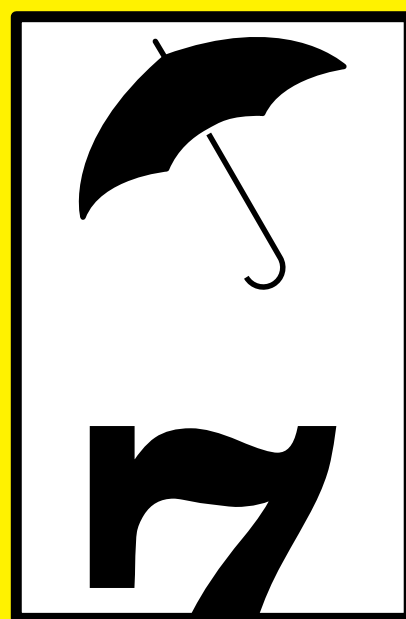
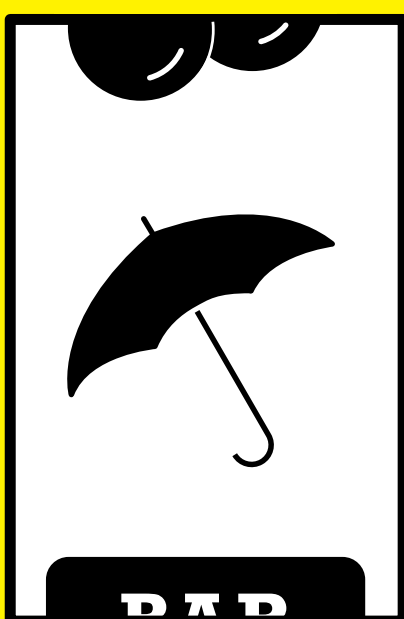
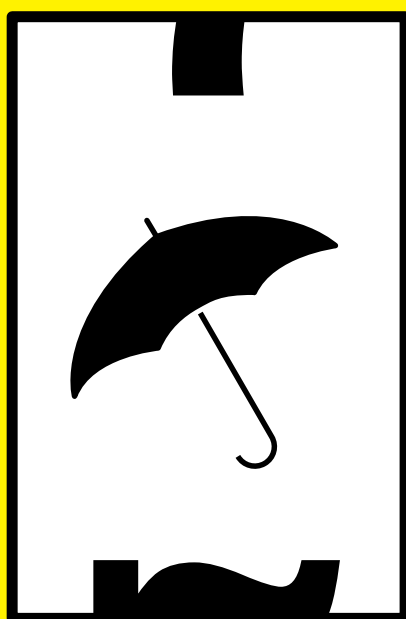


YELLOW PAPER



GAMBLING AND CONSUMER PROTECTION: REGULATORY CHALLENGES

In cooperation with



SCHMIDT GRUPPE

**“Gambling and consumer protection
– Characteristics of a rational plan”** pg. 17

Guest Essay by Gerhard Bühringer

Study: Expansion of arcades stopped in its tracks pg. 24

“Snootiness of the middle class” pg. 36

Interview with Jo Reichertz

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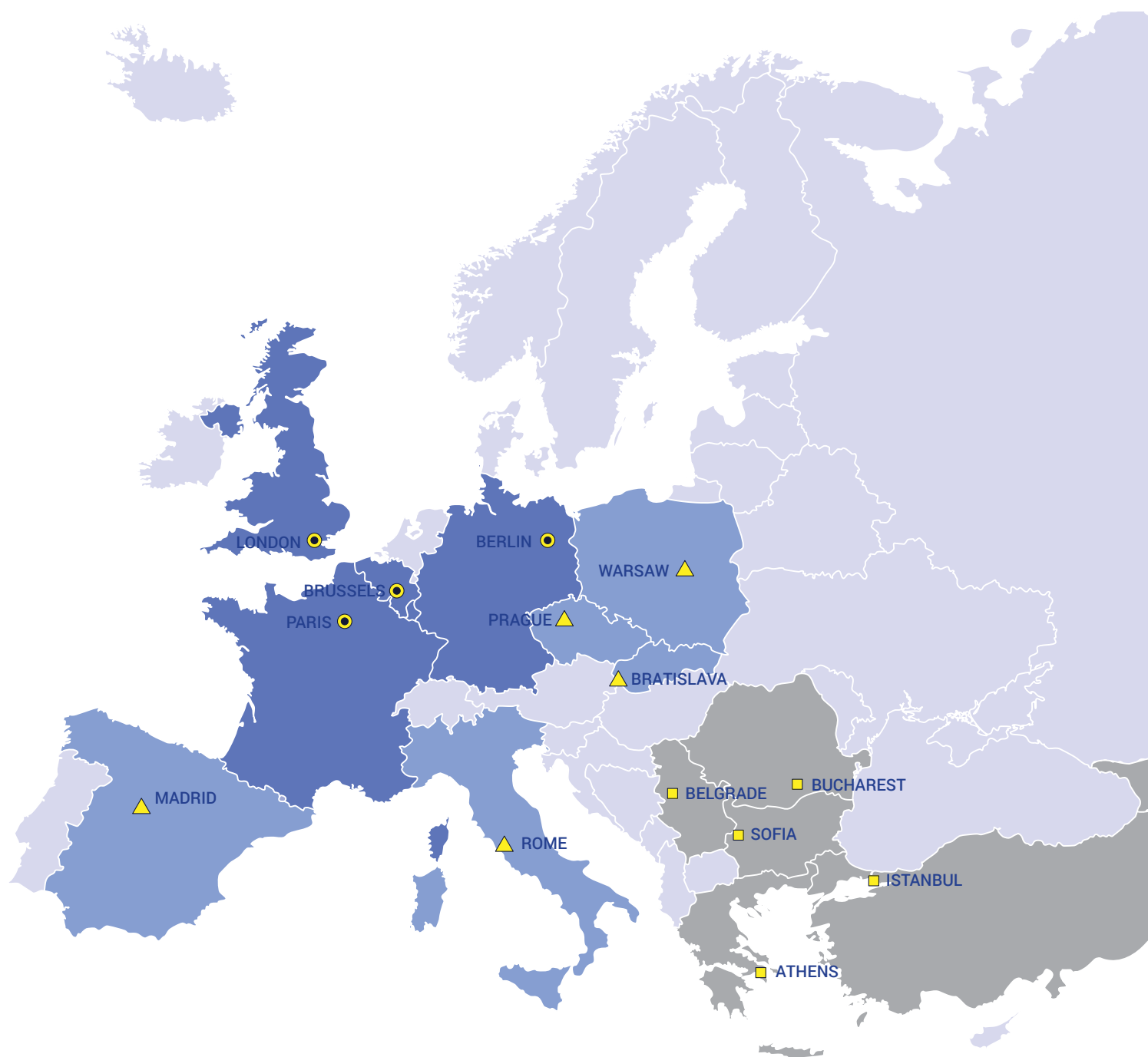


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FOREWORD:

THE MILK IS BOILING OVER

Many of us are familiar with them: ads that beam down at us from billboards and advertising columns. A milk carton shaped neon light, captioned with the friendly message that alcohol consumption is prohibited in gambling establishments. No doubt, an impartial observer would wonder about the meaning behind this advertisement. Chances are that milk is not the most-favoured drink among patrons in gambling establishments. Soft- and mixed drinks maybe – but milk?

The presumed advertising message is aimed in another direction. It is an expression of the view that the gambling sector is being force-fed bans and regulations. But what is supposed to be wrong about that? Gambling can end dangerously. The expression “to gamble one’s life away” is not coincidental. It is not the state’s responsibility to guarantee the highest possible profits for a sector. Still, it is falsely interpreted if the state puts obstacles in the way on one side, knowing full well that virtually on the other side of the street, illegal offers are cropping up left and right. For many in the sector, the milk is boiling over.

What to do? Of course the wish for uniform, Europe-wide regulation is right. This Yellow Paper, released for German- and English-speaking audiences, is intended to provide all participants in the political arena with a comprehensive and pragmatic insight into the current facts. With more knowledge and more understanding for each other, it will surely be easier to create better laws and regulations. Because while others quarrel over milk cartons and cubic-metres per slot machine, organised crime is carrying out its nefarious deeds directly on our doorstep. Much more can go sour in that respect, not just the milk.

Thomas Franke, Publisher

Gambling & Consumer Protection

An Overview

Gambling regulation in Europe has not failed. It cannot, when it does not even exist. Instead of recognising that EU-wide rules on gambling are needed in the internet age, each member state continues to wriggle through – sometimes worse, sometimes better – trying to contain the uncontrolled growth of internet gambling. Meanwhile reports of game manipulation in sports repeatedly show that too many gambling providers simply disregard laws in individual EU member states. The authorities seem to be hopelessly overwhelmed by the strength of gambling providers on the black market. As a result, player protection, protection of minors or consumer protection can scarcely be provided.

Nevertheless, the idea that gambling regulation cannot continue as it has and requires an EU-wide strategy continues to fall through the cracks in Brussels. In October 2012, the European Commission presented an “action plan” on online gambling in Europe. The institution recommended a variety of initiatives including cooperation among member states and greater precision in respective national gambling provisions. But Harrie Temmink from the European Commission’s DG Internal Market and Services says “sector-specific EU legislation on gambling” is not yet needed (see page 14).

On the basis of the action plan, the Commission took a second step in July 2014 providing a recommendation on principles for the protection of consumers and users of online gambling products. The recommendation may not be legally binding but it is meant to serve as a guiding principle for EU member states (see page 11).

Ironically, the Commission itself provides an explanation for why such non-binding recommendations rarely lead to a solution and more control over the gambling market. In the official statement over its recommendation for the consumer and user protection in online gambling, the Commission says: “The fast-

paced progress of online technology, with the development of mobile phones and smart phones, tablets and digital TV, goes hand-in-hand with an increase in the offer and use of online gambling services in Europe. With close to 7 million EU consumers participating in online gambling services, the EU online gambling market represents 45% of the world market share.” EU-wide revenues in online gambling are expected to reach €15 billion by 2015. It is a mammoth task to gain control over an already gigantic market such as this, which is prone to rapid growth and a high level innovation.

As a result it is hardly surprising when individual EU member states fail in their attempts to regulate the gambling sector within their own borders – regardless of the fact that many market participants have long been operating beyond national borders and conditions. Otherwise, they are outperformed by their competitors who do: many state lottery operators in Europe have suffered dramatic losses in revenue over the past few years. Players have been migrating to more attractive – due to less restrictive regulation – illegal gambling opportunities.

Germany as an example

A notable example for failed gambling regulation happens to be found in the EU member state with the strongest economy: Germany. Many experts agree on this view, in contrast to politicians who directly work with gambling regulation. Protection of players and minors is not working, suspensions are circumvented or not enforced. The reason for these defects is not only the overwhelming nature of endless opportunities on the internet. A jumble of federal and regional laws is also to blame, apparently unique in the EU, making uniform gambling regulation impossible.

As specific and isolated Germany’s problems in this sector seem to be, they are worth taking a closer look at Germany

tection

as an example – even for those in other EU member states. Many insights and recommendations submitted by experts in this Yellow Paper can just as easily be applied to Germany's neighbours.

In the end, not only gambling addicts themselves suffer when gambling regulation fails. The social, economic and criminal effects hurt all consumers. While many politicians seek to escape behind sometimes diverging actions, more and more experts are calling for a fundamental change in thinking: instead of exclusively viewing gambling as a problem, that should be fought with sanctions and interventions, it should be accepted as a natural societal phenomenon (see interview with Jo Reichertz, page 36). Only in this way, can gambling regulation facilitate functional consumer protection.

Consumer protection is meant to protect people from the risks related to consumption of goods or services.

