falls within the ambit of public-interest objectives (*Zenatti C-67/98*, para 35, and *Anomar and Others C-6/01*, par. 74) ;
3. However, it is also judged that the establishment of a monopoly, by nature restrictive, can be justified only in order to ensure a particularly high level of consumer protection, and **must be accompanied by a legislative framework suitable for ensuring that the holder of the said monopoly will in fact be able to pursue**, in a consistent and systematic manner, the objective thus determined **by means of a supply that is quantitatively measured and qualitatively planned by reference to the said objective** and subject to strict control by the public authorities (*Markus Stoß and Others*, para. 83). This means that not only the operations must be organized within a framework with strong qualitative rules regarding responsible gaming, security and risk management, but also through an ongoing assessment of the societal impact and an objective, scientific based, management to prevent problem gambling.
4. Finally, online gambling involves different and more substantial risks of fraud by operators against consumers and greater order in the area of consumer protection, particularly in relation to young people and those with a propensity for gambling or likely to develop such a propensity, compared with the traditional markets for such games (*Liga Portuguesa*, para. 70 ; *Carmen Media* para. 103). Lottery games are considered low risk games (footnote 28).

**Given the preference the Court has always expressed in favor of a monopolistic approach, thus easily controllable, controlled expansion of the activities of the monopoly holder on the online channel is perfectly in line with the case law of the Court and is considered the most effective to pursue public-interest objectives.\***

\* *E.g. in Schindler - Germany (1994) ; Zenatti (1999) & Gambelli (2003) - Italy ; Liga Portuguesa de Futebol Profissional - Portugal (2009) ; Dickinger and Ömer (2011) - Austria.*

## **B. Advertising of gambling monopoly holder in a controlled expansion environment**

30. The Court has also given some guidance on how Member States can restrict advertising for games of chance, particularly in the context of a policy of controlled expansion. According to the Court, **advertising is permitted where it is necessary to attract players to controlled gambling channels**, but it cannot encourage players to gamble excessively.<sup>30</sup>

31. The Court recently went back on the principle that advertising cannot aim to encourage consumers' natural propensity to gamble.<sup>31</sup>

<sup>29</sup> *Markus Stoß*, C-316/07 par. 86.

<sup>30</sup> *Dickinger and Ömer*, C-347/09, paras 67-68.

<sup>31</sup> See the general approach set out in the Court's order of 6 September 2018, *Gmalieva and Others*, C-79/17.

32. In a recent order (which state the current position of the Court), the Court held that a dual system of organisation of the gambling market in which **the advertising practices of the holder of the monopoly on lotteries and casinos** are aimed at encouraging active participation in gambling, **for example by trivialising gambling, by conferring on it a positive image through the use of revenue for activities in the public interest or by increasing its attractiveness by means of eye-catching advertising promising large winnings**, may be necessary in order better to combat aggressive advertising by other operators, including illegal ones, and is therefore compatible with Union law and its theory of controlled expansion.<sup>32</sup>

33. Firstly, in this Order, the Court clarifies that channelling consumers is not a static phenomenon but an obligation of the national gambling policy whose intensity is relative to the facts on the ground in the Member State concerned.<sup>33</sup> Specifically, **the amount of criminal and fraudulent gambling activity as well as the pervasiveness of problem gambling can mean that an expansion of regulated monopoly activity is justified from a channelling perspective.**

34. Secondly, the Court specifies that, in this specific monopolistic context, advertising in itself is not inciting excessive spending on gambling.<sup>34</sup> **Advertising is only one part of the commercial strategy of the monopoly holder whose appropriateness must be evaluated from a dynamic channelling objective.** Evaluating a single advertisement does not suffice to determine the appropriateness of a commercial strategy of a monopoly holder given the requirement of coherently channelling consumers to regulated activities.

35. Thirdly, the commercial policy of a monopoly holder is not the only measure for evaluating the appropriateness of the monopoly and its objectives.<sup>35</sup> The Court gives a non-exhaustive list of elements that are also relevant for evaluating the appropriateness of the monopoly and its objectives: **state control of the monopoly, the presence of criminal activity and fraud related to gambling, the amount of problematic gambling, the aggressive advertising techniques of private operators or their exploitation of new media such as the internet.**

36. The Court concludes its argument in *Fluctus & Fluentum* by stating that even though an increase in the commercial activity of a monopoly holder merits specific attention, **it is equally possible that such an increase is the result of canalizing consumers to the regulated offer.**

And before an increase in commercial activity and advertising by the monopoly holder is inconsistent with the EU case law, one must also analyse the relevant other elements from the perspective of the channelling objective.

## **Conclusion**

37. As the Court has always considered the monopoly approach as the best policy in controlling the risks connected to gambling and in protecting consumers against fraud committed by operators<sup>36</sup> but also the best way **to channel the operation of these games within a controlled circuit, whereby online gaming must be considered as another form of gaming distribution**<sup>37</sup>, the monopoly system is the preferred solution for the Court on online gambling and not only can be implemented by law but should be strengthened by governments.

- This solution is based on the Court's rulings (notably, *Ligua Portuguesa*, *Markus Stoß*, *Dickinger and Ömer*, *Zeturf* and *Fluctus & Fluentum*) **which highlight the relevance and better approach of a monopoly system to adequate online channels especially to enhance the fight against illegal and aggressive forms of gambling.**

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<sup>32</sup> Order of the Court of 18 May 2021, *Fluctus and Fluentum*, C-920/19, par. 53.

<sup>33</sup> Reasoned order of 18 May 2021, *Fluctus and Fluentum*, case C-920/19, EU:C:2021:395, para. 41.

<sup>34</sup> Reasoned order of 18 May 2021, *Fluctus and Fluentum*, case C-920/19, EU:C:2021:395, para. 47.

<sup>35</sup> Reasoned order of 18 May 2021, *Fluctus and Fluentum*, case C-920/19, EU:C:2021:395, para. 48.

<sup>36</sup> *Markus Stoß and Others*, par. 81, *Zeturf*, par. 67 and *Dickinger and Ömer*, par. 49.

<sup>37</sup> *Carmen Media*, C-46/08, par. 100.

## PART 2

### OVERVIEW OF THE DISADVANTAGES OF OPENING ONLINE GAMBLING IN KEY EUROPEAN MARKETS

→ This part aims at providing an **overview of the recent gambling reforms opening up the online gambling market** in The Netherlands, Sweden, in some part of Germany as well as the partial but significant opening of the Belgian online market and the upcoming opening of the market in Finland.

→ This part also aims to present the **main advantages/disadvantages of these regulations** and in some systems the need for revision due to concerns related to gambling addiction, increase of offshore gambling and lack of effective enforcement including on licensed operators.

#### Key questions explored:

- What would be the impact of legalising and opening online casinos in Austria in view of different scenarios ?
- What impact similar situations of a multi-licensed system in other countries had when the online market was opened up ?

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#### I. THE NETHERLANDS (2021-2024)

##### **SUMMARY**

In October 2021 the remote Gambling Act came into effect in the Netherlands. Operators could apply for a license for offering gambling products online. The main aim of the new act was to pull the players from the illegal market and push them into the legal market, with a channelization level of 80%. The other goal of the new act was to protect the consumers, especially against problem gambling. This report reflects the following results.

Although the first calculations showed results of channelization levels above 90%, a new developed method of calculating displayed **fluctuations of the channelization levels around 50%**. Way below the target and about the same levels of the years before market opening.

More operators (29 in June 2024) generated more **players accounts increasing from 387.429 in October 2021 to 3.396.881 in June 2024** of which 35,4% were really participating. It was concluded that the opening of the market not only attracted players from the illegal market, but also **attracted new players** caused by massive communication campaigns of the operators.

The monthly **GGR has grown from €35,1 million in the first month after opening to €152,6 million in June 2024**. In terms of sales, **2022** ended somewhere in the range **up to €21,7 billion** and in 2023 somewhere in the range **up to €27,8 billion** only for the legal market. Knowing that the channelization level is only 50%, the total sales in 2023 could end up at €56 billion. That is a **huge increase in sales** compared to the years before market opening.

24,8% of the active players were part of the group **young adults** (18-23 years old), which generated in the first half of 2024 about **10,8% of the total GGR**.

This had also effects on the number of problem gamblers. In 2021 a study before market opening found a that the number of **problem gamblers** should have been in the range between **162.400 and 268.900**<sup>38</sup> (legal and illegal). According to the report of IPSOS in 2024, it is most likely that **the number of problem gamblers has been grown since 2021, proportional to the growth number of players**.

**CONCLUSION:** The unlimited opening of the market didn't succeed in terms of the goals. In fact, it increased problem gambling and was not able to reduce the participation in illegal gambling.

## 1- DUTCH LANDSCAPE BEFORE OPENING OF THE ONLINE MARKET

### 1.1 Negative growth for Dutch lotteries

Around 2010, more and more online operator became successful in their acquisitions to gain players in European jurisdiction for online gaming. It was quite easy for private operators to (illegally) offer their products online as the consumers became more used to buy products with their mobile or desktop on the one hand and smart in getting access to websites which are under IP-address restrictions. These private operators became a big threat to the lotteries. In the Netherlands, the total GGR of the licensed lotteries started to become under pressure as the private operators managed to increase their business while the Dutch lotteries and casinos faced a decrease in sales (land based and online).

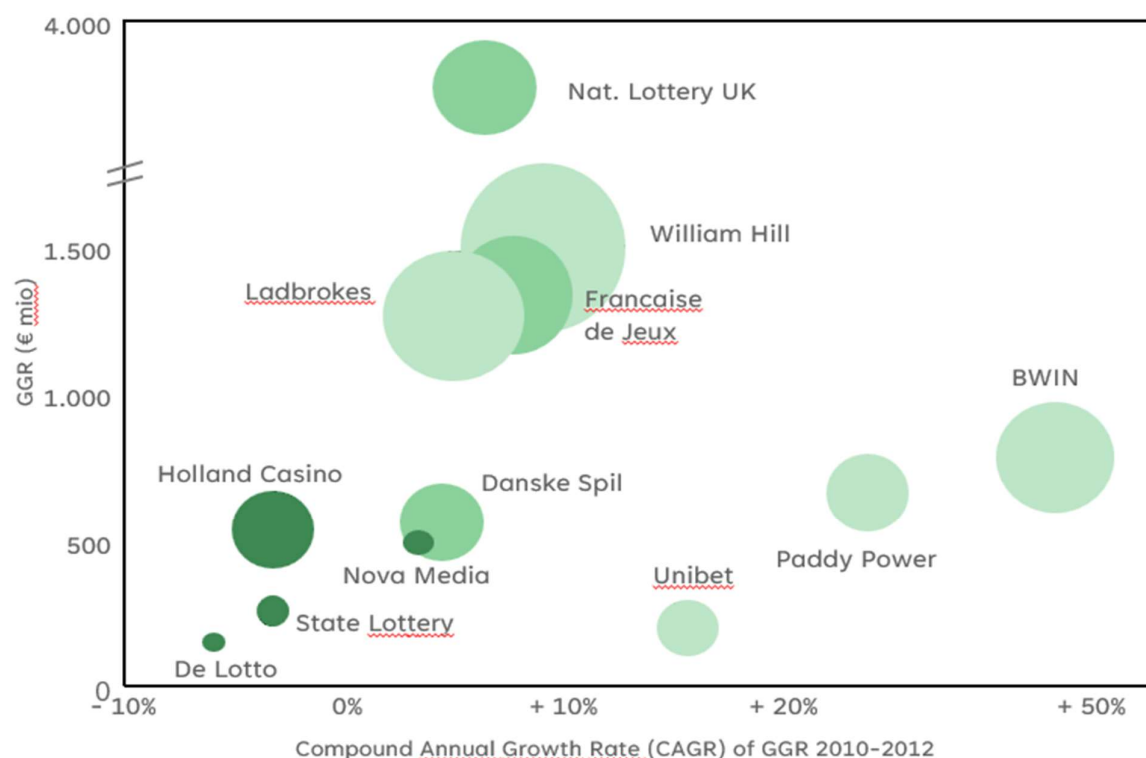


Figure 1. Relative positions of Dutch Lotteries compared to global market operators<sup>39</sup>

<sup>38</sup> Kruize, Snippe & de Muijnck, 2021.