PATHOLOGICAL GAMBLING

The Diagnostic and Statistical Manual for Mental Disorders (DSM-IV) defined pathological gambling as a persistent and recurring, maladaptive player behaviour. To qualify, behaviour must exhibit at least five of the following characteristics (behaviour that only exhibits three to four characteristics, is defined as problematic gambling):

- 1** Strong obsession with gambling (e.g. significant mental preoccupation with acquiring money)
- 2** Increasing bets to reach the desired stimulation
- 3** Repeated unsuccessful attempts at controlling, restricting or giving up gaming
- 4** Unease or irritability during attempts to restrict or give up gaming
- 5** Playing to escape problems or negative emotions
- 6** Resumption of gambling after monetary losses
- 7** Lying to others to cover up the extent of a gambling problem
- 8** Pursuing illegal activities to finance gambling
- 9** Threatening or losing important relationships, employment or future opportunities
- 10** Expecting monetary contributions from others

*Meantime, a new edition of the handbook, DSM-V, has been released. In the latest version, "gambling disorder" is categorised as a behavioural addiction for the first time (previously impulse control disorder). Evidence of illegal behaviour employed to finance gambling is no longer a necessary condition. All other characteristics from the preceding version were readopted. According to DSM-V, a player suffers from a gambling disorder when he/she exhibits four of the nine criteria indicated. The studies featured in this Yellow Paper refer to the definition under DSM-IV.

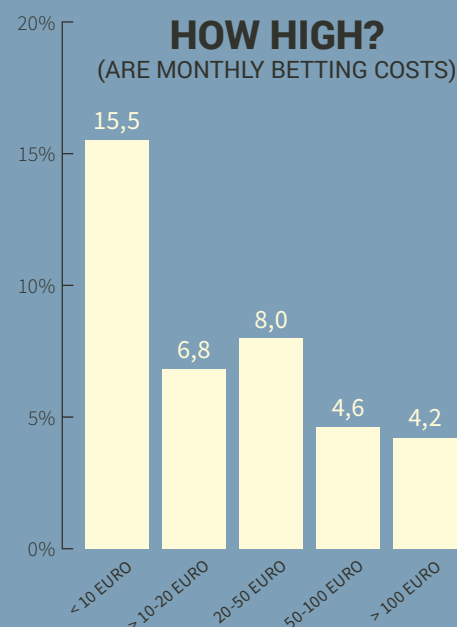
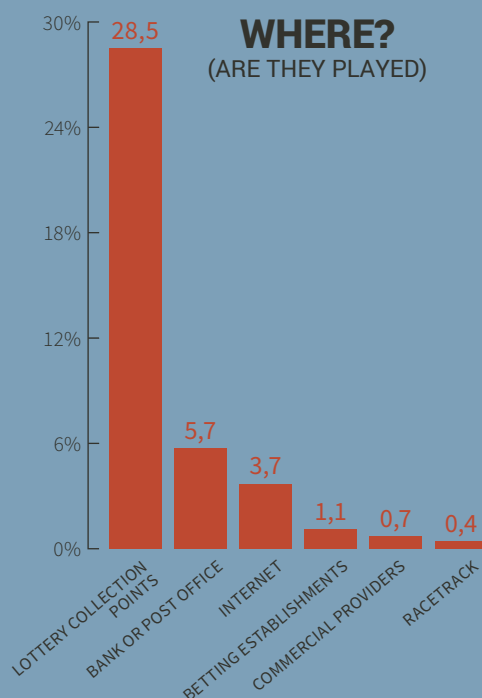
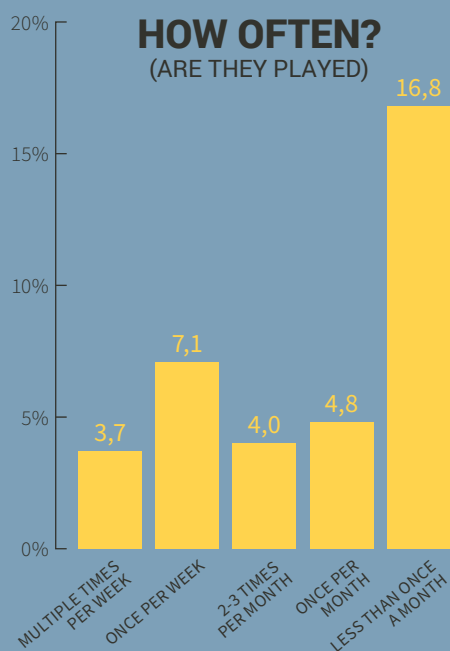
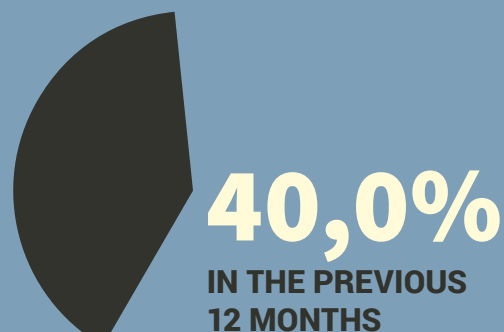
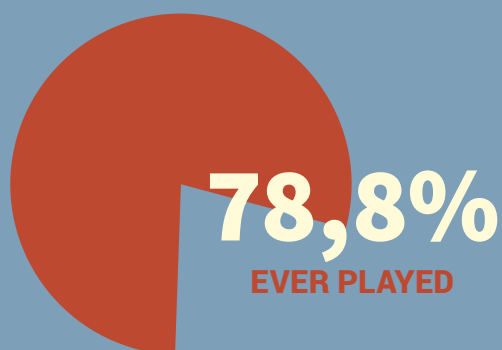
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GAMBLING PARTICIPANTS IN GERMANY 2013

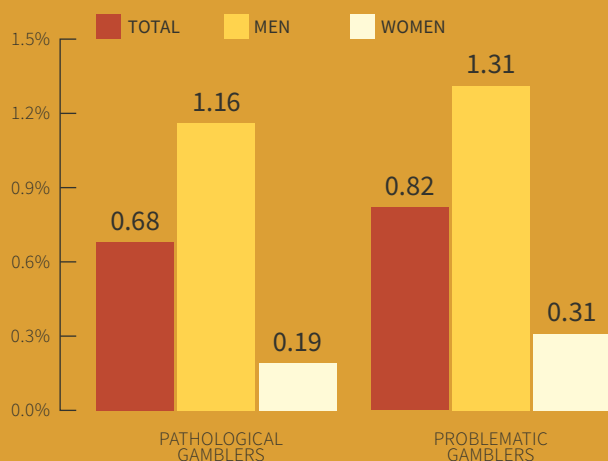
Source: Ergebnisbericht „Glücksspielverhalten und Glücksspielsucht in Deutschland 2013“ der BzgA

Basis: Telephone interviews from April to June 2013 with 11,501 people from ages 16 to 65 y.o..

Participation in a game of chance:



PROBLEM GAMBLERS



Problematic or pathological:

Most prevalent in 18 - 20y.o. men (**9.2 percent**)

Most prevalent in combination with slot machine use (**28.6 percent**)

5.19% more often in unemployed than employed (**1.26 percent**)

More prevalent among players with a migration background (**3.4 percent**) than players without (**1.03 percent**)

In this sense, gambling – playing games of chance for money – is an exception. After all, gambling is, by nature, directly connected to certain risks. According to the latest drug and addiction report released by the German government, 40% of the population in Germany played a game of chance at least once within the year 2013.

While the vast majority of players do this for fun and responsibly, gambling becomes problematic in approximately one percent of the population. The authors of the report estimate that around 368,000 people in Germany display problematic behaviour and roughly 443,000 show signs of pathological gambling. Gambling behaviour of these “problem players” and gambling addicts has gone beyond existing regulatory control, causing them to hurt themselves and those around them (see The Definition of Pathological Gambling, page 7).

“Only those who are accessible are regulated. The others are consistently ignored”

Thus gambling is a widespread and simultaneously risky societal phenomenon. As a result, it is imperative that consumer protection adapt to fit the gambling sector, evaluating and regulating it according to consumer protection standards.

Authorities overwhelmed

But reality reveals a very different picture: “All regulatory approaches have failed spectacularly”, said a sector expert, expressing the view of the majority. Regulators and authorities alike are hopelessly overwhelmed with the task, he explained. More and more control is slipped out of their hands; implementation is not working, the expert said.

Off the record, this staggering verdict is even confirmed by some politicians. The issue of gambling is “frustrating”, they say, complaining that it never leaves the political agenda. Every time gambling comes up on points of business in parliaments a resounding “sigh can be heard”.

A good case in point is the lagging process to grant licences for sports betting (see “Licencing Procedure for Sport Betting” on page 32). Germany’s amateurish licencing procedure is a disgrace, opposite other European states. To make matters worse, there is a general doubt that the licences – once they are actually distributed – will decrease sports betting on the black market with unregulated providers. The channalisation effect planned through the state gambling amendment agreement (GlüÄndStV) is threatened by excessively restrictive conditions and high fees on licenced providers.

The fact that hardly any politicians in Germany like to deal with the issue of gambling has its reasons. One of them is the federal jumble created by a patchwork of different regulations that fleck the entire country: national and regional regulators have differing legislative competences with regard to gambling. Poker and roulette in certified casinos are regulated under

different rules from those for gambling machines in arcades or pubs. Meanwhile there are good approaches like in Denmark where there is a central authority for gambling (see interview with Wolfgang G. Crusen, page 49).

But Germany has been far from a uniform regulation on gambling, ever since the federalism reform of 2006 gave regions jurisdiction over arcades. De facto differences between operating conditions for gambling operators in each of the German regions make the entire system complex and confusing. For example a suspended player in the region of Hessen is not allowed to enter any arcades in that region, but this ban does not apply in North Rhine-Westphalia (see map “Player Suspensions in Germany” on page 42). Well-meaning efforts to protect players in Hessen are undermined by inconsistency from a national perspective.

Even at the municipal level consumer protection is riddled with uneven gambling rules. In Berlin, for example, several city representatives take pride in saying that since mid-2011 Berlin has had the strictest arcade regulation in

Germany. New arcades must now be at least 500 metres away from existing ones and play intermissions have been increased to 8 hours. This finally ended the “arcade flood”, said Daniel Buchholz, a Berlin legislator from the Social Democratic Party and the law’s initiator (see page 45).

Stricter laws are no solution

Nevertheless, the number players and gambling machines continues to rise nationwide (see recent study by the task force against gambling addiction on page 24). One reason for this is that so-called cafe casinos or “permit-free restaurants”, which are allowed up to three gambling machines per establishment, do not fall under regional arcade law. They are covered by the German Gambling Ordinance at a national level and these conditions were recently tightened again (see “Fewer machines in bars” on page 28).

Still, it is not certain whether stricter legislation will actually benefit addiction prevention. The new laws may very well drive players to seek alternatives. Alternatives that are less restricted and thereby more attractive but also completely out of state control.

Berlin is a typical example for the defenseless handling of gambling at the regional level. Because the legislative competence for uniform gambling regulation is missing, the rules are patchy.

“Only those who are accessible are regulated. The others are consistently ignored,” critics complain. Excitement over “successes” is actually a confession of failure, they say. As a matter of fact there is an establishment offering forbidden games of chance in the vicinity of MP Daniel Buchholz’s (SPD) office. And this is not the only example demonstrating how overburdened state surveillance authorities are – even if politicians publicly deny this.

This failure to regulate is particularly acute with regard to online gambling. According to the Inter-State Gambling Agreement online gambling is completely forbidden. But over 10,000 gambling offers are available on the internet in Germany. Due to rapid technological development, online gambling has experienced an unprecedented boom over the past ten years. Raw income of online gambling providers in the EU has increased ten-fold since 2003 (see figure “The EU Gambling Market” on page 13). Germany follows the United Kingdom as the largest market for online gambling in Europe. But apparently legislators are satisfied with the fact that online gambling is prohibited, without making efforts to enforce the ban.

While many politicians are pleased with supposed successes from their gambling policies, experts have long been calling for a change in thinking. After all, neither gambling addicts specifically or other consumers more broadly are benefiting from this approach to gambling regulation. “Consumer protection in gambling has failed,” is the sobering conclusion voiced by experts.