<sup>39</sup> A.T. Kearney, GfK Monitor Loterijen, De Lotto, 2013.

In fact, there were no online licenses granted in the Netherlands, and the only legal online activities performed by lotteries were marked as e-commerce. Furthermore, there was no real law-enforcement on illegal online gambling.

Looking at figure 1 it is clear that De Lotto, Holland Casino and the State Lottery (Staatsloterij) were subject to a negative growth rate (between 2010-2013) and that Nova Media managed to have a small growth with mainly their biggest product “De Postcodeloterij”. Lotteries like the National Lottery UK, Francaise des Jeux and Danskespil, who were more used to a regulated market, were a bit able to keep track on the private operators, with a modest growth rate.

## 1.2 Increase illegal gambling

In 2012 it was calculated that the total market had grown due to the growth of the illegal market. Although the brand Toto (sports betting product of De Lotto) was growing, the share of it was very small compared to the illegal online market, especially taken only Toto online into account.

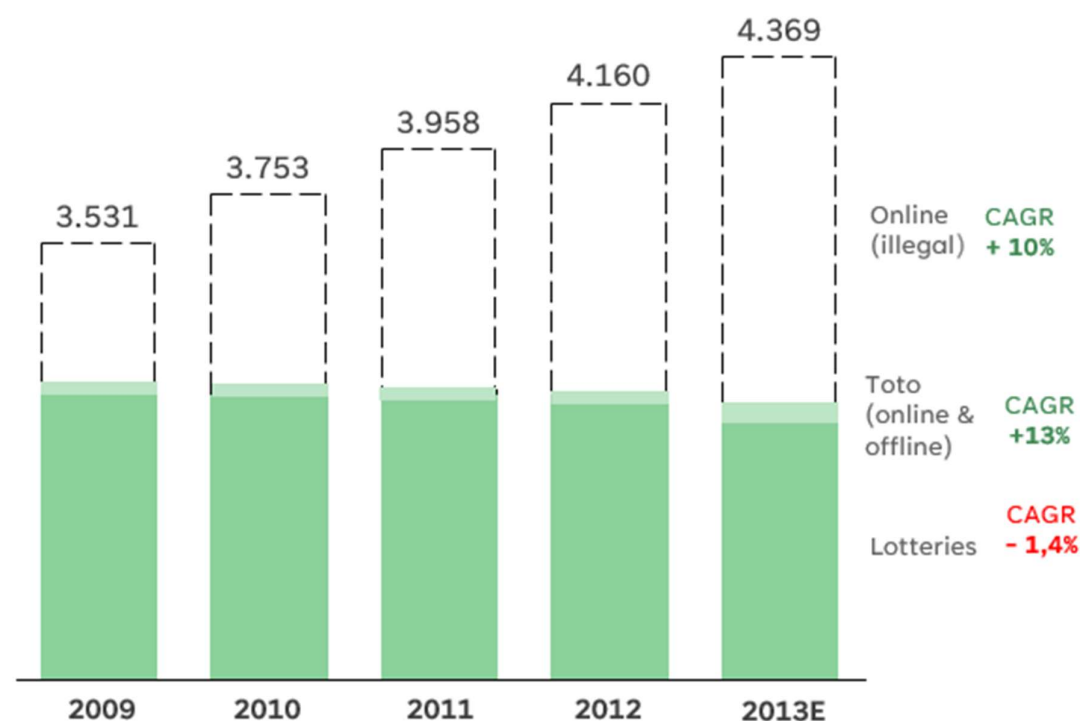


Figure 2. Sales Lottery market The Netherlands (€million)<sup>40</sup>

It was estimated that the Compound Annual Growth Rate (2009 – 2013E) of the online market would have reached the level of 10% in a closed market, but that the lotteries would face a small decline.

## 1.3 Pressure on the government to regulate the market

The private operators were aware of the opportunities in the Dutch market and increased their business over the years. This increased the idea of the Dutch government to regulate the market and open it for other operators than the current lotteries. Although the illegal operators were competitors on the international market, they joint together in the Dutch lobby. They setup a lobby foundation and approached ministers and members of parliament in such an aggressive way that politicians said that the discussion about the Dutch gambling market has been the biggest lobby

<sup>40</sup> A.T. Kearney, 2013.



ever. Following that, it caused the biggest number of questions ever asked by the parliament to a Dutch Minister.

There was a big lack of knowledge among the members of parliament in the area of gambling. And the private operators became very successful. One of the former Secretaries of State, member of the liberal party (VVD), acted as the most important lobbyist. And with success as the liberal party, the leading party in the government, was in favor for a more open market. However, it took more than 10 years before the first legal operators could enter the market. Before that, it needed a change in the law.

## 2- MARKET OPENING

### 2.1 Granted licenses

During the whole starting process before market opening, operators were able to show their interest in a license on the Dutch online market by a specific procedure. In the final stage of the process interested operators had to officially apply for a license. The experience of the KSA is that each three applicants got indeed a license<sup>41</sup>. Although it was told that the number of interested operators exceed the total of 300, in October 2021, a relatively small number of licensed operators were allowed to start with their online offer. Amongst them there were the incumbents NLO and Holland Casino. Furthermore, newcomers like Bet365, Betcity and Bingoal who entered the market. Unibet started later in April 2022, as they were punished for violating the requirement that one should stop offering illegally before market opening. The figure below shows the number of licensed operators, which doubled in the first 10 months.

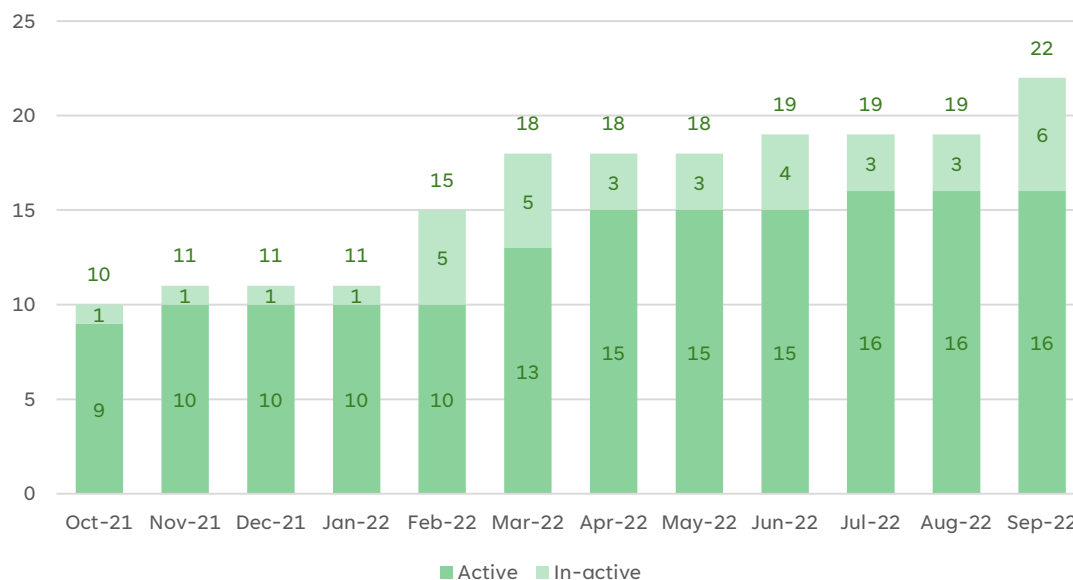


Figure 3. Licenses Granted since market opening in first 10 months<sup>42</sup>

In June 2024 there were 29 operators with one or more licenses. 25 licenses were granted for operations of “Casino games against the house”, 7 licenses for “Casino games against other players”, 21 licenses for Sports betting and 9 licenses for Horse Betting<sup>41</sup>.

<sup>41</sup> Kansspelautoriteit, *Monitoringsrapportage online kansspelen najaar 2024, 2025*.

<sup>42</sup> Kansspelautoriteit, *Monitoringsrapportage online kansspelen najaar 2022, 2023*.

## 2.2 Gross Gaming Revenues since the market opening

Since the opening of the market, the monthly GGR in the different games increased heavily. This was supported by an enormous “advertising-explosion” in communication. Each commercial block on Television contained one or more different operators to promote their brand and products. Especially online casino games and sports betting were promoted. Besides that also radio commercials, advertisements on bus shelters, other public media and also sponsorships of football clubs and other sports teams, pushed potential customers to their websites. This led to an enormous growth of sales and GGR in the first years after market opening.

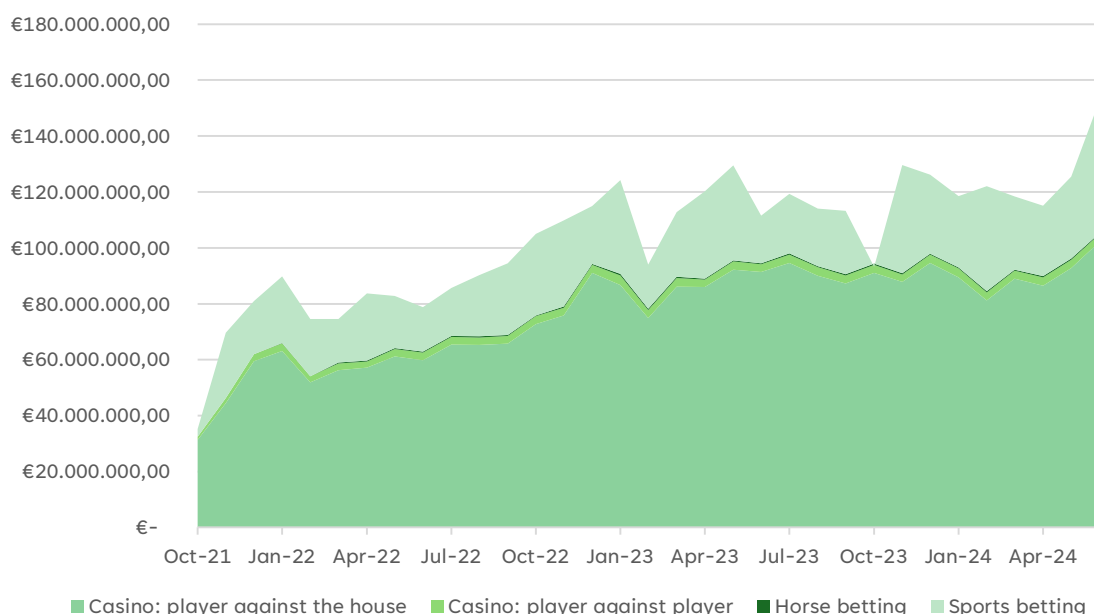


Figure 4. Gross Gaming Revenue per type of license<sup>43</sup>

The figures above in the graph are provided by the licensed operators and given directly to the KSA. So, the established GGR is not an estimation, but a 100% reflection of the reality. The monthly GGR has grown from €35,1 million in the first month after opening to €152,6 million in June 2024. Fluctuations are caused by e.g. events like the European Championship 2024, which has a high impact on the GGR of sports betting. In fact, as sports betting is in general a fixed-odds betting product, the GGR might become negative if the results do not meet the expectations. The group young adults (18-23 years old) generated in the first half of 2024 about 10,8% of the total GGR. 36% of the total GGR came from sports betting, played by these young adults. That was 12% higher than in the other age groups.