“National regulation often falls short”

But what is the alternative? There are two options. The first is to completely or partially ban games of chance or put them entirely under the oversight of a state-run monopoly. But the online gambling market shows how pointless prohibition can be when there is no will or capability to actually enforce it. This a point made by Marion Caspers-Merk, managing director of Toto-Lotto Baden Wuerttemberg, in an interview with EurActiv: “If the state lays down the law, it must also ensure these rules are followed. So far, this has not occurred on the internet. Here, the authorities are faced with new challenges. National regulation often falls short. Here, European rules are needed (see page 33).” As indicated above, supranational provisions for online gambling, that are legally binding for the entire EU, are not expected to be set in the near future.

Furthermore, addiction and black market analysts generally doubt the effectiveness of total bans in the gambling sector. Even a group of experts working on behalf of the European Commission, wrote in a recent report on gambling in Europe: “The [previous] attempts to completely forbid gambling have failed.” People migrate to illegal games, switch to foreign providers or simply invent new forms of gambling that are not covered by the rules at hand, the report says. Prevention and therapy expert Günther Zeltner recommends, instead of “smacking players on the hands”, more resources should be invested in providing counseling and information (see page 38).

“Counterproductive for consumer protection”

For this reason, Gerhard Bühringer, one of the co-authors of the gambling report, is calling for a change of thinking in gambling policy: “Efforts to keep the gambling supply as low as possible and make it uninteresting have turned out to be counterproductive from a consumer protection standpoint. That is why I am saying we should charge ahead at full-speed. In Germany we need legal and attractive gambling choices, flanked by effective preventive measures against gambling

addiction and its side-effects.”

But German politicians dealing with the gambling issue do not seem to be heeding this advice. The Federal Health Ministry’s Drug Commissioner, Marlene Mortler, recommends that in the future every pub- or restaurant-owner should be allowed to decide whether or not to set up gambling machines in his establishment and sell whether to sell alcohol (see article by Marlene Mortler on page 30). Meanwhile, one look back at the history of the United States in the 1920s is enough to recall the criminal excesses such prohibition policies can lead to – and to explain why such policies are not a solution.

The experts agree that effective preventive action against gambling addiction must be uniform and comprehensive. From a medical perspective, people in Hessen do not differ from those in Berlin, from the rest of the German population or from their fellow Europeans for that matter.

With this in mind, differing measures for player and consumer protection throughout Germany as well as in the entire EU are far from logical. Instead, a uniform, nationwide gambling law guided by consumer protection is urgently needed – one that largely coincides with laws in other EU member states as much as possible. One thing is clear: the status quo cannot continue.

Patrick Timmann und Tobias Kuske
(Editors of the contents of this Yellow Paper)



EUROPEAN COMMISSION RECOMMENDATION ON ONLINE GAMBLING

In mid-July 2014, the European Commission adopted a Recommendation over principles for the protection of consumers and users of online gambling services. Although the Recommendation is not legally binding, it is meant to serve as a guideline for the EU member states.

In its recommendation from 14 July 2014, the European Commission encourages member states to pursue a high level of protection for consumers, players and minors through the adoption of principles for online gambling services and for responsible advertising and sponsorship of those services. The aims of the principles are to safeguard health and to minimise the eventual economic harm that may result from compulsive or excessive gambling.

“The recommendation delivers one of the core elements of the Commission’s 2012 action plan on online gambling services,” said Vice-President Michel Barnier, responsible for Internal Market and Services in the Commission. “We must better protect all citizens, and in particular our children, from the risks associated with gambling. We now look to the Member States, but also to online gambling operators, to match our ambition for a high level of consumer protection throughout the EU in this fast growing digital sector.”

Background

The Recommendation was announced in the Commission’s action plan “Towards a comprehensive European framework for online gambling” adopted on 23 October 2012 (IP/12/ 1135 and MEMO/12/798).

The fast-paced progress of online technology, with the development of mobile phones and smart phones, tablets and digital TV, goes hand-in-hand with an increase in the offer and use of online gambling services in Europe. With close to 7 million EU consumers participating in online gambling services, the EU online gambling market represents 45% of the world market share.

For the majority of people in the EU who take part in online gambling, it is a recreational activity. However, there are a number of risks associated with gambling. It is estimated that between 0.1-0.8% of the general adult population suffers a gambling disorder and an additional 0.1-2.2% demonstrate potentially problematic gambling involvement. Gambling becomes a problem when it ceases to be purely enjoyable and turns into dependence.

Children and adolescents are also increasingly at risk, due to the fact that they use the internet more and more for information or entertainment, and can easily come into contact with gambling advertising and gambling websites. Therefore, preventive measures are necessary to minimise potential harm and to guarantee that online gambling services are offered and promoted in a responsible manner.

In addition, several Member States are currently reviewing their legal frameworks in this area and should be able to use the Recommendation as guidance.

Next steps

The Recommendation invites member states to inform the Commission about the measures taken in light of the Recommendation 18 months after its publication in the Official Journal of the European Union. The Commission will evaluate the measures taken by Member States 30 months after publication.

MAIN ELEMENTS

The Commission's Recommendation sets out a number of principles that Member States are invited to take up in their gambling regulations:

- Basic information requirements for gambling websites, in particular to ensure that consumers are provided with sufficient information to understand the risks related to gambling. Commercial communication (advertising and sponsorship) should be carried out in a responsible way.
- Member States should ensure that minors are not able to gamble online, and that rules are in place to minimise their contact with gambling, including through advertising or promotion of gambling services whether broadcast or displayed.
- There should be a registration process to open a player account so that consumers have to provide details of age and identity for verification by the operators. This should also enable operators to keep track of player behaviour and raise the alarm if necessary.
- Ongoing support should be available to players to prevent gambling-related problems, by equipping them with tools to keep gambling under control: possibilities to set spending limits during the registration process, to get information alerts about winnings and losses whilst playing, and to take time out from gambling.
- Players should have access to helplines they can call for assistance about their gambling behaviour, and they should be able to easily exclude themselves from gambling websites.
- Advertising and sponsorship of online gambling services should be more socially responsible and transparent. For example, it should not make unfounded statements about chances of winning, exert pressure to gamble, or suggest that gambling resolves social, professional, personal or financial problems.
- Member States should ensure that training is provided to employees of online gambling operators interacting with players to ensure they understand problem gambling issues and are able to liaise with the players appropriately.

Member States are also invited to carry out awareness-raising campaigns about gambling and related risks, as well as to collect data about the opening and closing of player accounts and breaches of commercial communication rules. Member states should also designate competent regulatory authorities to help ensure, in an independent manner, effective monitoring of compliance with the Recommendation.

MORE INFORMATION:

The Recommendation is accompanied by an impact assessment and a behavioural study on online gambling and adequate measures for the protection of consumers. These are available on the Commission's website:

http://ec.europa.eu/internal_market/gambling/initiatives/index_en.htm#recommendation



THE EU GAMBLING MARKET

ABOUT THIS RAPIDLY INCREASING SECTOR IN THE EU

SOURCE: H2 GAMBLING CAPITAL, 2013

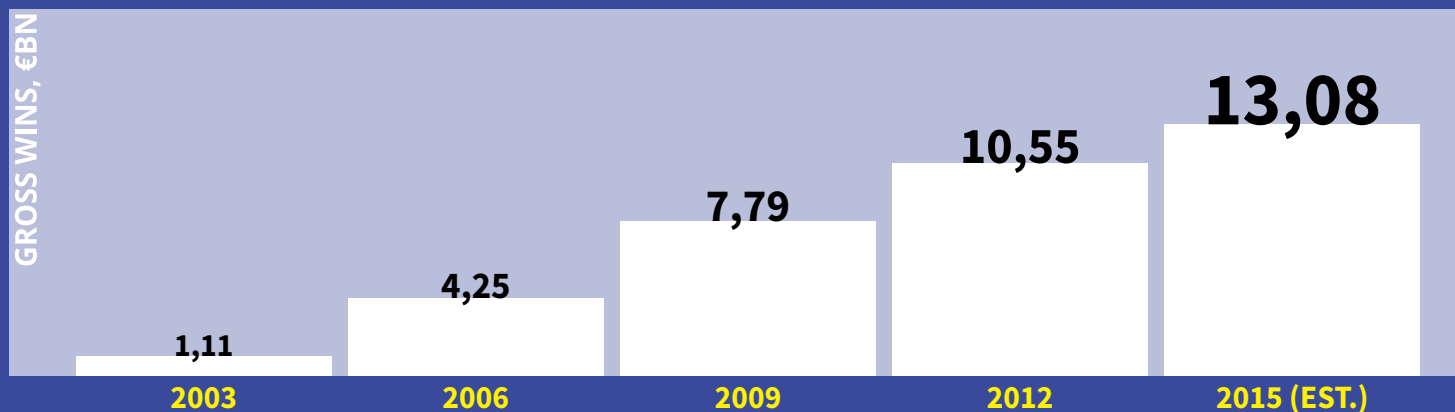
2012 EU GAMBLING
MARKET REVENUES

€ 80.3 BN

BETTING ACCOUNTED
FOR

34%
OF ALL PROFITS

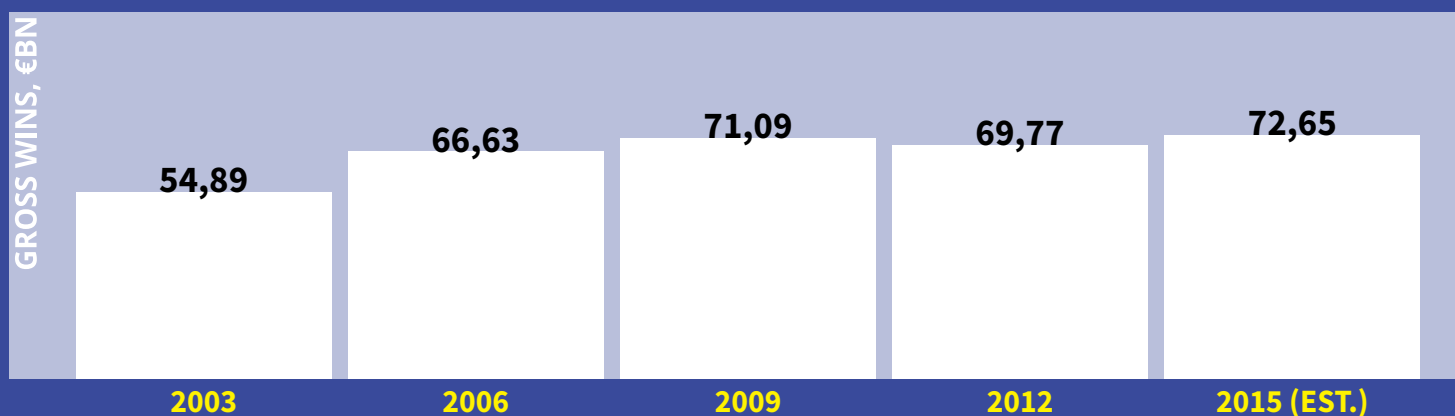
**FASTEST GROWING AREA:
INTERACTIVE GAMBLING**



2012 INTERACTIVE GAMBLING BREAKDOWN - €10,55 BN



LANDBASED GAMBLING MARKET



THE IMPLEMENTATION OF THE EU ACTION PLAN ON ONLINE GAMBLING

Introduction

Online gambling services are on the rise in the EU. There are currently around 7 million citizens gambling online, which is likely to generate €13 billion in annual revenues by 2015. The EU Member States face societal, regulatory and technical challenges, which are often of a cross-border dimension. And yet, cross-border cooperation is not straight-forward. Not only do national regulatory and supervisory frameworks in the EU differ considerably from one other, but they are also in the process of changing fundamentally. Most authorisation and licensing regimes for online gambling created over the last 10 years are still evolving. There is also a large number of gambling websites without any form of control, often operating from outside the EU. These sites expose EU consumers to significant risks of fraud and money laundering.