It's hard to get the real figures on pay out but in general the average pay out of the operators will be somewhere in the range between 90%-95%. In terms of sales that means that the real monthly sales have grown from the range between €351 million-€702 million in October 2021 to the range between €1,52 billion-€3,05 billion in June 2024. Looking on a yearly basis the year 2022 the sales should have ended somewhere in the range between €10,8 billion-€21,7 billion and in 2023 somewhere in the range between €13,9 billion-€27,8 billion. That is a huge increase in sales compared to the years before market opening.

## 2.3 Players accounts

From the opening of the market in October 2021 until June 2024, 3.396.881 people registered at one of the operators. That's about 19% of the total population, which is about 24% of the adult

<sup>43</sup> Kansspelautoriteit & Licensed operators, *Dashboard Monitoringsrapportage najaar 2024*

population. 1.201.076 accounts (35,4% of the total accounts) were active on the several games offered by the licensed operators. 2.195.805 accounts (64,6% of the total accounts) were inactive accounts, which means that people only registered, but didn't place a bet or tried one of the casino games. 24,8% of the active players were part of the group young adults (18-23 years old).

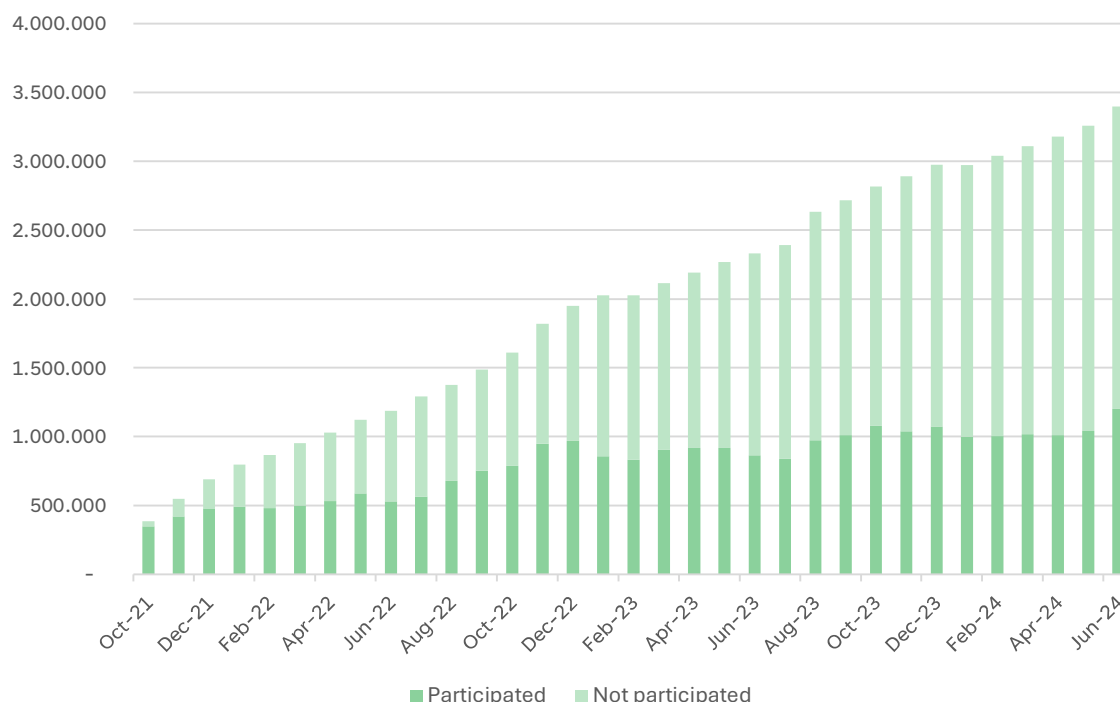


Figure 5. Number of players accounts<sup>44</sup>

In June 2024, customers could choose among 29 operators. Some registered even at more than 1 operator. 63,8% of customers registered at 1 operator, 11,5% registered at 2 operators, 5,2% registered at 3 operators and 19,6% registered at 4 or more operators<sup>44</sup>.

The average GGR per account from July 2022 until June 2024 fluctuated between €86 and €152, with an average of €123. As some players had more accounts at several operators, the GGR per player fluctuated from July 2022 until June 2024 between €205 and €330, with an average of €258<sup>44</sup>. The average loss per player in the first half of 2024 was €946<sup>45</sup>.

## 2.4 Channelization

It was in the intention of the government to reach a target of 80% legal online players, 3 years after opening of the market. The monitoring report of the KSA, mentioned a percentage of 93% of all players who played via a legal website in July 2023<sup>46</sup>, after research performed by GfK. H2 Gambling Capital measured channelization for 2023 based upon GGR legal vs GGR illegal and estimated that 80% came from legal operators. However, the KSA noticed that *“when calculating the size of the illegal market, h2 only includes suppliers who have a license somewhere in the world. Suppliers who do not have a license at all are not included”*<sup>47</sup> and concluded that probably the channelization was lower than calculated.

<sup>44</sup> Kansspelautoriteit & Licensed operators, *Dashboard Monitoringsrapportage najaar 2024*

<sup>45</sup> GfK estimate, 2024, Licensed operators 2024

<sup>46</sup> Kansspelautoriteit, *Monitoringsrapportage online kansspelen*, 2024

<sup>47</sup> Kansspelautoriteit, *Monitoringsrapportage najaar 2024*, 2025

A new method of calculating the channelization has been developed by NLO and was based on Google Search Volume<sup>48</sup>. They discovered that there was a correlation between the number of times that one searches for the word “Toto” and the height of the GGR. Although there are other methods to enter the Toto website (bookmarks, apps etc.), the majority of the players use Google Search each time they want to play. This correlation has been tested by the KSA among other licensed operators in The Netherlands and showed the same correlation. Following that, they tested the same correlation on some GGR data they had from illegal operators and calculated a correction factor. With compound algorithms they re-calculated the illegal market from the beginning (market opening) and came to the surprising conclusion that the channelization was much lower as has been assumed for a long time. ***The last months of 2024 the share of illegal gambling shows percentages fluctuating around 50%.*** Conclusion, the real channelization is, based upon this new calculation method, way below the target of 80% after three years.

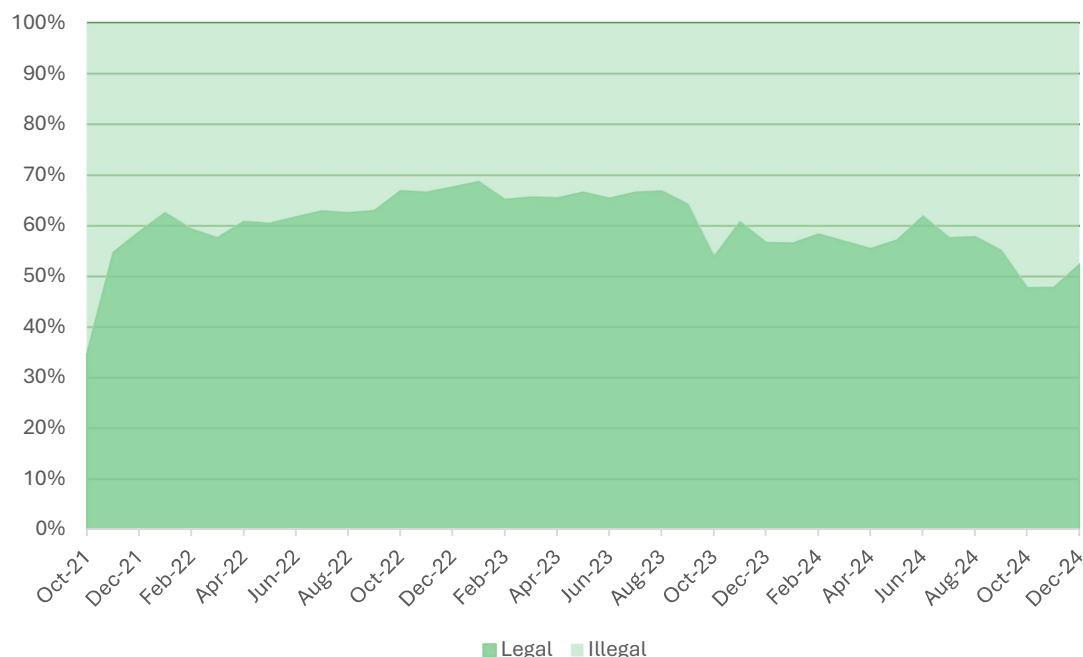


Figure 6. Share of legal GGR vs illegal GGR per month

### 3- EVALUATION

#### 3.1 First findings – Report Gambling with Health<sup>49</sup>

In 2023 Prof. dr. Arnt F.A. Schellekens (Radboud UMC and National Reporter Addiction) published a report “Gambling with Health”, on behalf of the Ministry of Health, Welfare and Sport, with the first findings after opening the market.

#### 3.2 Most important findings with additional comments.

A) **Advertising spendings.** The spendings of all operators in the first 21 months after opening had a total amount of €271 million (about €13 million per month) of which €158 million on TV advertising. The worries on the strong visibility of gambling in advertising lead to the prohibition of untargeted advertising on radio and television, as of the 1<sup>st</sup> of July 2023 and a ban on sponsoring as of the 1<sup>st</sup> of July 2025

B) **Growth of the Market.** The market has grown much stronger than expected. After market

<sup>48</sup> Kansspelautoriteit, *Beschrijving zoekvolumemethode om omvang illegale markt te schatten*, 2025

<sup>49</sup> Ministry of Health, Welfare and Sport, *Gokken met Gezondheid*, 2023

opening the KSA decided that estimations on the GGR of the illegal gambling market before market opening had to be recalculated and changed from €580 million to €814. H2 Gambling Capital estimated furthermore the GGR of the total market (illegal + legal) for 2024 at an amount of €1,1 billion<sup>50</sup>. However, the first half of 2024 ended up at €752 million<sup>51</sup> for the legal market only. Considering that these figures only concern the first half of the year of the legal market and considering that the illegal market has a calculated market share fluctuating between 40%-50% in 2024<sup>52</sup>, one can imagine that the total market in 2024 has ended up, far beyond the expectations, between 2-3 times the estimation of H2 Gambling Capital (final figures of 2024 are not published yet).

- C) **Players accounts.** The report reflected an estimation by the KSA (based upon data of GfK) of 762.000 players accounts (5,3% of the adult population in the Netherlands) of which 61% didn't participate in the first 4 months after opening. The report suggested that the opening of the market therefore not only attracted players from illegal operators, but that it also attracted new players. They put an extra focus on the group "young adults" (18-23 years), which is over-represented with a share of 21%. The report also directed to research of IPSOS/NOGA<sup>53</sup>: *"IPSOS/NOGA9 states that the number of Dutch people aged 18 and over who gambled online in the past year has increased from 11% in 2022 to 14% in 2023. In the 18-34 age group, this percentage was 21% in 2022 and 30% in 2023."*
- D) **Problem Gamblers.** IPSOS defined problem gamblers as gamblers who lied about their gambling behaviour and who wanted to put more money into their gambling activities. According to their research, the percentage of problem gamblers was 6% among adults participating in gambling and specifically 14% among young adults. Researchers of Breuer/Interval estimated that the total number of problem gamblers before opening of the market in 2021 should have been in the range between 162.400 and 268.900<sup>54</sup> (legal and illegal). IPSOS compared in their research the share of problem gamblers of online games in 2021 and 2024, which was both about a percentage of 9%<sup>55</sup>. They didn't find significant differences between these years. According to the report it is however most likely that the number of problem gamblers has been grown since 2021, proportional to the growth number of players. The research reflects their worries in the report by saying that *"the growth in the number of gamblers leads to health damage (depression, suicidality), debts, loss of work and crime and damage to loved ones of gamblers."*

## 4- RESPONSE FROM POLITICS

### 4.1 First measures in the law

The intensive media campaigns of the online operators after market opening and the first monitoring reports on the effects on the volume of players accounts, the increase of problem gambling and also recent study that the policy on channelization failed (49%<sup>56</sup> at the end of 2024), caused that parliament forced the Ministry of Justice and Security and the State Secretary for Justice and Security to take action because things have gone out of hand and damage should be controlled.