In 2011, the European Commission held a public consultation to get a full picture of the current situation and views on the role of the EU in tackling public policy challenges. Although responses to the consultation varied, some general conclusions could be drawn. First, it does not seem appropriate for the Commission to propose, at this stage, sector-specific EU legislation dealing with gambling. Second, there was almost unanimous support for targeted policy actions at EU level.

On 23 October 2012, the European Commission presented an action plan proposing a series of initiatives to ensure that as online gambling services in the EU develop, they are accompanied by measures to protect public policy interests. The aim of this initiative is to clarify the regulation of online gambling, encourage cooperation between Member States, ensure an adequate level of consumer protection throughout the EU, prevent fraud and money-laundering, and fight against match-fixing.

EU Actions

The main actions proposed in the Action Plan are:

- Improving administrative cooperation

The European Commission encourages Member States to establish independent gambling regulators to communicate effectively with other public authorities. In December 2012, as

the first step towards the creation of a network for administrative cooperation between Member States, the Commission set up an Expert Group on Gambling Services. Composed of representatives of the Member States' authorities regulating gambling services, the Group meets on a regular basis. Its main tasks are to advise the Commission on policy initiatives and to bring about an exchange of information and good practices in the area of gambling services, including its international dimension.

In the meetings of the Expert Group, Member States' experts share their experiences, e.g. on the revision of their national online gambling laws and on their efforts to combat unauthorized websites. The Commission has also created a virtual library for the experts ("CIRCABC") which contains national laws and other relevant documents. Deeper administrative cooperation between the national regulators across the EEA is currently being discussed.

- Providing better protection for consumers and citizens

A key objective of the European Commission's work is to protect both consumers and vulnerable groups from accessing online gambling facilities by promoting adequate regulatory measures across the EU. EU action should contribute to making authorised gambling opportunities more easily recognised and more attractive so as to dissuade consumers from using unregulated and potentially harmful websites.

All Member States agree on the objective of protecting citizens, although they differ in their regulatory and technical approaches. On 14 July 2014, the European Commission adopted a Recommendation promoting a high level of protection for consumers, players and minors through a common set of EU principles for online gambling services. These principles relate to the basic information requirements for gambling websites, registration of players, age verification, identification controls, reality checks, protection of player funds, player support, as well as rules for responsible advertising and sponsoring. Member States should ensure that minors are not able to gamble online, and that rules minimising their contact with gambling activities are in place. The Recommendation is not binding, but the Member States are invited to notify the Commission of measures taken pursuant to the Recommendation so the Commission can evaluate its implementation.

In addition, more research is being conducted into the causes of gambling-related problems, such as addiction.

-Combating fraud and money-laundering

The Commission, Member States and the industry are working together to tackle identity theft, bank card fraud and money-laundering. In February 2013, the Commission proposed to subject all forms of gambling, and not only casinos, as is currently the case, to the provisions of the EU anti-money laundering legislation. The Commission is also exploring the possibility of supporting EU standards for online gambling equipment, including gambling software.

- Fighting match-fixing

Since an estimated 90% of all manipulation of sporting results is linked to betting, it is clear that the fight against match-fixing requires concerted efforts from public authorities, sports organisations and gambling operators. The Commission has participated actively in the work of the Council of Europe on the newly adopted Convention against the manipulation of sport competitions, which includes specific rules on betting. Building on the Convention, the Commission will now seek to enhance the EU framework by promoting best practices in the prevention and detection of betting-related match-fixing and in bringing those responsible to justice.

- Ensuring compliance with EU law

National rules in the Member States must respect EU law. The Court of Justice of the EU has confirmed that Member States may restrict the cross-border supply of online gambling services in order to safeguard public policy objectives (protection of consumers, preservation of public order etc.). It is in principle for the Member States to decide if they wish to opt for a (public or private) monopoly for one or more games of chance, or if they prefer a (open or closed) licensing system for the organisation of online gambling. Member States can even decide to ban certain games of chance. However, they must always demonstrate the necessity and suitability of each restrictive measure. The public interest objectives must be pursued in a genuine and consistent manner. Additionally, in the case of a licensing system, the principles of transparency, equal treatment and legal certainty must be respected.

The Court of Justice expects Member States to take their public policy tasks seriously. For example, the commercial strategy of a public gambling operator with exclusive rights to organise a type of gambling activity can be based on an attractive offer of gambling products. However, the underlying objective must be to channel the existing demand towards controlled gambling activities and not the pursuit of an expansionist commercial policy whose aim is to expand the overall market for gambling activities. Monopolies should also be subject to strict state control.

At the same time, the Court has found that Member States do not have the same technical means available for controlling operators of online games of chance and are entitled to make different choices in that respect.

There is therefore no duty of mutual recognition of authorisations obtained by gambling operators in other Member States.

As the “guardian of the Treaty”, the European Commission assesses the compliance of draft national legislation on online gambling with the EU Treaty rules on the free movement of services and the freedom of establishment when new draft legislation is notified by Member States. The Commission also receives numerous complaints about existing legislation and has launched infringement cases against Member States. Currently cases against 20 of the 28 Member States remain open, and the Commission is accelerating its assessment of national provisions. On 20 November 2013 the Commission called on a number of Member States to ensure compliance of their national regulatory frameworks with the fundamental freedoms of the Treaty. Further concrete enforcement actions will be taken where necessary.

Outlook

Less than two years after the adoption of the Action Plan, the European Commission is on track in fulfilling its commitments. However, the online gambling sector is not only very sensitive but also very dynamic and the Commission will carefully monitor new developments and challenges, such as the impact of social games. The Commission will continue to work with both the Member States and interested parties to achieve public policy objectives. Furthermore, efforts will be made to ensure that EU citizens can engage in legitimate online gambling as a leisure activity, that it does not serve as a source of personal problems for citizens or to harbour criminal activities. ■



HARRIE TEMMINK

Harrie Temmink is currently Deputy Head of the Online and Postal Unit at DG Internal Market and Services, European Commission. His main responsibilities include online gambling, “notice-and-action” procedures, e-commerce, the future of the digital single market, media services, parcel delivery and legal issues related to the postal acquis.

The background of the entire page is a close-up, slightly blurred image of several Euro banknotes. The focus is on the intricate security patterns and the large numerals of the currency, with various shades of blue, green, and yellow visible. The banknotes are layered, creating a sense of depth and texture.

GUEST ESSAY GERHARD BÜHRINGER

GAMBLING AND CONSUMER PROTECTION:

CHARACTERISTICS OF A RATIONAL PLAN

1. Introduction

The following essay outlines recommendations for regulating and guiding the gambling market on the basis of scientific knowledge. It exhibits the demarcation between such knowledge and sociopolitical decisions that lack sufficient public discussion. It should also be made clear that, due to limited knowledge and complex framework conditions, the single “big bang” for consistent and effective consumer protection is impossible. What is needed is a learning system built upon precise targets, real-time monitoring systems and continual adaptation of regulatory mechanisms.

The focus of the essay is on measures of consumer protection for the prevention of game-related psychological problems as well as assistance for persons who have developed a “gambling disorder”. The latter is a term listed in the fifth edition of the classification system Diagnostic and Statistical Manual of Mental Disorders (DSM-5). There, it is defined as gambling behaviour characterised by a compulsive drive toward gambling, loss of control over duration and betting, being preoccupied with thoughts of gambling and restricting family and social responsibilities.

2. Development of gambling disorders

For the prevention of gambling-related problems and disorders within the framework of effective consumer protection, it is beneficial to know the contributing factors and disease processes.

2.1 Central risk factors for disorder development

Three over-arching categories of risk factors are relevant in the development of gambling disorders:

(1) Characteristics of the social environment

The prevalence values for the population’s participation in gambling and respective shares of persons with gambling disorders differ greatly among cultures and individual countries. This indicates that a role is played by characteristics of a social environment, such as social acceptance of gambling, legal regulation of gambling supply, family factors (family atmosphere, familial support of children) and the role of gambling in the family and peer group.

(2) Gambling characteristics

Factors cited most prevalently in literature (e.g. duration of the game, duration until winnings are paid out, visibility of near wins, suspenseful sound-effects, lights and colours) are primarily analogies from basic research, which are hardly studied for their connection with games of chance and development of disorders. Very few studies exist, analysing the extent to which certain characteristics of gambling change factors that are connected to pathological developments (e.g. increase in excitement or attentiveness). Correlative studies only show current associations, such as between forms of gambling and rates of disorders, but do not allow for causal statements, such as to indicate the varying level of danger among individual games of chance.

(3) Player characteristics

Factors of individual vulnerability to the development of a gambling disorder have included analysis in three areas: (1) peculiar personality traits (e.g. certain forms of impulsiveness, deficient cognitive control over attention and activity processes as well as deficient sensitivity to reward and punishment), changes to genetic markers (altered regulation of transmitter systems involved) and (3) appearance of comorbid mental disorders (particularly affective, fear and substance disorders).

2.2 Model for the development of gambling disorders

A gambling disorder does not develop “overnight” but over many months and it usually takes years before it becomes noticeable to third parties. The so-called three influencing factors are likely to have differing effects at each stage in the development process: for the beginning and regular unproblematic gambling the characteristics of the social environment are significant, the transition to risky gambling is most affected by game characteristics and individual vulnerability is a deciding factor in the development of a disorder.

2.3 Several questions

Despite intensive research over the past few years, several questions remain unanswered. These include:

(1) Relevance of factor categories?

Due to numerous possible influencing factors and complex interactions, the relevance of individual factor categories or even individual factors cannot be analysed in experimental studies. Other longitudinal studies can answer a portion of relevant questions. For the time being, it can only be assumed that all three factor categories play a role and must therefore be considered in consumer protection. Furthermore, it can be assumed that individual vulnerability is a deciding factor for problematic development because of the very low relative share of persons who develop a disorder (e.g. risk of developing a disorder among current gamblers: 1%; for alcohol consumers 7%; for tobacco consumers 32%).

(2) Does a higher gambling supply lead to more disorders?

Accepting such a connection may first sound plausible, as the alcohol sector, for example, shows a correlation between higher supply of alcohol and higher rates of related disorders. Individual studies can also demonstrate that an increase in availability of gambling machines, casinos and lottery terminals lead to a higher prevalence of gambling disorder. Still, precise connections are unclear and do not always apply. In Germany, for example, the BZGA showed a decrease from the first analysis in 2007 to the latest one in 2013 in life-long (87% to 79%) and 12-month (55% to 40%) prevalence although the supply has significantly increased.

At the same time there were shifts in use of individual games of chance, such as a decrease in class lotteries, toto and lotto, an increase in gambling machines. In addition, there was almost

no change in the share of pathological players during the given time period (0.45% to 0.38%) (<http://www.bzga.de/forschung/studien-untersuchungen/studien/Gluecksspiel>). An increase in problems is more likely to set in when legal measures are loosened in regions that used to be subject to strong regulation but there also seem to be characteristics of a “market saturation”. The exact mechanisms of these changes are unclear.

(3) Are different risks relevant among games of chance?

Due to analogies from literature, one can draw the conclusion that very fast games with short-term payouts are attached to a higher risk (e.g. slot machines in arcades and casinos) than games of chance without these characteristics (e.g. lotto or class lottery). This assumption is also supported by epidemiological cross-sectional analyses. These show that slot machines, for example, with a 30% to 50% share of persons with a gambling disorder among current players, exhibit a higher risk of developing a gambling disorder than other games of chance. Meanwhile the differences are not significant: the risk for sport-betting and games at casinos are around 25% and the risk for lotto, toto and lotteries – often deemed harmless – is around 10-15%, each affecting a total of around 1% of current players (last 12 months).

Added to this are the switching patterns of behaviour among gamblers during the course of developing a disorder. It is wrong to assume that gamblers develop problems “through” a game of chance. Correlative interconnections between the current game of choice and characteristics of the disorder do not allow for

causal statements regarding the risks of individual games. Retrospective descriptions from players with a disorder are also not representative. Further, there are no slot machine-, roulette- or lotto-specific disorders but, rather, one vulnerability in the form of ongoing miscalculation of win expectations and clinically relevant disorders in dealing with money-driven games of chance.

3. Socio-political question: How much gambling and protection does the country want?

If this statement is followed by the idea that a supply of gambling without risks is unthinkable, there may be many aspects of consumer protection that can be answered by scientific studies. At the same time, however, it all comes down to the question of how much gambling should be allowed in a country and what measure of consumer protection is desired. Surely it is undisputed that minors under 18 years of age and people with a gambling disorder should be under special protection. The same can be said for the notion that these target groups should be subjected to restrictions of the gambling supply and even complete prohibition. The central question is regarding protection of the majority of the gambling population that does not belong to these two groups. Surely it can be agreed that gambling persons should be informed of games supplied and their corresponding financial and psychological risks, not only in within the framework of upbringing and general education (health education of the public), but also regularly during gambling. Here, the responsibility lies with the provider of the game of chance and with the supervisory body.



But further protection can be controversial, in the form of state prohibitions or restrictions for individual games for example. Many different gradations are conceivable between the two extremes of “nanny state” and “laissez faire” and can be justified and supported by socio-political theories (cf. for a critical overview see the following current e-book publication (Chapter 7): http://www.alicerap.eu/resources/documents/doc_details/216-alice-rap-e-book-reframing-addictions-policies-processes-and-pressures.html?tmpl=component). But unfortunately there is a lack of dialogue on this issue in the press, general public and political sphere.

4. Conclusions for consumer protection

Currently there is a large European research project (ALICE RAP, www.alicerap.eu) with over 100 scientists, aimed at assembling and assessing current knowledge on substance disorders and gambling disorders from a variety of scientific disciplines. Then, they intend to propose evidence-based guidelines for action in society and politics. Several working groups dealt with factors that lead to disorders in combination with psychotropic substances and games of chance among regular consumers and players. Part of the information on gambling is already summed up in a “Policy Paper” of the ALICE RAP group (http://www.alicerap.eu/resources/documents/doc_download/128-policy-paper-2-gambling-two-sides-of-the-same-coin.html). In addition, the European Commission in July 2014 published around 50 very precise recommendations for the protection of consumers and users of online games of chance.

(1) Target groups and included games of chance

Due to the relatively low portion of persons affected and the aforementioned factors of increased vulnerability, universal prevention for the entire population would be extremely costly and hardly implementable. But a general knowledge of games of chance is important, for example of the probability of winning or of risks. Selective prevention for high risk groups – like young men and certain groups of migrants – makes sense but a causal approach requires more knowledge about the target-group-specific process of disorder development. For this reason, the focus is currently on the indicated prevention aimed at earliest possible recognition of individual risk features. Nevertheless, consumer protection at the level described is only possible if the entire gambling supply used by a relevant portion of the population is included in regulation.

(2) Responsibility for indicated prevention

Indicated prevention is the responsibility of the provider: through tailored information and warning notifications as well as training for employees on early recognition of problem cases, on initiating contact and motivating for counselling. To the extent that gambling is electronically recorded, gambling-related parameters must be monitored.

CONTINUED ON PG 20



For fast games (in arcades and casinos or internet gambling), indicated prevention entails giving players the opportunity to set their own compulsory upper-limits (e.g. duration, bet amounts), which can only be changed at a later time.

Indicated prevention is also the task of regulatory authorities, who should arrange and monitor rules for implementation as well as sanctioning violations.

(3) Self-imposed bans

Player self-imposed bans are a form of indicated prevention that is chosen by the individual themselves or recommended by third-parties. It can involve restrictions on game duration, the amount betted or a temporary or long-term abstinence. The player determines the start, duration and end and he/she should be offered attractive conditions and voluntary assistance for motivation purposes.

(4) Minors

Preventing minors from gambling should be ensured through appropriate supervision and electronic regulation for all games of chance.

(5) Assistance for persons with a gambling disorder

Effective measures should be implemented to keep players with a pronounced disorder from gambling. If these players cannot be motivated to institute a self-imposed ban, outside bans are a necessary measure and must be available for all games of chance. Once invoked, these rules must be monitored and enforced. The start, duration and end is to be set by providers and/or supervisory authorities. In addition, it should be required that the problem-player's name be recorded on a blacklist and that an assessment be made before the ban is lifted. Successful complementary therapy can shorten the duration of a ban.

(6) Advertising

Commercial communication should present chances of winning in a realistic way. It should not portray false speculation but, rather, should provide clear information on risks involved with gambling.

(7) Identifying persons

The use of "faster" games of chance (found in casinos, slot machines in arcades, internet offers) must be accompanied by personal identification and registration. Betting higher monetary sums in "slow" games of chance (lotto, lotteries) should at least require personal identification

(8) Central gambling supervision

In contrast to current gambling supervision, which is very fragmented between the federal and regional levels as well as individual gambling areas, a central nation-wide supervisory body is needed. Such supervision should include the federal government and regions with help from providers, aid organi-

sations and scientists. Only in this way can individual games of chance be permitted and monitored under a uniform set of rules. In addition, this is the only way to impose uniform standards and monitoring systems. To avoid conflicts of interest, supervision and operation of games of chance should be completely separate.

5. Conclusion

The gambling market and supply have rapidly developed over the past few years, with new media like smartphones only accelerating this development. For the vast majority of the adult population, games of chance do not pose a problem but gambling supply always creates problems for a part of players. These problems can only be minimised. Protection of minors and of players with a pronounced disorder as well as early recognition and intervention for risky and problematic developments are central health policy goals. Protective measures must be regularly checked for their necessity and effectiveness and optimised if need be. Effective gambling supervision and further research, such as on characteristics of risky gambling and longitudinal studies, are needed. ■



GERHARD BÜHRINGER

Dr. Gerhard Bühringer has been a professor of addiction research at the Institute for Clinical Psychology and Psychotherapy at the Technical University of Dresden since 2005. Previously, he worked at the Max Planck Institute for Psychiatry and the IFT Institute for Therapy Research. His key research areas are etiology, epidemiology, prevention and therapy for substance-related disorders and pathological gambling. He is also an assistant editor for the journal ADDICTION, editor-in-chief of the journal SUCHT, a member and former president of the International Society for Addiction Journal Editors (ISAJE), chairman of the scientific advisory board of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) as well as president of the International Organisation of Alcohol, Tobacco, other Drugs and Behavioural Addictions Research Associations (ICARA) and has authored around 400 scientific publications.

GUEST ESSAY JORG HÄFELI:

PRAGMATIC GAMBLING POLICY

A CHALLENGE FOR THE FUTURE

The health and prevention researcher at the University of Lucerne, Jorg Häfeli, introduces his own concept of effective and preventative gambling policy. In addition, he outlines experiences with player suspensions in Switzerland.

Regulatory approaches

Gambling policy must be pragmatic and realistic and should orient itself according to the actual burden of problems. The development and optimisation of player protection measures requires cooperation among various stakeholders from a government and provider level, also taking responsibility for consumers.

A coherent gambling policy, that masters this diverse set of challenges, should propose differentiated regulatory mechanisms. It should orient itself with the criteria both meaningfully and in moderation.

It is not surprising that regulatory concepts which only concentrate on one area, like limiting supply, are barely effective in practice.

One-dimensional causal relationships cannot accurately represent complex interconnections. An assumption over inherent danger or harmlessness of any gambling type is preceded by an assumption of such a one-dimensional effect, according to which a game is “addictive” regardless of the player’s characteristics. If this were an accurate depiction of reality, all persons who come in contact with gambling would develop pathological behaviour towards it. In fact, however, only a small percentage have a problematic reaction.

As a result, an assumption that is more realistic suggests that gambling can only become dangerous when it fits the player’s individual vulnerabilities and exploits them. This situation compromises the player’s ability to rely on existing tendencies and he or she reverts to irrational decision-making. For a player seeking to escape reality and hoping for a change in his unfortunate circumstances, a huge jackpot in the lottery can cause problematic behaviour. A player who tends to overestimate his abilities, on the other hand, is more at risk in the sports betting realm.

Gambling-related problems result from a range of interactions between specific game characteristics and player vulnerabilities, assuming a lack of appropriate protective measures. For this reason, there is no direct linear connection between availability of gambling products and gambling-related problems.

Problems are created when existing availability of gambling products is not accompanied by adequate measures for player protection. As a result, it is necessary to develop preventative efforts in all three areas mentioned and divide responsibility between players, industry and regulatory authorities to create effective prevention.

According existing evidence, the focus of a preventative model should not be restricting attractiveness or availability of gambling but, instead, it should be on the negative effects that result. These concepts put player protection in the foreground and orient themselves according to addiction research results and basic consumer protection.

Individualised player protection

As soon as actual player protection becomes a central element of regulation, further challenges will become apparent. Just as there is a wide variety of individual vulnerabilities among players, different protection demands are individual to each player. Applying the same player protection measures to all players will create rules that go too far for some and are no longer accepted.

On the other hand, other players will not be adequately protected. This indicates the necessity of an individualised player protection scheme. In addition, it is important to envision various preventative goals and develop the necessary measures to realise them.

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From prevention to treatment

Universal protection is directed towards all players, even those who exhibit very moderate gambling behaviour. To prevent the development of risky behaviour, the basic principles of Informed Choice should be complied with. All players should be provided with easily understandable, consistent and easily accessible information about games, their rules and how they work as well as a proactive explanation of gambling addiction risks and available player protection resources. Selective prevention is intended for players who may not display gambling problems but could develop them under certain external circumstances. These players in particular can benefit from help, with which they can better control their gambling behaviour.

Resources like self-limitation of money spent on gambling prevents irrational behaviour resulting from high losses, thereby hindering the start of problematic gambling behaviour. As a result, the goal of selective prevention, also for groups at a higher risk, is to ensure moderate and responsible gambling behaviour. Indicated prevention deals with pathological players who have no control over their gambling behaviour. These individuals are not capable of playing safely. For this reason, a system must exist by which they can cut themselves off from further gambling or can be cut off against their will.

In this model, the goal is to counteract existing problems as early as possible to minimise potential negative effects for those concerned, their immediate surroundings and the community.

A player protection scheme that primarily focuses on identifying pathological players and keeping them from gambling, is not appropriate for this purpose. It does not contain sufficient measures to prevent the development of gambling problems.

Switzerland as an example – experience with player suspensions

Since casinos were first put in operation in Switzerland (a total of 21) the number of bans has developed quite consistently: The annual net increase (number of new suspensions minus suspensions lifted) in people suspended from gambling is around 3,200, so that about 40,000 people are covered by the suspension scheme in Switzerland. How can that be explained? How can it be evaluated?

First it must be noted that visits to Swiss casinos are always registered (as in many European countries). This ensures that no one under a gambling suspension has access to a Swiss casino.

About 70% request the suspension for themselves (self-imposed gambling suspension) and almost 30% are blocked by the casinos (assigned gambling suspension). Unfortunately there is no empirical data on why people request the suspension of their own free will. With regard to assigned gambling suspensions it can be assumed that legal reasons for suspension exist (e.g. the casino knows or must assume that someone is playing beyond his financial means).

But apparently a majority of suspended persons came to the conclusion on their own, that they should be blocked from gambling.

Nevertheless, gambling suspensions are not a reliable indicator over the extent of gambling related problems. The reasons for gambling suspensions seem to be vary significantly. Generally it is assumed that approximately three-fourths of these individuals were convinced that a change in behaviour was necessary (at the time of suspension).