### 4.2 Advertising- and sponsorship measures

As per July 1, 2023

<sup>50</sup> Kansspelautoriteit, *Omvang online kansspelen*, 2021

<sup>51</sup> Kansspelautoriteit & Licensed operators, *Dashboard Monitoringsrapportage najaar 2024*

<sup>52</sup> Kansspelautoriteit, *Beschrijving zoekvolumemethode om omvang illegale markt te schatten*, 2025

<sup>53</sup> NOGA/IPSOS, *panelresearch*, 2023.

<sup>54</sup> Kruize, Snippe & de Muijnck, 2021.

<sup>55</sup> IPSOS, *Deelname aan kansspelen in Nederland: meting 2024 p.48.*

<sup>56</sup> State Secretary for Justice and Security, *Visie op kansspelen en beleidsreactie op de evaluatie van de Wet kansspelen op afstand*, 2025.



Untargeted advertising for online gambling is no longer permitted. That is concerning radio- and TV advertisements, advertisements on bus shelters and other public media.

Internet advertising, targeted advertisements and direct mailings remain permitted under strict conditions. Gambling operators must be able to demonstrate to the authorities that at least 95 percent of the advertising has reached people aged 24 and older. And if advertising is shown, people should be able to indicate that they do not want to see it.

Well known sports athletes or other well-known influencers are not permitted to act in advertising campaigns for gambling operators

No new sponsor deals are permitted after the first of July 2023. Only contracts concluded before July 1, 2023, can continue until July 1, 2025 at the latest.

#### **As per July 1, 2024**

Television & radio sponsoring and event sponsoring are no longer permitted.

#### **As per July 1, 2025**

All sport sponsoring is prohibited.

### **4.3 Measures for more conscious gaming behaviour and better protection of gambling players**

The Government installed a couple of measures in October 2024, in order to reach a better protection of players, with an extra focus on the group young players (18-23). The “Regulation of playing limits and more conscious gaming behaviour” came into effect:

- Online gambling providers must check with the player whether he can bear the financial consequences
- If a player wants to set a deposit limit of more than €350 per month (or €150 for young adults up to 24 years of age), the player must contact the gambling provider.
- In this way, players must be able to determine their limit in a neutral environment
- When confirming the limits, providers must ask whether the player is prepared to lose the amount entered.
- gambling providers must inform players when they can choose a lower bet than the default amount entered.
- Pop-ups must inform players about their gaming behaviour and reaching their limits.
- If the time limit is reached, a player must be logged out immediately.
- All amounts must also be displayed in euros so that players are aware of the amounts they are playing with at all times, with international poker games being the only exception.

## **5- REVISED VISION ON GAMES OF CHANCE**

Because of the heavy discussions of parliament on the results of the evaluations of 3 years after opening of the gambling market (some parties even wanted to close the market again), the State Secretary of Justice and Security came with a **new vision on the Games of chance**. Hereafter the most important quotes of his vision, which has huge consequences for the way the gambling market will be approached in the near future.

*“The new vision, which prioritises the protection of citizens, results in a more restrictive gambling policy than the current policy. This more restrictive policy leads to restrictions in the supply of gambling. This applies to both legal supply through strict regulations and illegal supply through a tougher and more intensive approach.”<sup>57</sup>*

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<sup>57</sup> State Secretary for Justice and Security, *Visie op kansspelen en beleidsreactie op de evaluatie van de Wet kansspelen op afstand*, 2025.

*“The old vision was based on open gambling markets as much as possible in which competition ensures attractive legal supply. Now that the new vision is based on offering only the necessary supply of gambling to meet demand and guarantee the protection of citizens, it makes sense to maintain the status quo when it comes to the market regulation of the various gambling products. After all, experiences with the opening of the online market have taught us that a good competitive position of market parties always continues to play an important role in the operation of their business and that this can often be at the expense of the importance of protecting citizens.”<sup>57</sup>*

*“Important stakeholders are the licensed providers in all market segments of gambling, including land-based ones. An economically healthy licensed gambling market is necessary for the creation of a sustainable and responsible market in which the protection of people is a priority”<sup>57</sup>*

**Michel Groothuizen, President of the board of the Dutch Gambling Authority (KSA):** ‘I have been working at the Gambling Authority since July and am still learning the ropes. During my working visits, not every gambling operator greets me with a smile. Now that we are increasingly supervising, we are becoming increasingly annoying from their perspective. Some legal providers are pushing the boundaries of the law. They seem to be more concerned about their stock market value than about their duty of care towards gamblers. I would then emphasize that they must be aware of their social role.’<sup>58</sup>

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## II. BELGIUM

It is important to understand the basic approach of the Belgian online gambling regime. Under the provisions of the Law on games of chance<sup>59</sup>, licence holders of classic brick-and-mortar gambling establishments can acquire an additional licence to offer similar gambling products online. There is no possibility to acquire a licence for online gambling without being a land-based operator on the Belgian market.<sup>60</sup>

Belgium therefore operates a **closed licensing system**, with mainly **3 three types of online licenses** : A+ License (online casinos) ; B+ License (online gaming arcades) and F1+ License (online betting).

### 1- LICENSE PLUS MODEL

In Belgium, the number of available licenses is more limited:

- There are nine **(9) legal casinos** (licence A)<sup>61</sup> and the number of online casinos (licence A+) is therefore equally limited to nine (9). Online casinos are partially restricted and as licensed only to physical casinos (without capacity restrictions, i.e. possible to buy a minor player to access), there is a limited online competition, with only 8 online platforms in 2023.
- There are a maximum of 180 gaming halls (licence B).<sup>62</sup> A number of these are owned by several groups. Small owners do not always have a corresponding website (licence B+). There is a maximum of 180 B+ websites in theory but in reality, there are **39 B+ websites** listed by the **Belgian Gaming Commission** (“BGC”).<sup>63</sup>
- The number of organisers of betting (licence F1) is currently limited to 30 and therefore there is a maximum of 30 betting websites (licence F1+).<sup>64</sup> There are currently **24**

<sup>58</sup> <https://magazines.algemenebestuursdienst.nl/abdbblad/2024/08/het-werkbezoek>

<sup>59</sup> Law of 7 May 1999 on games of chance, betting, gaming establishments, and the protection of players (“**Law on games of chance**”).

<sup>60</sup> Art. 43/8 of the Law on games of chance

<sup>61</sup> Art. 29 Law on games of chance

<sup>62</sup> Art. 43 Law on games of chance

<sup>63</sup> <https://data.gamingcommission.be/licenses/BPLUS/latest/table.html?lang=en>

<sup>64</sup> Royal decree of 22 December 2010 regarding the maximum number of betting organizers and the procedure to treat licence applications in case a licence is available through revocation or discontinuation

**registered betting websites.** The other 6 are active licences which do not have any online activity (yet).

This “licence plus” model was at its origin somewhat contentious as it seemed to close off the market for online gambling operators. However, the model was always designed to accommodate **cooperation between (international) online gambling operators and Belgian land-based licence holders.** The major online gambling operators that had an interest in the Belgian market, found a land-based partner to set up a legal website in Belgium. As such, the Belgian “licence plus” regime was not fundamentally attacked in recent years. All operators present on the market are – presumably – not unhappy with the fact that it is relatively difficult for a new online operator to enter the market.

**Cannibalisation.** nevertheless, there is a high rate of cannibalisation of the physical casinos (~22%), offset by online revenues from physical players via the limited opening. The market open to competition from online players with the License + by buying out physical casinos, followed by a potential gradual divestment of the physical business.

**Online rise.** Furthermore, the Belgium’s **online gambling market** has experienced a notable growth in recent years, with **online betting** showing the most significant growth (12,8% increase in 2023 compared to 2022), and in general the online licensed market surpassing the physical market. Over the past 5 years, the gambling market has grown enormously with a total of just over 1.7 billion (GGR, +16,74% 2022-2023).

In 2023, the GGR of the gambling sector in Belgium, across all licenses, amounted to just over €1.7 billion (distributed with 55.48% for online games and 44.52% for offline games).



The gambling sector continues to grow, with an increase of 16.74% compared to the year 2023. For the offline gaming sector, the recorded increase is 15.18% compared to 2022. For the online sector, the growth rate stands at 18.03% compared to 2022.

Evolution and distribution of the gambling market						
	2019	2020	2021	2022	2023	2022-2023
Offline (GGR)	€713,028,176	€373,237,032	€397,094,901	€658,148,294	€758,044,565	+15.18%
Online (GGR)	€466,002,182	€595,858,353	€780,073,967	€ 800,302,574	€944,583,880	+18.03%
<b>Total</b>	<b>€1,179,030,359</b>	<b>€ 969,095,385</b>	<b>€1,177,168,868</b>	<b>€1,458,450,868</b>	<b>€1,702,628,445</b>	<b>+16.74%</b>

Figure 1. Evolution of GGR online and offline market in detail

These figures are more problematic if one looks at the **stakes rather than the GGR**. Due to the heavy competition in the online market the total volume of stakes in the private market, dominated by online, is 31,5 billion € versus 1,4 billion € for the lottery (2023). The National Lottery represents thus only 4% of the market, with Belgians betting 4,9 € on lottery products on average. In 2024, 56458 Belgians self-excluded from gambling, an increase of 13.6%.

#### Gross Gaming Revenue (GGR) Comparison:

	Year Total GGR (€ million)	Online GGR (€ million)	Physical GGR (€ million)
2021	1,177	780	397
2022	1,458	800	658
2023	1,700	944	758

*Figure 2. Belgium's GRR evolution online and offline gambling market<sup>65</sup>*

Furthermore, the **revenue in the total gambling market** (casino and casino games, lottery and bingo, sports betting) is projected to reach 4.44bn € in 2025 within which the global revenue in the casinos and online casino games market is projected to reach 2.75bn € in 2025<sup>66</sup>.

The average revenue per user (ARPU) in the gambling market is projected to amount to 648,15 € in 2025 and the **number of players** is expected to amount to 6,9 million players by 2029, being around 58% of the adult population. However, the new age restriction (21+) introduced in September 2024 may slightly reduce participation.

## 2- CHANNELIZATION AND LAW ENFORCEMENT

**Marketing restrictions.** by the Royal decree of 27 February 2023 determining further rules on gambling advertising, very tight restrictions on publicity for games of chance were implemented. Under this decree, almost **all forms of advertising on which online gambling operators rely, are prohibited**. There are some exceptions such as advertising on the website of the licence holder, via social media (but with restrictions), search engine optimization, and sponsoring of non-professional sports. The decree is currently in effect but there is a transitory period for professional sports sponsoring. Many online operators are trying to circumvent the ban ( i.e. Circus Daily instead of Circus casino, Golden Palace News instead of Golden Palace; U Expert instead of Unibet; )

The decree is met with significant push-back from the gambling industry, from sports associations, and from media companies, all of which are affected by the prohibition to sponsor sports and/or advertise via the media for gambling. There are numerous cases pending both before the civil courts and before the Council of State (administrative court).

**Law enforcement.** There are provisions in the Law on games of chance, as well as executive Royal decrees, which deal specifically with online gambling.<sup>67</sup> However, there are still substantial blind spots in the regulatory framework.

There is for instance no certification or technical control of online games, there is no clear description of what games (or types of betting e.g., live betting) can or cannot be offered, there are some deposit limits for players but no functional limitations to prevent players from amounting big losses. The result is that certain rules on online gambling and betting can only be derived by interpretation from generally applicable rules, i.e., by making a parallel application of the land-based

<sup>65</sup> Gambling Commission report 2023. These figures should be interpreted in the context of the 2020–2021 corona crisis, which led to significant restrictions on physical gaming activities in Belgium and around the world in 2021.

<sup>66</sup> Statista reports – gambling total market, Belgium.

<sup>67</sup> Art. 43/8 Law on games of chance and executive Royal decrees such as most notably the Royal decree of 25 October 2018 regarding the modalities to operate games of chance and betting through information-society instruments

rules to the online environment. However, the BGC can have a different interpretation (stricter or more favourable) than would be expected, or the courts and tribunals can enforce certain rules by interpretation (more likely stricter).

Belgium has nevertheless taken many measures to protect players from potential risks including from illegals. Belgium implemented **geo-blocking of illegal gambling platforms** with which this effective tool can geo-block illegal gambling websites (i.e. stop IP addresses of illegal operators) when the operator is included in the black list of illegal operators. The Gaming Commission also blacklists websites that offer unlawful games of chance in Belgium.<sup>68</sup> Furthermore, Since 1 June 2024, a new procedure has made it possible to apply **urgently to the Brussels court to take provisional measures** to put an end to a manifest and considerable infringement of illegal operation of online gambling.<sup>69</sup>

**Illegal gambling rise.** The increase in gambling has been accompanied by a rise in crime for the most part related to the online segment (illegal gambling, money laundering, cyber-attacks).

The Gaming Commission estimates that around **20% of online gamblers are active on illegal gambling sites**. A 2023 survey by Nepa revealed the same number of 20%. **However, according to the same survey, the number of vulnerable people playing on illegal gambling websites also increase of 43% between 2022-2023.**

Following the implementation of the ban on gambling advertisements in 2023, some surveys also found a 6% rise in players accessing illegal websites and a 4% increase in deposits on these platforms within three months.<sup>70</sup> Reports also indicate an increase in illegal gambling operators in 2023, with over 2,000 unlicensed platforms targeting Belgian players.<sup>71</sup>

**CONCLUSION : This regulatory framework reflects Belgium's commitment to try to control the online gambling market, but with limited success given the Gaming Commission admits not to be able to enforce the law completely. There are recent concerns on increased illegal platforms (up to 50%).**

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### III. GERMANY<sup>72</sup>

In Germany, a significant transformation in its online gambling market was undergone in 2021, shifting from strict state control to a regulated, competitive environment. The Fourth Interstate Treaty on Gambling<sup>73</sup>, which came into effect on July 1, 2021, marked the full legalization and regulation of online gambling across the country.

**Previous Restrictions (pre-2021).** Before the reform, online casino gambling was largely banned, except in Schleswig-Holstein, which had its own licensing regime. Online sports betting operated in a grey area, with some operators using licenses from other EU countries. The lack of regulation led to **a rise in offshore gambling**, with many Germans using unlicensed international sites.

#### 1- MARKET OPENING

**Interstate Treaty on Gambling (GlüStV 2021).** The treaty **unified regulations across all 16 German Länder**, replacing fragmented state-level laws. It created a licensing system for online sports betting, virtual slot machines, and online poker. A new **federal gambling authority**

<sup>68</sup> <https://gamingcommission.be/en/gaming-commission/illegal-games-of-chance/list-of-illegal-gambling-sites>

<sup>69</sup> Royal decree of 6 May 2024 - Emergency procedure creating a special department of the FPS Economy to tackle the exploitation of illegal online gambling.

<sup>70</sup> Source : Nepa survey, 2023.

<sup>71</sup> Source: Yield Sec, 2023.

<sup>72</sup> Based on ICLG Germany Gambling and official sources (Gambling Authority).

<sup>73</sup> [Glücksspielsstaatsvertrag 2021](#) - GlüStV 2021.



(Gemeinsame Glücksspielbehörde der Länder - GGL) was established to oversee compliance and licensing. Licences comprise now **online sports betting licenses** issued to operators meeting strict regulatory requirements, **online casino and slot machine licenses** (under state control, with individual Länder deciding whether to allow private operators) and **online poker licenses** (where operators must ensure fair play and comply with strict identity verification).

Despite the legalisation of online gambling, the regulatory environment remains cautious, particularly regarding online casino games (with the exception of virtual slot machines and online poker). Online casino games are subject to state-level regulation and Länder may decide to operate them under a state monopoly or to issue licences. Licences are limited, and Section 22c (1) of the GlüStV 2021 states they may not exceed the number available to land-based casinos.

This also comes with specific regulatory measures and player protection such as slot machine restrictions (no auto-play feature, minimum spin duration and a maximum stake limit) and strict advertising restrictions (gambling ads banned between 6am-9pm to reduce problem gambling).

The first factual impact observed is the **increase of licensed operators**. By 2024, over **50 operators** had received online gambling licenses.<sup>74</sup> This generated additional tax revenue for the States and the licensed German or offshore sites are supposed to implement player protection measures by law. The GGL also created a tool where consumers can flag illegal gambling websites, illegal advertising gambling practices but also **irregularities by legal online providers**.

According to the GGL, in 2023, half of the 1500 reports by consumers concerned potential wrongful conducts by the legal online operators.<sup>75</sup>

However, the second impact is **the increase and crackdown on illegal operators**. While the GGL actively pursue unlicensed gambling sites, **competition with offshore operators** continued and many players still use **international platforms** that offer better odds and fewer restrictions.

A study in 2023<sup>76</sup> actually showed that as of March 2023, **only 50.7% of German players were directed to a legal offering**, while nearly a third of German consumers gambled with European operators who were not licensed in Germany (unlicensed therefore illegals):

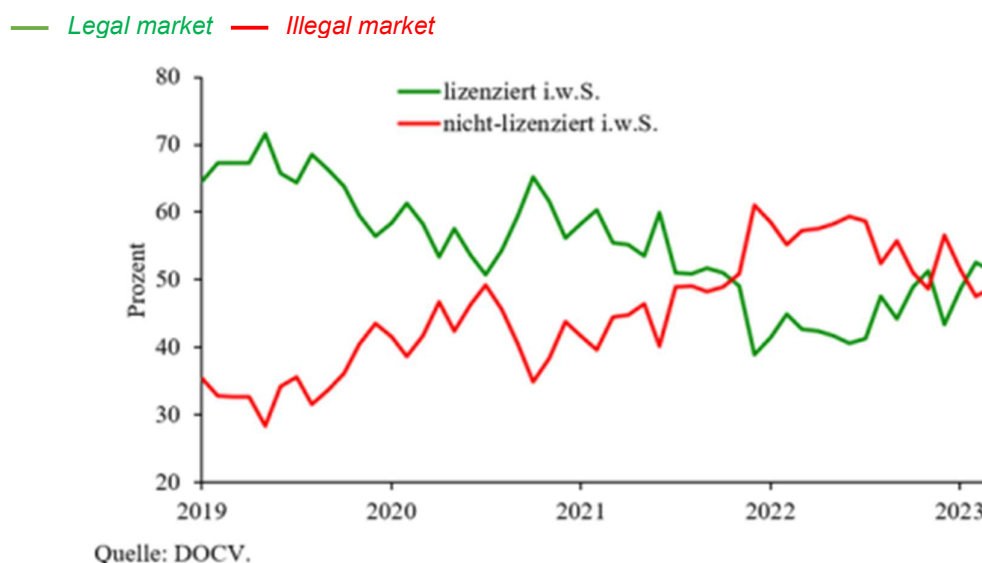


Figure 1. Shares of the legal and illegal market for online gambling, in 2023

<sup>74</sup> [Licensed operators in Germany](#) - GGL.

<sup>75</sup> [Published news](#) - GGL.

<sup>76</sup> Eine Analyse der neuesten Entwicklungen des Online-Glücksspielmarktes in Folge des Glücksspielstaatsvertrags 2021 Zusammenfassung des Gutachtens seitens der Auftraggeber: Deutscher Online Casinoverband e.V. (DOCV), Deutscher Sportwettenverband e.V. (DSWV), Dr Gunther Schnabl (2023).

## 2- GAMBLING ADDICTION SURVEYS IN GERMANY

In 2021 and 2024 there has been a research among participants of games of chance in Germany.

According to the research in 2021<sup>77</sup>, 2,3% of the people in the group of 18-70 years of age had a gambling problem, categorized in mild problems, middle problems and heavy problems. Furthermore 5,7% of the group were part of a risky group, so in total 8% was in some connected to problem gambling. A new study in 2023<sup>78</sup> showed about the same values. Small increase in the group of heavy problem gamblers and a decrease of about 2% on the group risky participants.

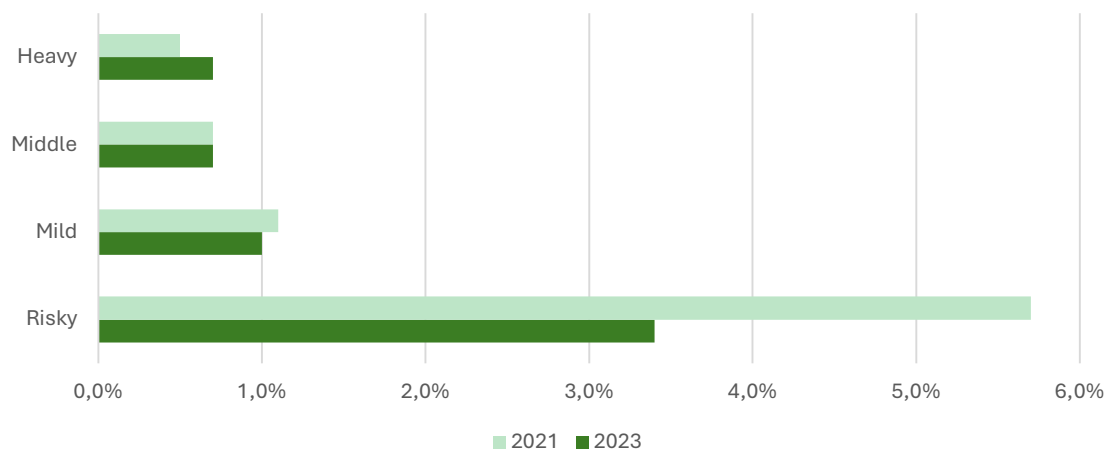


Figure 2. Problem Gambling categorization in the group 18-70

**Expansion of gambling offer, certainly in the short term, leads to greater participation.** Due to the shift in social norms that this creates, the dangers of gambling addiction increase, but the perception of it gradually fades into the background<sup>79</sup>.

The study shows that the growing concern also extends to relatives and friends of people with gambling problems, as 3.8% of all respondents in the 2023 survey report that someone close to them currently has a gambling problem. For the majority, this itself represents a considerable burden that has a negative impact on social interaction and their financial and health situation.

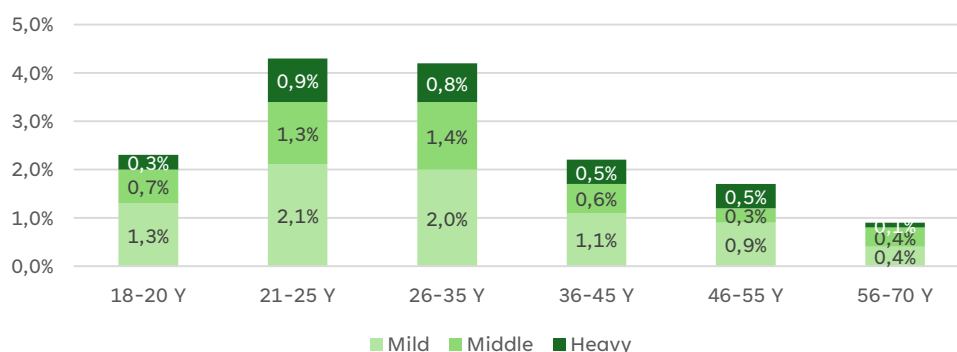


Figure 3. Problem Gambling categorization per age group 2021

<sup>77</sup> Schütze, C., Kalke, J., Möller, V., Turowsky, T., Hayer, T., (2023). Glücksspielatlas Deutschland 2023: Zahlen, Daten, Fakten. Institut für interdisziplinäre Such- und Drogenforschung, Deutsche Hauptstelle für Suchtfragen, Arbeitseinheit Glücksspielforschung der Universität Bremen: Hamburg/Hamm/Bremen.