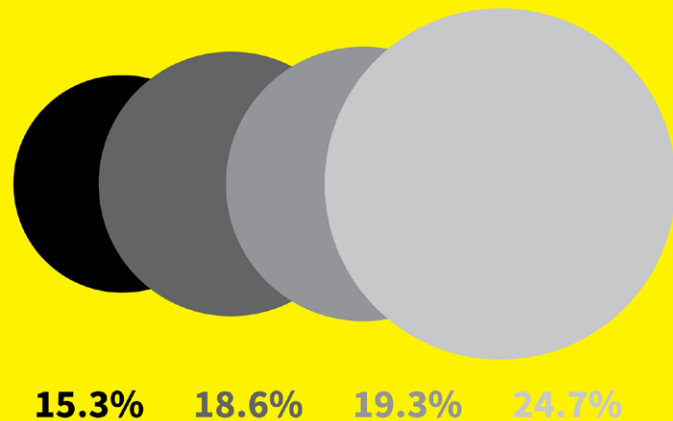
Meanwhile, hardly any of these people take advantage of professional help. This is despite information that every suspension includes free services at local support facilities. This raises doubts over the effectiveness and optimal design of a gambling suspension system. Suspension should be one of many tools available to combat problematic gambling. If it is the only option available to protect players in a black-and-white model, it will have no effect on many consumers. Options for individual limitation of frequency and money bets are much-needed further building blocks for meaningful and appropriate player protection. So long as regulations are based on moral stereotypes and orient themselves according to one-sided fiscal interests, they run the risk of missing the goal of containing the burden of problems in the population and preventing an illegal market. ■

KNOWLEDGE OF A COUNSELLING CENTRE OR HOTLINE

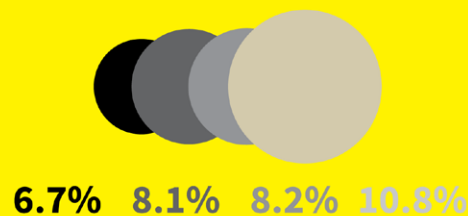
Source: Bundeszentrale für gesundheitliche Aufklärung (2014). Glücksspielverhalten und Glücksspielsucht in Deutschland. Ergebnisse des Surveys 2013 und Trends. Köln.

■ 2007 ■ 2009 ■ 2011 ■ 2013

Individuals aware of a counselling centre



Individuals aware of a hotline



JÖRG HÄFELI

Professor Jörg Häfeli is an instructor and project director in the Department for Social Work at the University of Lucerne. He is a social worker and academic organisation developer (MAS) and heads up the Competence Center on Prevention and Health. For 20 years, he has been active as a teacher and a researcher. His areas of focus are prevention and early recognition of addiction in gambling.



STUDY: EXPANSION OF ARCADES STOPPED IN ITS TRACKS

After years of growth, the arcade market has stopped its upward trajectory, according to a study released by the task force against gambling addiction from Unna. The authors say the cause is the state's gambling amendment agreement as well as the respective implementing laws among the regions. Still, the group cautions against premature celebration.

First, a result that is likely to please any politician: from 2012 to 2014 the number of arcades in the test area fell by 69 (0.77%). Even the increase in arcade permits by 121 (0.84%) is marginal compared to the previous year, when rates of growth were above 10%. These are the findings of a study conducted by the task force against gambling addiction from Unna under the leadership of Jürgen Trümper and Christiane Heimann. This study at hand, surveyed all municipalities in Germany with a population above 10,000 every two years on the supply structure of arcades and permits issued as well as slot machines present in restaurants or pubs. All in all 1,616 of 1,626 German municipalities participated in the 694-page study.

Positive developments in arcades

From a health policy perspective, this development is a positive one. The study's authors attribute it to the state gambling amendment agreement (GlüAndStV) and its respective implementing laws within the regions (in 14 German Bundesländer on 1.7.2012; in North Rhine-Westphalia on 1.12.2012 and in Schleswig-Holstein on 1.2.2013). In particular, the ban on new official permission of multiple permits derived from § 25 GlüAndStV (see info box "§ 25 GlüAndStV") ensured a considerable slow in previous expansion of the arcade market.

Growth in the arcade market reached its height between 2010

and 2012. With 729 additional arcade locations (+8.88%) as well as 2,228 new arcade permits (+18.4%), an all-time high in both categories (see table "Development of Arcades and Slot Machines"). The reason for this was, again, a legal measure. The transition regulation for arcades, § 28 (4) GlüAndStV, states, "Arcades,...which have been issued a permit until 28 October 2011 according to § 33i Trade Regulation" will receive a 5-year transition period. Inventory protection applies. Anticipation of the GlüAndStV, and upcoming ban on multiple permits, ignited a "permit turbo" during the transition period.

Legislation-driven growth in the slot machine industry

The round of amendments to the German Gambling Ordinance in 2006 fueled the slot machine sector. Under the new legislative rules at the time, more gambling machines could be set up in a respective location. First, the net play area per slot machine was reduced from 15m² to 12m². And second, arcade owners were allowed 12 – instead of the previous 10 – machines per arcade permit, given the appropriate amount of space in the establishment.

Combined with the increase in arcade permits, the amendment to Germany's Gambling Ordinance also led to a staggering rise in gambling machines in arcades: the total number jumped from 83,451 machines in 2006 to 147,954 machines in 2012. This rap-

id growth then slowed first between 2012 and 2014 when the GlüÄndStV came into force. Within this period, only 3,526 new machines were added to the total, a comparatively low amount. Nevertheless, as of 1 January 2014 there were a total of 151,480 slot machines, almost twice as many as in 2006.

With bans on new issuance of multiple permits as a fundamental goal of the GlüÄndStV, the authors of the study Trümper and Heiman are positive. By stopping expansion of the arcade market in Germany, a milestone in player protection has been reached, they write. Still, the arcade market will continue to thrive at a high level until the transition period ends in mid-2017.

For the study's authors, one thing is clear: it remains to be seen whether or not the regions and municipalities will be able to consistently enforce the ban on multiple permits as well as the distance restriction between arcades and from schools and youth centres.

No doubt, the legislator not only seeks to restrict the arcade market but also to reduce it, in the interest of player protection. However, only the future will show the extent to which arcade owners are able to undermine this mission through exceptions, hardship provisions or litigation.

Upward trend of gambling machines in pubs

Still, the decreasing number of arcades and permits is not a reason for celebration from an addiction prevention perspective. Based on the study's outcome, it appears the slot machine market has shifted to pub or restaurant establishments.

Between 1998 and 2006, there was still a steady decrease in the number of gambling machines in pubs, at rates above 10%. Even the amendment of the Gambling Ordinance in 2006, allowing three instead of two slot machines per restaurant or pub, only slowed this negative trend. Reasons for the decrease were primarily structural in nature. Since the study began in 1998, Trümper and Heiman indicate that pubs have been dying out: and a lower number of classical pubs also means less potential spaces for gambling machines.

In addition, there has been more and more competition from a growing number of private gambling providers on the internet and illegal betting shops with more attractive chances of winning. Here, money that was previously spent in gambling machines is now channeled in other ways.

But since 2008, there has been a noticeable change in direction: the slot machine market in restaurants and pubs is on the rise again. 2010 saw a slight upward trend, after many years of decrease (+148 machines compared to 2008). Even larger growth was recorded in 2012 and 2014 with 2,324 and 1,233 additional machines respectively (see figure "Development of Arcades and Slot Machines")

The reason for this shift is not the revitalisation of classical pubs, but the birth of a new spektrum of gambling locations under the heading of "permit-free gastronomy" or more specifically "gambling cafes", "tee parlours", "sport bistros", etc. These establish-

§ 25 GlüÄndStV

Restriction of Arcades

- I. There is a minimum distance required between arcades (ban on multiple permits). More specific terms are laid down in implementing acts within the regions.
- II. Giving permission to set up an arcade that is structurally connected to other arcades, especially on the same premises or in same building complex, is prohibited.

ments do not subsist on sales from "Black Forest cake", "Assam tea" or "arabica coffee" but, rather, on cash revenue from the three slot machines allowed on the premises or from sports betting terminals and illegal games.

Over the course of many years this special "gastronomy scene" has been a purely Berlin phenomenon, particularly prevalent in districts like Kreuzberg, Neukölln and Wedding. But since 2008, these establishments have gained popularity in metropolitan areas across Germany, especially in districts with large immigrant communities.

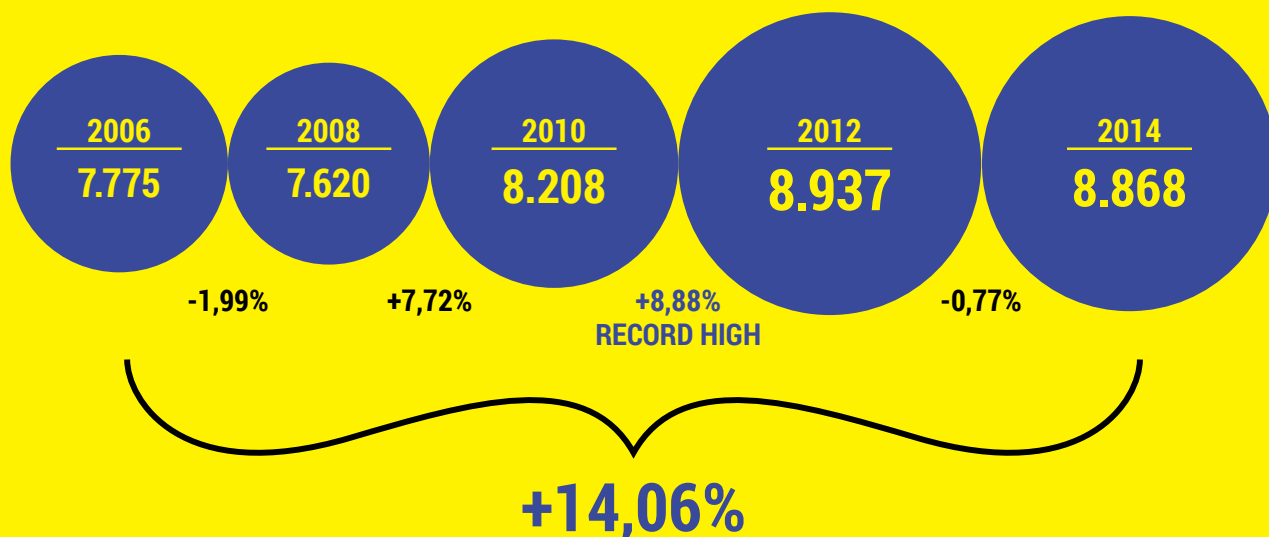
Up to 24% growth in large cities

Market data collected from gastronomy machines in the study inadequately represents the actual extent of this expansion, Trümper and Heiman write. Many metropolitan centres like Berlin, Hamburg, Cologne or Dortmund have, for years, not been able to accurately keep track of gambling machines in the gastronomic sector. Meanwhile, the market has expanded considerably in large cities. The last valid numbers in Cologne, for example, showed 1,497 gambling machines in 2008 and 1,851 machines in 2010 – an increase of 354 machines (+23.65%). In Hamburg a total of 2,262 gambling machines were on record in 2008 and 2,522 in 2010 – a 260-machine increase (+11.49%).