<sup>78</sup> Buth, S.; Meyer, G.; Rosenkranz, M.; Kalke, J. (2024): Glücksspielteilnahme und glücksspielbezogene Probleme in der Bevölkerung – Ergebnisse des Glücksspiel-Survey 2023. Institut für interdisziplinäre Sucht- und Drogenforschung (ISD), Hamburg.

<sup>79</sup> Schütze, C., Kalke, J., Möller, V., Turowsky, T., Hayer, T., (2023), page 53.

If the categorization of problem gambling is split into 6 different age groups, then the group young adults between 21-25 years of age and the group 26-25 years of age are the most severe ones. Problem gambling has the heights levels on slot machines and live sports betting.<sup>80</sup>

**CONCLUSION : The new State Treaties did not solve the old problems of illegal offshore online gambling in Germany. On the contrary, it send the message to society that gambling online is the new normal, increasing both gambling addiction and at the same time a rise of illegal online play due to strict restrictions on licensed operators.**

**Even the GGL recognises that illegal (black) online market is a huge problem, still after the liberalisation, and did announce its own data on illegal gambling in 2025 :**

*“Despite the successes in combating illegal gambling offers on the Internet, the black market remains a serious challenge. Its specific extent is often discussed. The GGL estimates the proportion of illegal online gambling to be significantly lower than industry publications. The difference is mainly due to methodological differences. However, in order to contribute to a reliable data basis for the discussion on the channeling effect of German gambling regulation, the GGL is having its own and other methods tested as part of a scientific study. The results are expected at the end of 2025.” (GGL)<sup>81</sup>*

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**IV. SWEDEN<sup>82</sup>**

**1- SWEDISH MARKET BEFORE THE OPENING**

Before the reform, the Swedish gambling market was strictly regulated and mostly based on states-owned operators. State-owned AB Svenska Spel was the largest of these organizations in terms of the regulated market share, offering a variety of gambling products. Svenska Spel's role was to contribute to a safe gambling environment, while providing different forms of gambling products to the market (lotteries and jackpot, online casinos and sports betting, land-based gaming machines as well as land-based casinos in four cities in Sweden). Moreover, state-owned AB Trav och Galopp (ATG) held the rights to horse race betting and trotting whereas the rest of the market was mostly comprised of smaller non-governmental organizations with approved licenses offering different types of gambling for public purpose (Folkspel, Postkodlotteriet, and other non-profit operators). In recent years prior to the reform, changes in the market shares of the operators within the regulated system was limited. **In 2017, the total generated GGR was 16.982 million SEK.**

SEKm	2017	Operator
<b>Betting</b>		
Sports betting	1,783	AB Svenska Spel
Horseracebetting	4,145	ATG
<b>Total betting</b>	<b>5,928</b>	
<b>Gaming</b>		
Bingo	220	Folkspel
Gaming machines	1,118	AB Svenska Spel
Casino Cosmopol	1,111	AB Svenska Spel
Resturant casinos	177	Private
Online poker	91	AB Svenska Spel
<b>Total gaming</b>	<b>2,716</b>	
<b>Lotteries</b>		
Games of chance	4,877	AB Svenska Spel
National/regional/local lotteries	3,461	NGOs
<b>Total lotteries</b>	<b>8,338</b>	
<b>Total regulated gambling market</b>	<b>16,982</b>	
<b>Total AB Svenska Spel</b>	<b>8,979</b>	
<i>AB Svenska Spel %</i>	<i>53%</i>	

<sup>80</sup> Schütze, C., Kalke, J., Möller, V., Turowsky, T., Hayer, T., (2023).

<sup>81</sup> <https://gluecksspiel-behoerde.de/de/news/regulierung-online-gluecksspielmarkt-rueckblick-2024-auf-erfolge-und-herausforderungen>

<sup>82</sup> Legal sources, ICLG and official data from Swedish Gambling Authority (Spelinspektionen).

Figure 1. The Swedish regulated gambling market in 2017. Source: Spelinspektionen (2017)

However, due to enhanced information technology and easier access to foreign registered internet platforms, the market for online gambling has increased exponentially since 2012, outside of the regulated market<sup>83</sup>.

## 2- MARKET OPENING

On 1 January 2019, a licence system was introduced to open a competitive sub-market to all licensed gambling companies, which mainly consists of online gambling and betting on sport and horses. The new Swedish Gambling Act (SFS 2018:1138) was enacted in response to the rise of foreign (unlicensed) online operators in order to better control them.<sup>84</sup> The Sweden's gambling reform had therefore a clear goal: **90% of all gambling should occur within the licensed market**.

The new gambling regime is based on a licensing system in which all gambling companies in the Swedish gambling market must be licensed, divided into **six types of licences**<sup>85</sup>:

1. State-owned gambling license (Svenska Spel) ;
2. Licence for charities/good causes (lotteries and land-based bingo) ;
3. Licence for land-based commercial gambling (limited casino games and gambling machines (slots) if provided at an amusement park or at hotel or restaurant premises that hold a permit to serve alcohol) ;
4. Licence for gambling on ships in international traffic
5. Licence for commercial online gambling (online casino table games, online bingo and computer-simulated gaming machines (slots).
6. Licence for betting (both land-based and online betting including horse races).

Since 2019, there is a high competition in the online gaming segment with **more than 50 operators**<sup>86</sup>. A consequence of the opening of the online market was the **cannibalisation of the physical casinos** (67% cannibalisation rate of the physical casino after 5 years, leading to the closure of the first casino in 2020 (year 2), followed by two others in 2024 (year 6) and potential total disappearance of the physical casino in Sweden, with plans for the closure of the last Casino Cosmopol (Stockholm).



<sup>83</sup> Swedish National Audit Office (2012) ("Riksrevisionen")

<sup>84</sup> Gambling Act (2018:1138) SFS [no.: 2018:1138](#).

<sup>85</sup> To obtain a license, operators must submit an application to the Swedish Gambling Authority, demonstrating compliance with regulatory standards, including measures for responsible gambling, player protection, and anti-money laundering protocols (Spelinspektionen).

<sup>86</sup> Active gaming licences: <https://www.spelinspektionen.se/sok-licens/>

*Figure 2. Swedish's GRR evolution online and offline gambling market (Spelinspektionen)*

In 2024, the net turnover (players' stakes - minus - winnings) on the Swedish licensed gambling market, by licence type, in million SEK (m SEK) is as follows :

- Commercial online gambling (e.g. online casino) and betting : **17,838 m SEK ;**
- State lottery and VLTs : **5,722 m SEK ;**
- State casino gambling (Casino Cosmopol) : **160 m SEK ;**
- Public utility gambling lotteries : **3 695 m SEK ;**
- Public service gambling, hall bingo : **196 m SEK ;**
- Land-based commercial gambling (e.g. restaurant casino) : **237 m SEK.**

The total operators with Swedish licences in 2024 generated **27.848 million SEK in GGR** (2,49 billion euros), with commercial online gambling being first.<sup>87</sup> So, the Swedish's gambling market has increased since the opening with the online sector being the driver growth. In 2024, online gambling accounted for approximately 64% of the total gambling revenue, even if the physical sector has also increased including state lottery (Svenska Spel) and slot machines.

Another consequence of online opening is therefore the **large increase in gambling activity**. After the reform, additional gambling activity within three different areas were observed as follows:

- sports betting,
- horse race betting and
- commercial interactive (online) gaming.

### **3- ONGOING GAMBLING ADDICTION CONCERNS AND POLITICAL CRITICISMS**

National public health surveys indicate that approximately 4% of Swedes aged 16 to 84 have experienced some degree of gambling problems annually (around 130 000 people), a figure consistent with data from 2018 and 2020.<sup>88</sup> Despite this stability, certain subgroups have exhibited concerning trends. A 2023 study focusing on high school students in Skåne, southern Sweden, revealed troubling gambling patterns among adolescents, including those below the legal gambling age of 18.<sup>89</sup> Apparently, the digitalized gambling market does not appear to prevent underage gambling (**one in six high school students screened positive for a gambling problem**) and the study highlight that especially online casinos are notably associated with severe gambling issues among adults.

**Therefore, the gambling addiction in the Swedish society has increased in the last 5 years as the population of gamblers rise. This is also shown by official in-depth studies whereby even if the proportion in the population of problem gamblers is stable (4%), the number of people experiencing negative consequences from gambling over time is larger than the prevalence number indicates.**<sup>90</sup>

**Additionally, the societal costs associated with problem gambling are significant. In 2018, these costs were estimated at €1.42 billion, representing 0.30% of Sweden's gross domestic product, which since then must have increased.**<sup>91</sup>

<sup>87</sup> <https://www.spelinspektionen.se/globalassets/dokument/statistik/arssiffror-statistik/spelmarknaden-2024.pdf>

<sup>88</sup> Public Health Agency of Sweden – July 2024 [Gambling reports](#).

<sup>89</sup> Journal of Gambling Studies 2023 – [Article](#).

<sup>90</sup> Risk and protective factors for problem gambling – Results of Swelog's in-depth study, National Institute of Public Health (2023).

<sup>91</sup> The societal costs of problem gambling in Sweden - T. Hofmarcher, U. Romild, J. Spångberg, U. Persson & A. Håkansson (December 2020).

Finally, in 2024, the Swedish National Audit Office has examined Spelinspektionen supervision of the gambling market and concluded that overall **supervision is not sufficiently effective to meet the expectations expressed** by the Riksdag (Parliament) and Government in connection with the reregulation of the gambling market.<sup>92</sup> This particularly concerns the fact that the Spelinspektionen conducts few inspections, but also that its choice of which actors are selected for supervision is not based on well-founded risk analyses. The Swedish Gambling Authority also does not sufficiently follow up **whether the supervised entities rectify the identified deficiencies**.

**CONCLUSION:** In practice, while the opening up of the market has put within the licensed system a number of operators, a large number of illegals are still operating in the market without sufficient enforcement by the Gambling Authority.

**The goal of 90% of channelization has clearly not been met and a societal disadvantage of the total opening can be observed as specific groups such as adolescents display more gambling problems than before.**

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## V. FINLAND (upcoming)

In **November 2024**, the Finnish Government **proposal to Parliament for legislation on a new gambling system** was notified to the European Commission<sup>93</sup>.

### 1- GOVERNMENT PROPOSAL SUBMISSION

**Transition to a licensing model.** The Finnish government is actively pursuing a comprehensive reform of its gambling system, transitioning from a state-controlled monopoly to a competitive licensing model. This initiative aims to enhance market regulation, increase channelization, and mitigate gambling-related harms.

In July 2024, the Ministry of the Interior released a draft proposal for the new Gambling Act, initiating a consultation period that concluded on August 18, 2024. The government plans to present the finalized proposal to Parliament during the spring session of 2025, with the new system expected to be operational by January 1, 2026.<sup>94</sup>

The state-owned operator Veikkaus Oy would retain its monopoly (for lotteries, land-based casinos, slot machines, and totalizator betting) until the end of 2026, with licensed operators launching services in January 2027. B2B supplier licensing would begin in 2027, with the framework fully operational by 2028.

The ultimate goal is to raise the channelization rate of the system as high as possible so that the number of gambling problems at least does not increase. **The situation shows that the law enforcement was not pursued in a sufficient strict manner.**

### 2- DATA ON ILLEGALS AND GAMBLING ADDICTION

According to the FCCA<sup>95</sup> some estimates were made to **assess the illegal black market** from different operators, which served as guidelines for the reform:

- According to the FCCA's own estimate, gambling outside the state monopoly system amounted to approximately €520–590 million in 2021.
- The Gambling Administration at the National Police Board estimate the amount to be less than €300 million.
- The consultancy firm H2GC puts the estimate at around €450 million.

<sup>92</sup> Audit report, 22 Oct 2024 - Swedish Gambling Authority's supervision of the gambling market, ([RiR 2024:19](#)).

<sup>93</sup> TRIS [2024/0601/FI](#) (Finland).

<sup>94</sup> Ministry of the Interior – [Reform of the gambling system](#).

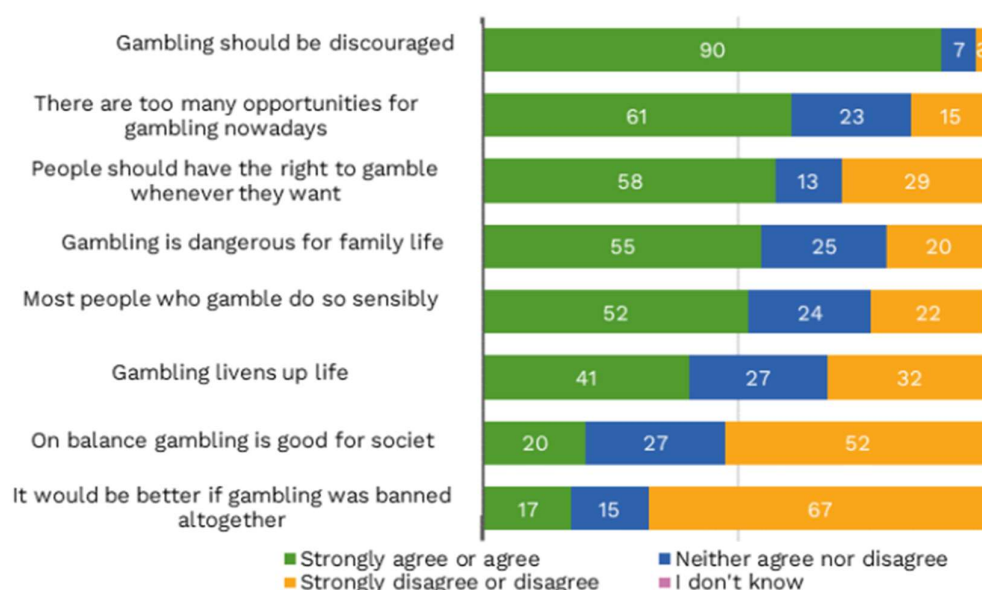
<sup>95</sup> [Study by the Finnish Competition and Consumer Authority](#) (2023)



- The **Ministry of the Interior's working group (2023)** gave an estimate in a study of around **€500-550 million**<sup>96</sup>. This preliminary study project assessed the current gambling system and provided models to support political decision-making :
  - The project has utilised the [Finnish Institute for Health and Welfare's Finnish Gambling 2023 population survey](#) and the reports of the [evaluation working group for risks and harms resulting from the operation of gambling under the Ministry of Social Affairs and Health](#).

All this preliminary research found that Veikkaus market share of all gambling is around 50 %, and in competitive product areas on digital channels, only around 25 % while 4 % of Finnish adults suffer from gambling problems :

*“Gambling involving games offered by Veikkaus Oy decreased. Although there was no change in the amount of online gambling offered by foreign operators (off-shore gambling) in 2023 compared to 2019, there has been an increase in playing these in the longer term. A total of 4% of the respondents played at a moderate-risk or problem gambling level. The prevalence of gambling problems of different levels of severity was clearly higher among men than women. The proportion of men gambling at least at the moderate-risk level was higher in 2023 than in previous survey round.”*



*Figure 1. Individual statements measuring attitudes towards gambling, proportion of respondents aged 15–74 in 2023 (%); Source : Finnish Institute for Health and Welfare*

Furthermore, according to the draft reform, the National Police Board (NPB) will be empowered to impose prohibition orders against entities offering or marketing gambling services illegally in Finland and it introduces significant restrictions on marketing methods (including on bonuses).

**CONCLUSION** : There is still concern that opening the market to commercial competition could increase gambling-related issues due to a potential rise in the number of players. A legislative review council has called for **more detailed assessments** of how the new framework might impact **gambling-related harms, before the it came into effect.**<sup>97</sup>

<sup>96</sup> Pre-examination of gambling system options - Sailas, Harri; Brax, Tuija; Matilainen, Riitta; Alkio, Mikko (2023-05-16) <https://julkaisut.valtioneuvosto.fi/handle/10024/164952>

<sup>97</sup> Evaluation of the gambling reform (2025) - [Lainsäädännön arviointineuvosto](#).

## **ANNEX (solutions for the fight against illegals to avoid succumbing to illegal operators)**

### **Impact of illegal gambling and potential tools for government**

In Europe, the facts are clear : there is a growing problem of illegal gambling. Illegal operators openly advertise their activities in various jurisdictions and even convince retailers with higher commission to promote their games instead of the legal games. They openly violate the laws and find governments not reacting against them.

**On the contrary, it can be exposed that politicians, investment companies and media companies are supporting in some cases the illegals and taking over their “fairy tales”. This problem is largely underestimated by the authorities and could have dramatic societal consequences if no actions are undertaken. In many countries the legal market controls less than 60% of the physical and online games ( i.e. Finland or Germany) to 70 % (Morocco) of the market. Not only does it lead to loss of governmental income, but it also increases the level of health problems and criminality.**

In particular, for lottery games, illegal operators enter the lottery market through derivative products. They would only comply with laws where they have no alternative and use illegal gambling as a manner to lobby for change, stating that the existing (monopolistic) structures are failing, and that the government loses a lot of revenue.

The illegals will also argue that by opening the market – **they call it ‘regulating the market’** whilst the markets they enter illegally are perfectly regulated through a monopoly or a limited number of licenses – the government will earn substantially more money. Given that there ‘competitive’ market proposal is driven by very high pay-out ratios, leaving a small GGR, more governmental revenues would require an enormous exponential growth of the gambling market, creating high levels of addiction and health costs.

**Change should never be the result of illegality** otherwise it means that governments institutionalize crime as alternative means for changing legislation in society and undermine any proper and correct parliamentary process. If people want change, they need to follow legal ways to try to get change with respect to laws and governmental institutions. The illegal operators are using the same strategy on all continents by entering markets where governmental authorities have other priorities and creating disruption. Finally, they do not feel concerned about creating big losses during such period as long as they can create a strong customer base.

**It is important to create awareness that as long as illegal gambling is not considered as a priority in the national security plans of states, the Organized Crime (OC) shall continue to use online gambling as a money making and money laundering tool given the easiness and lack of risks.**

Furthermore, in any case, governments and regulators should understand that illegal gambling is a scourge to which they must not succumb. For that, actions need to be taken in a regulatory manner, in particular the following:

1. **Geo-blocking**: One aspect of channeling players from illegal operators to the legal operator consists of combatting illegal operators by preventing players from accessing these illegal operators (geo-blocking illegal operators). This can be done in the gambling sector because Regulation (EU) 2018/302 of 28 February 2018 on addressing unjustified geo-blocking does not apply to gambling and thus permits geo-blocking for gambling services.
2. **Law enforcement**: Fighting illegal gambling is actually not a matter of choice, it is a legal obligation under EU law (to maintain a consistent policy on gambling according to the ECJ) as well as in application of the Council of Europe Macolin Convention against manipulation of sport events (Article 11), where the fight against illegal sports betting is defined and established as an obligation. Countries who did (*Austria signed in June 2016*) or intend to sign up to the Macolin convention, and the number is growing, have

a legal obligation under international law to implement serious measures and policies to fight illegal gambling.

3. **Reinforcement of state lotteries:** even more, governments should contemplate giving more room for an attractive legal offer of games in a controlled manner. The Court of Justice of the European Union refers to this as “controlled expansion”, namely bringing attractive products with an appropriate form of advertising, and where necessary by using new distribution channels with an extensive range of games<sup>98</sup>.

A government can therefore address illegal gambling in a very effective way, by monitoring the illegal market, by improving legislation and introducing where necessary geo-blocking and payment blocking, by making ISP, financial institutions and media companies co-liable for cooperating with illegals, and by enhancing law enforcement. This must be done in accordance with EU law<sup>99</sup>.

Those solutions are based upon CJEU's rulings (especially *Placanica* and *Fluctus & Fluentum*) which enhances the need for better low risk games, multi-jurisdictional games, e-instants, proper advertising and proper online channels.

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### **PART 3**

#### **Market Liberalization and Gambling Expansion: Analyzing Regulatory Challenges and Societal Implications**<sup>100</sup>

##### **Gambling Disorder as a Public Health Concern**

Behavioral addictions share similarities with substance addictions, particularly in the inability to resist harmful impulses that lead to negative consequences for individuals and their environments (Chambers & Potenza, 2003). This similarity led to the inclusion of a new diagnostic category, "non-substance-related addictions," in the fifth edition of the *Diagnostic and Statistical Manual of Mental Disorders (DSM-5; APA, 2013)*. Within this category, gambling disorder (commonly referred to as ludopathy and previously known as pathological gambling) was recognized as the only behavioral addiction. Similarly, the *International Classification of Diseases 11th Revision (ICD-11)* classifies gambling disorder as a behavioral addiction (F63.0), alongside gaming disorder (6C51) (WHO, 2019). The exclusion of other addictive behaviors from diagnostic manuals is based on insufficient empirical evidence for their classification, despite increasing research interest in recent years (Grant & Chamberlain, 2016).

The negative consequences of gambling disorder are profound and multifaceted, encompassing financial debt, legal issues, involvement of analogous brain circuits, family and social conflicts, sleep and eating disorders, neglect of personal hygiene, changes in leisure activities, abandonment of previously enjoyable pursuits, distorted perception of time, and feelings of guilt and shame (Grant & Chamberlain, 2023), among others. These consequences are exacerbated by the increasing accessibility of gambling opportunities, driven by policy liberalization, technological advancements, and the proliferation of online gambling platforms (Planzer et al., 2014; Sharman et al., 2020). Research indicates that heightened exposure to gambling environments and advertisement is

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<sup>98</sup> Judgment of the Court of 6 March 2007, *Placanica*, Joined Cases C-338/04, C-359/04 and C-360/04, EU:C:2007:133 and *Pfleger* e.a., C-390/12, par. 56

<sup>99</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce') and the now applicable Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act)

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associated with a higher prevalence of gambling-related harm, particularly among young people (Estévez et al., 2021), men and vulnerable populations (Abbott, 2020; Clemens et al., 2017a; Deans et al., 2017; Di Censo et al., 2024; Hing et al., 2017)

The prevalence of gambling disorder varies significantly across studies, influenced by differing definitions (e.g., gambling disorder vs. problematic gambling) and methodologies (e.g., diagnostic criteria vs. self-report questionnaires). Among individuals seeking help, estimates suggest a prevalence of 0.8%, with a range between 0.4% and 1.9% (Bijker et al., 2022). In European populations, rates of problem gambling among adolescents and young adults vary widely, from 0.2% to 12.3%, reflecting inconsistencies in measurement tools, time frames, and diagnostic thresholds (Calado et al., 2017). Gender differences are also notable, with men demonstrating higher rates of gambling participation and a greater tendency toward risk-taking and sensation-seeking behaviors compared to women (Macia et al., 2023; 2024; Wong et al., 2013). However, research from a gender perspective highlights that societal expectations tied to masculinity, rather than biological factors alone, contribute to this disparity. Conversely, women with gambling disorder often encounter heightened social stigma, which exacerbates their vulnerability (Estévez, Macía, Ontalvilla, & Aurrekoetxea, 2023; Rodríguez et al., 2019). Additionally, earlier exposure to gambling is strongly associated with a higher risk and severity of gambling disorder, with younger age at onset predicting more severe gambling-related problems (Dussault et al., 2019; Edgerton et al., 2015; Kang et al., 2019). Those who start gambling before adolescence not only face greater psychiatric, social, and substance abuse problems in adulthood (Burge, Pietrzak, & Petry, 2006), but also show higher rates of criminal behavior and aggression (Sharman, Murphy, Turner, & Roberts, 2019). These findings reinforce the importance of delaying gambling exposure as a preventive measure (Caselles et al., 2018)

The economic and social costs of gambling disorder further emphasize its significance as a public health concern. In the UK, for instance, up to 2% of the population is at risk of developing gambling disorder, with associated economic costs estimated at £2 billion annually (Hynes et al., 2025; OHID 2023). These figures highlight the urgent need for effective public health interventions to mitigate the harms associated with gambling disorder, particularly in the context of an increasingly liberalized and accessible gambling market.