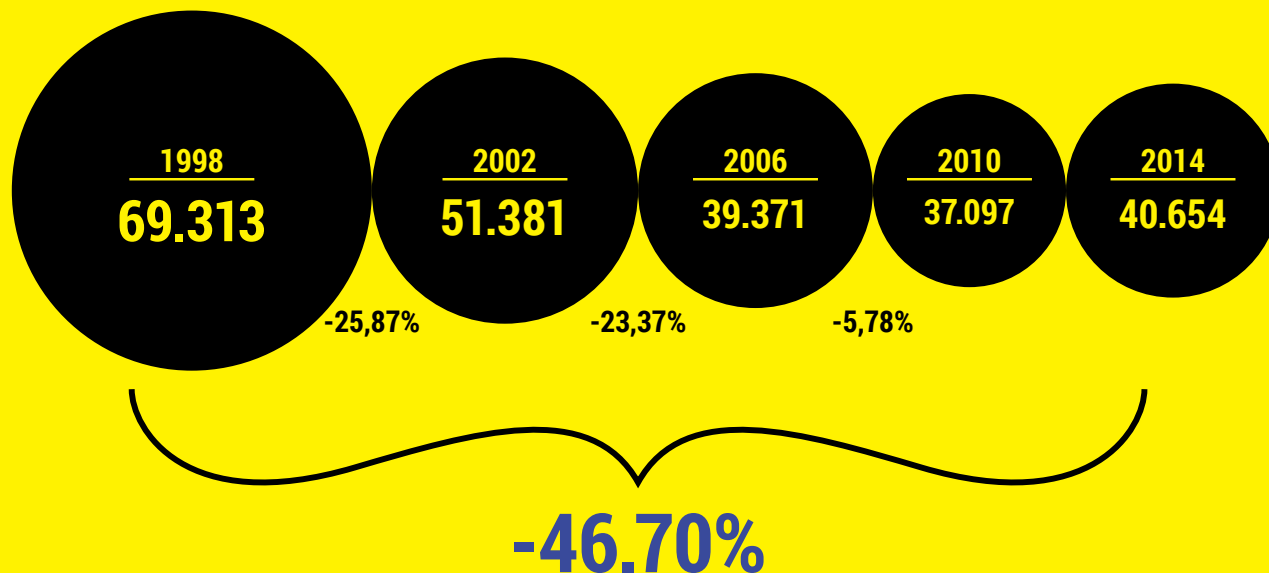
The actual raison d'être of these establishments, which seem to emit the flair of a "pseudo-arcade" rather than that of a pub, is often emphasised by the presence of additional gambling media like betting terminals, card tables and so-called "fun games" (prohibited under §6a German Gambling Ordinance). By inspecting 500 sports betting establishments and sports bars, Trümper was able to identify 83 locations (16.6%) with illegal "fun games" – excluding equipment in back rooms that are inaccessible to "outsiders".

DEVELOPMENT OF ARCADES AND SLOT M

NUMBER OF ARCADE LOCATIONS¹



NUMBER OF RESTAURANT SLOT MACHINES¹



The study's authors indicate the existence of a parallel gray market that is likely to have a number of gambling machines in five digits. This gray market consists of gambling establishments that offer more than the three-machine maximum or that do not possess a suitability permit from the municipal authorities, allowing them to set up gambling machines.

Calls for a ban in gastronomy sector

Based on these numbers, the task force against gambling addiction is calling for a ban on gambling machines in gastronomic establishments. The group argues that such a measure would "make sense from a health and regulatory perspective and is necessary for the protection of minors".

But from an overall political perspective, and in light of the current draft amendment to the Gambling Ordinance, such a step is not desired and therefore not realistic for the next few years.

Instead, Trümper and Heiman suggest creating a network for gambling machines. In this model, only machines cer-

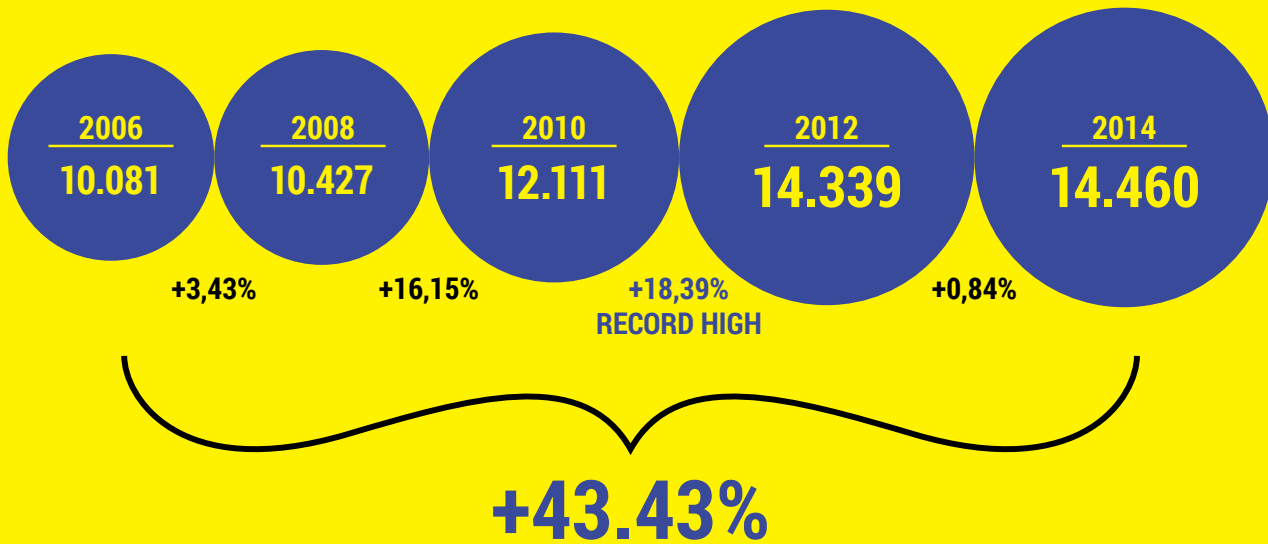
ACHINES IN GERMANY

¹Basis: 1.521 municipalities with at least 10.000 residents; reference date 1.1.2014

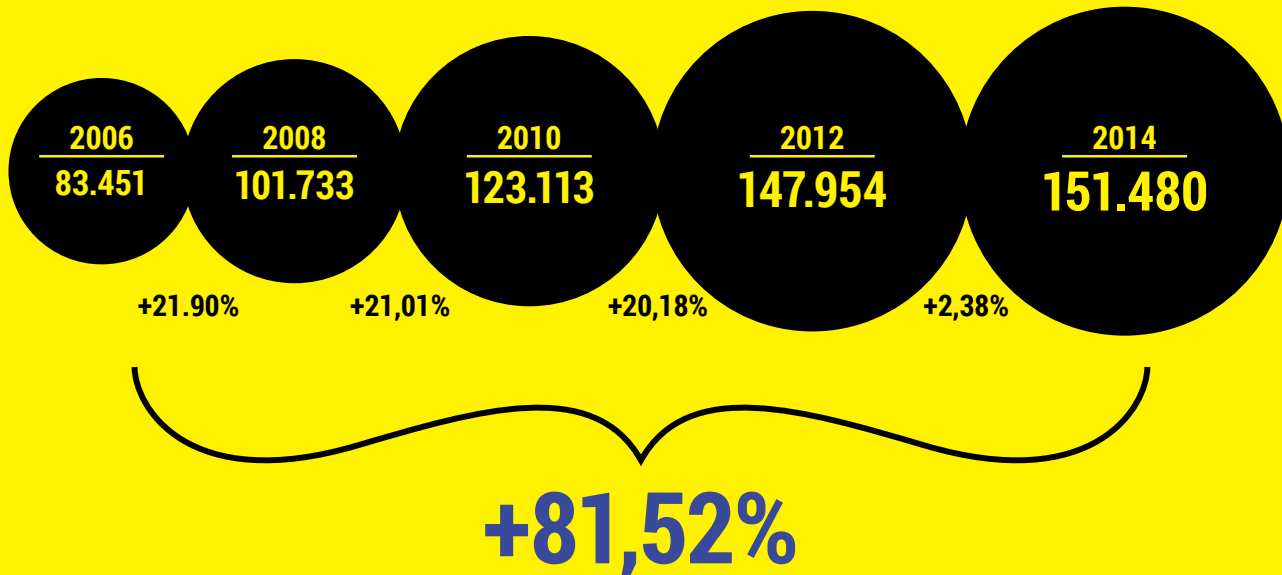
²Basis: 1.064 municipalities with at least 10.000 residents; reference date 1.1.2014

Source: Arbeitskreis gegen Spielsucht e.V.

NUMBER OF ARCADE PERMITS ¹



NUMBER OF ARCADE MACHINES ²



tified by the authorities and registered with the tax office would be connected to the grid and be operational. A network for gambling machines would also make it possible to get a market overview with the click of a button, would reduce the gray market and increase accurate taxation of providers. At the same time it would conserve personnel resources for tax authorities.

Meanwhile, the task force against addiction is calling on authorities to reinforce their personnel and provide special training. This would facilitate effective and continuous inspection of arcades which, the group says, is the only way to realistically enforce of existing legal provisions.

Further information on „The Task Force against Gambling Addiction“:



FEWER MACHINES IN BARS

Slot machine manufacturers and restaurant establishments will face stricter regulations on gambling machines in the future. In mid-October, the German government signed off on tightening the German Gambling Ordinance but critics fear heightened attraction of an illegal, uncontrolled gambling supply.



The governing coalition of conservatives and social democrats is hoping to satisfy frequent appeals from the regions for stricter measures. According to the Economic Affairs Ministry, the goal of the reform is improved protection of players and minors. Tax evasion and money laundering are also targets of the new regulations, which are expected to come into effect in November 2014 (status not yet known at the time of publishing).

Criticism of the Amendment

There is much praise for the planned amendments to the German Gambling Ordinance. The fact that gambling with points will be banned under the new legislation is something addiction researchers see as a positive development. Experts consider so-called points gambling to be particularly dangerous. In this version of gambling, a monetary amount is immediately converted into points, erasing the ability to track and limit factors like play time, the maximum betting amount or maximum losses. According to addiction researchers, the points model hinders the players ability to relate their actions to money.

But the amendments planned have not been without criticism. Interest groups are among the biggest critics of the development, as they stand to lose the most financially from stricter regulation. Still, arguments heard from interest groups are understandable even among non-lobbyists. According to the umbrella association of the German cash-operated machine industry (Dachverband Die Deutsche Automatenwirtschaft e.V.), expected changes to German gambling law will not lead to greater addiction prevention or player protection. Commercial gambling will lose attractiveness through the changes, the industry says, and restaurants will have to give up a considerable source of revenue. "The actual noticeable effect [of the measure] will be loss of

jobs and tax revenue as well as player migration to illegal gambling," said Georg Stecker, spokesman of the association's executive board.

Tightening regulation in the Gambling Ordinance does not mean players will gamble less or stop playing all together. The interest group fears that those who want to play will seek more attractive alternatives due to stricter regulation through the Gambling Ordinance. Many players are likely to turn to unregulated or illegal gambling providers. On the internet, for example, a foreign provider will do little or nothing to protect minors (by means of an age restriction) or to mitigate addiction.

A difficult task for regulators

Legislators took one and a half years to complete the amendments. Initial government proposals from May 2013 were not sufficient in the eyes of regional actors. As a result, the Bundesrat (upper house of German parliament) only signed off on the draft in July 2013 under the condition that there would be stricter regulation. These conditions were then given the green light from Chancellor Angela Merkel's federal cabinet. The European Commission did not object to the measure during the three-month period it had to challenge the new gambling legislation. ■

OVERVIEW OF EXPECTED CHANGES

- Reduction of the number of cash gambling machines in restaurants from 3 to 2 machines (transition period of five years).
- In the future, gambling machines must be manufactured to only be operational with a player card. This will add to the protection of minors (cards only issued upon age confirmation) and protection of players (simultaneous gambling on numerous machines not possible)
- After 3 hours, play will be interrupted.
- To more quickly react to undesirable developments, design approval for cash gambling machines will be limited to one year. Each machine will only be allowed to operate for 4 years.
- To prevent tax evasion and money laundering through gambling devices, requirements for data logged by machines during operation will be tightened. In the future, there will be an ongoing record that can be accessed and retrieved electronically at any time, with measures to prevent manipulation.
- There will be a ban on the automatic button, which places bets for players without their influence.
- Maximum losses per hour will be reduced from €80 to €60.
- Maximum winnings per hour will be reduced from €500 to €400.
- Bets will only be allowed in euros and cents; this restriction seeks to inhibit gambling with money equivalents or points.