### **Risk Factors for Gambling Disorder: Gender, Age, and Cultural Influences**

In addition to the significant psychological and financial costs, gambling disorder has a marked demographic distribution. Gambling behaviors and preferences vary between men and women, influenced by cultural, social, and regulatory factors. Men are more likely to engage in gambling, encounter more gambling opportunities, and exhibit higher rates of problem gambling (Carneiro et al., 2020; Deans et al., 2017). They also tend to initiate gambling at an earlier age, often during childhood or adolescence, whereas women typically start later in life but progress to problematic gambling more rapidly (Estévez, Momeñe, Macia, & Jauregui, 2024; Chambers & Potenza, 2003; Frisone et al., 2020). This accelerated progression, known as telescoping, is also observed in substance use disorders and highlights potential gender-based vulnerabilities (Grant et al., 2010; Jiménez-Murcia & Fernández-Aranda, 2022).

Cultural and social factors play a crucial role in shaping gambling behaviors in both men and women. Preferences for specific gambling activities are influenced by availability and social acceptance (Estévez et al., 2023; Hing & Breen, 2001). Women are more likely to engage in gambling alone and to conceal the extent of their gambling problems from family and friends (Estévez et al., 2023; Lesieur & Blume, 1991; Strachan & Custer, 1993). The increasing availability of gambling options in venues traditionally frequented by women has contributed to a rise in female gambling participation (A. Volberg, 2003). Additionally, women tend to favor legal forms of

gambling, meaning that the legalization of different gambling modalities has played a key role in the increase of gambling activity among them (Corney & Davis, 2010; Potenza et al., 2001).

Furthermore, women are more inclined to transition their gambling activities to regulated platforms, likely reflecting a preference for safer gambling environments, particularly in response to new regulatory measures (Engebø et al., 2021). These findings underscore the importance of considering gender-specific factors in the development of prevention and treatment strategies, as gambling behaviors are not only shaped by individual predispositions but also by broader societal influences.

Age is another critical factor influencing gambling behavior and the risk of developing gambling disorder. While gambling problems were historically associated with adults, recent research highlights a significant and growing prevalence of problematic gambling among adolescents and young adults. Studies indicate that young people are 2 to 4 times more likely to experience gambling-related issues compared to older populations (Calado et al., 2017; Petit et al., 2015).

Several factors contribute to the heightened vulnerability of adolescents and young adults. This life stage is characterized by psychological and social traits that increase susceptibility to gambling behaviors, such as heightened novelty-seeking, impulsivity, and a preference for immediate rewards (Calado et al., 2017). Additionally, the strong desire for peer acceptance during adolescence often leads young people to use gambling as a means of social affiliation, further exacerbating their risk (Sarabia & Estévez, 2016). Emotional regulation difficulties and insecure attachment styles have also been linked to problematic gaming behaviors in youth (Estévez, Jauregui, Momeñe, & López-González, 2023; Estévez et al., 2024), suggesting that similar mechanisms may contribute to gambling disorder vulnerability in this population. Adolescence and young adulthood are critical periods for the onset of problematic gambling behaviors, making this demographic particularly susceptible to developing gambling-related harms (Lambe et al., 2015). In fact, gambling is one of the most frequent addictive behaviors among young people, reflecting its growing normalization and accessibility (Secades-Villa et al., 2016).

The increasing accessibility and availability of gambling opportunities have further amplified these risks. The rise of online gambling platforms and sports betting has made gambling more accessible than ever, particularly to young people who are early adopters of digital technologies (Canale et al., 2016; Estévez et al., 2014; Volberg et al., 2010). Younger individuals engaging in online sports betting often show early initiation and higher psychopathological distress, underscoring the need for targeted prevention. Young individuals are particularly vulnerable to certain gambling formats, such as online gambling (Engebø et al., 2021) and sports betting (Di Censo et al., 2024), which are associated with higher rates of gambling-related harm (Clemens et al., 2017a; Deans et al., 2017; Hing et al., 2017; Rockloff et al., 2020). Early exposure to gambling, whether through online platforms or other formats, has been consistently linked to a higher risk of developing gambling disorders in adulthood (Quiton, 2006).

Given these factors, adolescence and young adulthood represent a critical window for prevention efforts. The activities young people engage in during their leisure time can significantly influence their likelihood of developing severe gambling problems later in life. This underscores the need for targeted interventions that address the unique vulnerabilities of this age group, including their psychological traits, social dynamics, and exposure to gambling opportunities.

### **The role of advertising and normalization in gambling behavior**

Advertising is one of the primary mechanisms through which gambling exposure influences behavior, shaping perceptions of gambling and reinforcing its acceptability. Research shows that



exposure to gambling advertisements, particularly sports betting marketing, is associated with higher rates of problem gambling among young people (Di Censo et al., 2024). Similarly, gambling advertisements correlate with a greater likelihood of developing gambling-related problems, especially among vulnerable populations (Clemens et al., 2017). A major concern about sports betting advertising is its impact on minors and young adults. While parents often feel unaffected by these ads, they worry about their influence on their children (Thomas et al., 2012).

Beyond increasing participation, gambling marketing also influences perceptions of accessibility and legitimacy, making gambling appear more socially acceptable (Syvertsen et al., 2021). This normalization is further reinforced through the integration of gambling into sports and popular media. Betting advertisements during sports events promote gambling as an ordinary and socially acceptable activity, contributing to increased participation (Marko et al., 2022; Newall et al., 2019; Sharman et al., 2020). Such normalization is concerning, as misperceptions about social norms and the portrayal of harmful behaviors in media have been linked to increased gambling rates and reduced awareness of associated risks (Cunningham et al., 2012).

Problem gamblers not only report greater exposure to gambling advertisements than non-problem gamblers, but they also perceive a stronger influence of these ads on their gambling attitudes and behaviors, particularly in terms of involvement (Hanss et al., 2015; Syvertsen et al., 2021). This heightened susceptibility makes advertising a significant risk factor, especially for those undergoing treatment or attempting to quit, as sports betting marketing—particularly direct promotions—can trigger cravings, relapses (Lopez-Gonzalez et al., 2019), and hinder their efforts to reduce or cease gambling (Hing et al., 2015a). Additionally, problem sports gamblers often cite overlaid odds, odds emphasized by commentators, messages about easy winnings, and free betting bonuses as the most persuasive elements in gambling advertisements (Hing et al., 2014). Aggressive strategies like live-odds advertising further make gambling appear more urgent and appealing, heightening the risks in liberalized gambling markets (Newall et al., 2019).

There are two fundamental causes that particularly concern researchers: (1) sports bettors are younger than ever (Gassmann, Emrich, & Pierdzioch, 2017); (2) minors who gamble tend to consider placing sports bets surrounded by friends as something different from any other form of gambling for money (they do not consider it gambling). Some feel that betting is a form of self-expression, of being rebellious and of 'putting their money where their mouth is', i.e. backing up their bravado with money (Korn, Hurson, & Reynolds, 2005). Some young people have indicated in experiments that sports betting advertisements teach them that with sufficient preparation and knowledge, they can control the outcome of matches and their bets (McMullan & Kervin, 2012). In Spain, as in other European countries, a large part of sports betting advertisements and promotions are reserved for adult spaces.

Despite the clear influence of advertising on gambling behavior, some authors argue that gambling promotions may not necessarily create new gamblers but rather redistribute existing bettors among different gambling operators (Hing et al., 2015b). This highlights the need for further research to better understand the broader impact of gambling advertising on consumer behavior.

### **Market liberalization and its consequences**

Market liberalization has been a major shift in the gambling industry, involving the relaxation of regulations, increased access to casinos and electronic gaming machines (EGMs), and the expansion of gambling advertising and integration into mainstream entertainment. This process has also included the virtualization of gambling markets, expanding online and remote gambling platforms, which challenge regulatory enforcement and increase global accessibility (Kingma, 2008). The rise of offshore gambling sites, operating outside national regulations, further



complicates enforcement and poses risks for consumers, as many prioritize ease of use over regulation, contributing to greater gambling involvement and more severe gambling-related issues (Gainsbury et al., 2017; 2018).

One of the key consequences of gambling market liberalization is the proliferation of gambling advertisements, which play a crucial role in shaping perceptions of gambling and reinforcing its acceptability. For instance, the liberalization of gambling markets in the UK has been associated with higher gambling participation and related harms, as reflected in the significant rise in gambling sponsorships in football, raising public health concerns regarding the normalization of gambling behaviors among young people (Bunn et al., 2018; Jones et al., 2019). In Spain, for example, gambling-related advertising expenditure has increased in recent years alongside the growth of the gambling market. Although there are no detailed figures by gambling activity, it is likely that a significant portion of advertising revenue comes from the sports betting sector (Estévez et al., 2018)

Research indicates that greater accessibility to gambling opportunities correlates with increased participation and a higher prevalence of problem gambling (Abbott, 2020). However, gambling liberalization increases exposure, its effects on problem gambling rates may depend on additional factors such as advertising regulations, responsible gambling measures, and public awareness campaigns.

Regulatory changes in gambling markets can have profound effects on gambling behaviors and associated harms. While restrictive measures, such as Norway's 2007 slot machine ban, led to reduced gambling participation (Engebø et al., 2021), market liberalization often drives the opposite trend. For instance, the expansion of Ontario's online gambling market, combined with aggressive advertising, correlated with a significant rise in helpline calls related to online gambling (Turner et al., 2023). These findings underscore the need for a balance between economic benefits and harm prevention, as well as the importance of monitoring the ongoing impacts of policy changes (Calado & Griffiths, 2016).

### **Liberalization as a Strategy to Eradicate Clandestine Activities and Increase Tax Revenue**

The liberalization of gambling markets has significantly increased accessibility, leading to both economic benefits and public health concerns. In Spain, for example, the transition from a system of absolute prohibition to state regulation in 1977 sought to curb illegal gambling and generate tax revenue while mitigating the risks associated with unregulated gambling (España, Real Decreto-ley 16/1977). However, the legalization of online gambling has contributed to a sharp rise in gambling-related harm. According to data from the *Specific Clinical Guidance, Young People and Online Gambling*, published by the Spanish Federation of Rehabilitated Gamblers (FEJAR) and the Spanish Ministry of Health, cases in which online gambling is the primary cause of gambling disorder increased from 2.53% before legalization to 24.21% in 2015, making it the second leading cause of gambling addiction after slot machines. Among individuals under 26, this increase was even more pronounced, rising from 0% to 44.64%, making online gambling the primary driver of gambling disorder in young people. Additionally, the proportion of young people in gambling treatment programs has surged, with those under 26 accounting for 16% of admissions, compared to 3.8% before online gambling was legalized (Lamas et al., 2018).

**In response to such trends, some countries have implemented regulatory measures to counteract the negative consequences of market liberalization.**

In Spain, for example the transition from a system of absolute prohibition to one of state regulation of gambling in 1977 aimed to reduce clandestine gambling and increase tax revenues through

market liberalization, while protecting society from the risks associated with unregulated gambling (Spain, Royal Decree-Law 16/1977).

Similarly, given the impact of gambling market liberalization on accessibility and related harms, in the UK, a statutory levy on gambling operators is set to generate £100 million for research, treatment, and prevention efforts (Hynes et al., 2025), highlighting the need for policies that balance economic interests with public health protections. This initiative represents a key step in addressing gambling-related public health challenges by providing essential resources to bridge the gap between research and real-world applications.

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