GUEST ESSAY MARLENE MORTLER

PREVENTION ALONE IS NOT ENOUGH

The Drug Representative for the German Federal Government in the Ministry of Health takes a position on the current conditions of gambling addiction and prevention policy.

Together with legal regulation, prevention stands in the foreground of drug and addiction policy as a guideline for health policy. Children and young people are a particularly important target group in this regard. In many cases, the start of addictive behaviour can be prevented in this demographic. To be effective, prevention should be targeted, focussed on certain at-risk groups and should be constantly adapting. That is a challenge we can never fully overcome.

Tactics that may have functioned before, could be useless today. For example, we will hardly be able to reach an internet activist with the print-brochures used in the past. At its core, the question is how to reach target groups and sustainably inform them.

Nevertheless, prevention alone will never be enough. We need aid and advisement services as well as legal framework conditions. This general approach to drug and addiction policy also applies to gambling addiction.

Upward trend in slot gaming

Already in February 2012, Germany's federal cabinet signed off on a national strategy for drug and addiction policy. The measure describes current challenges and focus areas, that must be designed according to the real life situations for affected people.

But reality of life also means accepting the fact that gambling is a widely spread component of human behaviour in our society. Estimates from when the German government tabled its national strategy claimed 1% of the population exhibited problematic or pathological gambling behaviour.

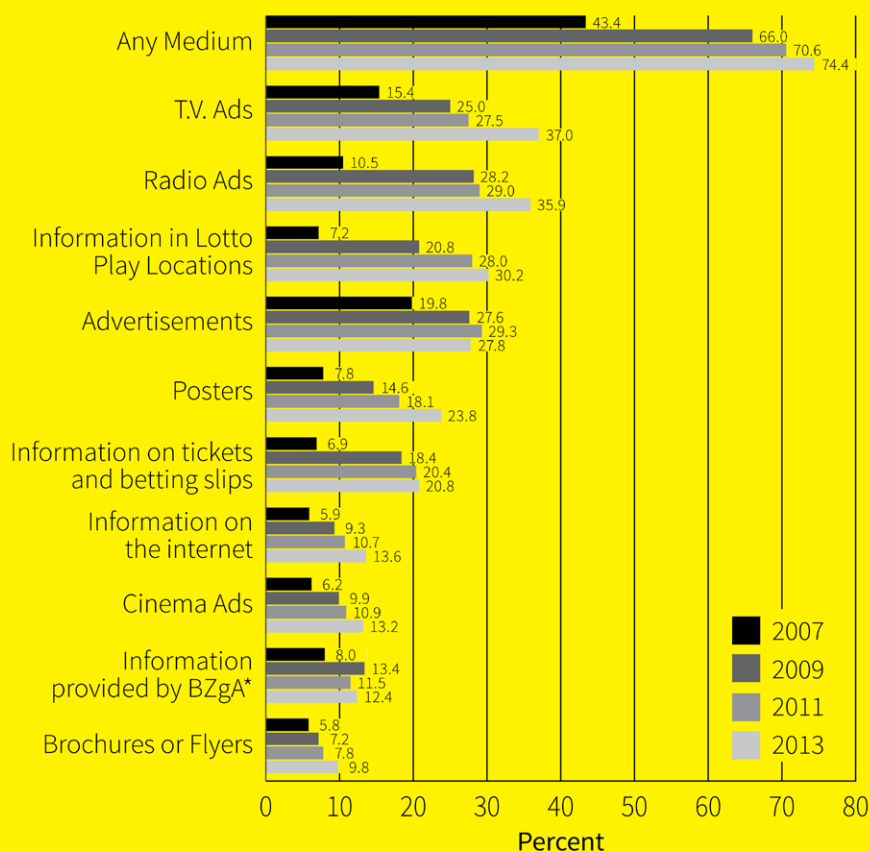
A representative survey conducted in 2013 by the Federal Centre for Health Information (BZgA) estimated around 1.5% of the population were problematic gamblers. In addition, we can see an upward trend in slot machine gambling. This is

particularly troubling in light of a survey conducted by the BZgA revealing that slot machines have the highest potential for addiction. Here, I must add that "pathological gambling", meaning a real addiction, is recognised as an independent psychological Classification of Diseases (ICD-10).

I do not mean to demonise gambling as a free-time activity. But we must raise awareness among players and their relatives about the risks of addiction that can result from gambling. Harmless gambling can quickly become problematic or pathological gambling behaviour – an addiction. It can result in devastating effects that not only affect the gambling addicts, but also their private and family lives. This means we must better inform

OBSERVED SOURCES OF PREVENTATIVE MEASURES

Source: Bundeszentrale für gesundheitliche Aufklärung (2014). Glücksspielverhalten und Glücksspielsucht in Deutschland. Ergebnisse des Surveys 2013 und Trends. Köln.



the entire population on protection for players and minors in this area. On the one hand we need appropriate counselling and help, where it is needed. On the other, we need more objective player protection like restrictions of entry or effective protection of minors.

“How will we enforce the rules?”

Although the current drug and addiction report shows and overall positive trend – for the first time, the number of people gambling has decreased – significant challenges remain toward effective player protection. But with regard to slot machines, for example, the overall positive trend does not apply. On the contrary: there are too many problematic and pathological gamblers. A reason for this is that gambling machines are often available to anyone. Here, appropriate framework conditions are needed to limit supply.

Amendment of the German Gambling Ordinance

An amendment of the German Gambling Ordinance is expected to be passed soon. The document includes 51 critique points directly from the Federal Council in the last legislative period. We hope to implement these precisely as they are. The legislation clearly focuses on improving player and youth protection. Among other things, the new rules include a gambling intermission after three hours and technical security measures, preventing minors from playing on the machines.

It is also important to set a maximum on winnings as well as limiting the amount of losses allowed per hour. In addition, amounts should only be represented in euros and cents, so that so-called game points are a thing of the past. This is important because we know that larger bets increase psychological effects like stimulation, euphoria, feelings of success and a desire to offset losses while making these even more problematic.

Something that I consider crucial, is reducing the number of slot machines in restaurants. In the future, a maximum of two, rather than three, will be allowed. In this area, I had personally hoped for a complete ban. Nevertheless, I think the new regulation puts us on a path toward better player protection.

But considering the future, another question is just as important: How will we enforce the rules? Many restaurants and establishments with gambling machines are not sufficiently checked by local police. Looking at many snackbars I come across from day-to-day, it is clear why young men, young migrants and the long-term unemployed are at such high risk.

Do we need a stricter alcohol ban?

All individuals involved in gambling must consider ways to improve player protection. Here, I think even slot machine provid-

ers should be held accountable. They must comply with rules on player protection and should contribute to extended prevention. Our common goal should be preventing addiction. The current poster-campaign initiated by the slot machine industry is a good start. In my opinion, it is important that we also discuss the possibility of a stricter alcohol ban in the vicinity of slot machines. There is already such a ban in arcades, which prevents establishments from serving alcohol. I could imagine a situation in which the restaurant owner must decide whether to set up slot machines or serve alcohol.

Addiction counselling centres in demand

Despite these attempts to regulate gambling, we need a targeted, preventative and advisory approach with regard to gambling addiction. It is comforting that more and more addiction counselling centres have taken on this issue and offer an increasing number of assistance options. According to my own experience and conversations, a growing number of facilities in municipalities and regions offer gambling counselling. They are often overwhelmed because of how fast demand for advisement has increased.

In the long-term, I consider it important to reach children at an early stage to teach them responsible and mature ways to deal with addiction risks. Likewise, I hope for self-assured young adults, who know how to counteract threats of addiction.

We should not forget: play is a healthy part of growing up while gambling addiction can plunge a person's life and that of their relatives into a chaotic disaster. This aspect can easily be overlooked when we think of colourful, flashing slot machines. ■



MARLENE MORTLER

Marlene Mortler is a member of the German Bundestag hailing from the Bavarian Christian Social Union (CSU) and has served on the CSU's board of directors since 2011. On 15 January, 2014 Mortler was appointed drug commissioner to the German government in the Federal Health Ministry.

More information on „The National Strategy for Addiction Prevention“:



LICENCING PROCEDURE FOR SPORT BETTING

The amendment to the Inter-State Gambling Treaty, which took effect on 1 July 2012, was supposed to open the German market for private sports betting providers. According to the measure, a **MAXIMUM OF 20 PROVIDERS** are to be issued a licence to operate, valid for a preliminary period of seven years.

At the date that this publication was edited, **NO LICENCES HAD BEEN DISTRIBUTED**. Due to complaints from various applicants, such as at the Wiesbaden Administrative Court or the Higher Administrative Court in Hamburg, the licencing procedure was stopped. As of yet, it is not clear when these court proceedings will be concluded. Market observer estimates range from early 2015 to the end of 2015. And until the issue is cleared up, state supervisory authorities will not take steps to sanction private sports betting providers. Inaction among authorities can be partially attributed to the fact that there are various court decisions over whether the legal situation and licence distribution procedure must be cleared up before sports betting providers can be sanctioned for operating without a licence.

Severe **CONTENT-RELATED CRITICISM** was issued against the amendment to the Inter-State Gambling Treaty. There was considerable concern that betting customers would migrate to non-licensed, foreign providers on the internet due to the restrictive measures planned and the tax rate of 5% on bets. Consequently, the intention of regulators to **CHANNEL BETTING CUSTOMERS** to legal and therefore controlled supply **WOULD NOT RESULT**.

In addition, the **RESTRICTION TO A MAXIMUM OF 20 LICENCES** was also criticised. Critics said the number was arbitrarily determined and had no legal basis. In reality,

there were by far more than 20 applicants for a national licence to provide sports betting. According to current information, large companies like Interwetten, Bet365 or Tipico supposedly did not receive a licence through the responsible authority, the Interior Ministry of Hesse.

In mid-October reports indicated that the state of Hesse, under the leadership of State Prime Minister Volker Bouffier, was campaigning for a **REMOVAL OF THE LIMIT** to 20 licences. But changing the Inter-State Gambling Treaty in this way is only possible with a joint resolution between all the German states. As a result, it is certainly more than **QUESTIONABLE** whether this can be achieved.

LICENCES FOR SPORTS BETTING have so far **ONLY BEEN ISSUED IN SCHLESWIG-HOLSTEIN**.

For a short time the former government, consisting of the centre-right Christian Democratic Union (CDU) and liberal Free Democratic Party (FDP), took its own route with an individual, deviant gambling law. But the measure was revised after a change of government leadership to the Social Democratic Party (SPD), Greens and the South Schleswig Voter Federation (SSW). Still, licences previously issued to over 50 companies will be valid until 2018. This includes some licences for online casinos and poker, which both remain under prohibition in all other German states, according to the amendment to the Inter-State Gambling Treaty. ■



INTERVIEW WITH MARION CASPERS-MERK:

“NATIONAL REGULATION FALLS SHORT”

The Managing Director of the State-run Toto-Lotto GmbH Baden-Wuerttemberg, speaks in favour of increasing sanctions against illegal gambling. This would also benefit consumers, she says.

EurActiv: Mrs. Caspers-Merk, gambling and consumer protection: do you see these as contradictory terms?

Caspers-Merk: No. Consumer protection applies to all products. Of course it must also apply to gambling. Man is a homo ludens. We have always played and we will always play. But gambling is not an economic good like any other. It requires state regulation because it is related to special risks. This sector should not be allowed to grow without being regulated.

The bigger the supply, the higher the risks of pathological gambling. In Germany, we have about 1% pathological players or problematic players. In the United Kingdom this portion is slightly larger. But in Asia it is about four or five times larger. That is what happens when none of it is regulated and anyone can offer new games with even higher potential for addiction.

In addition, the consumer should be able to recognise right away: Does the provider, who I am playing with, have a licence? Is he liable in full for my bets and potential winnings? Is this a state-regulated, serious website or not? This transparency is often lost in unclear wording on the internet.

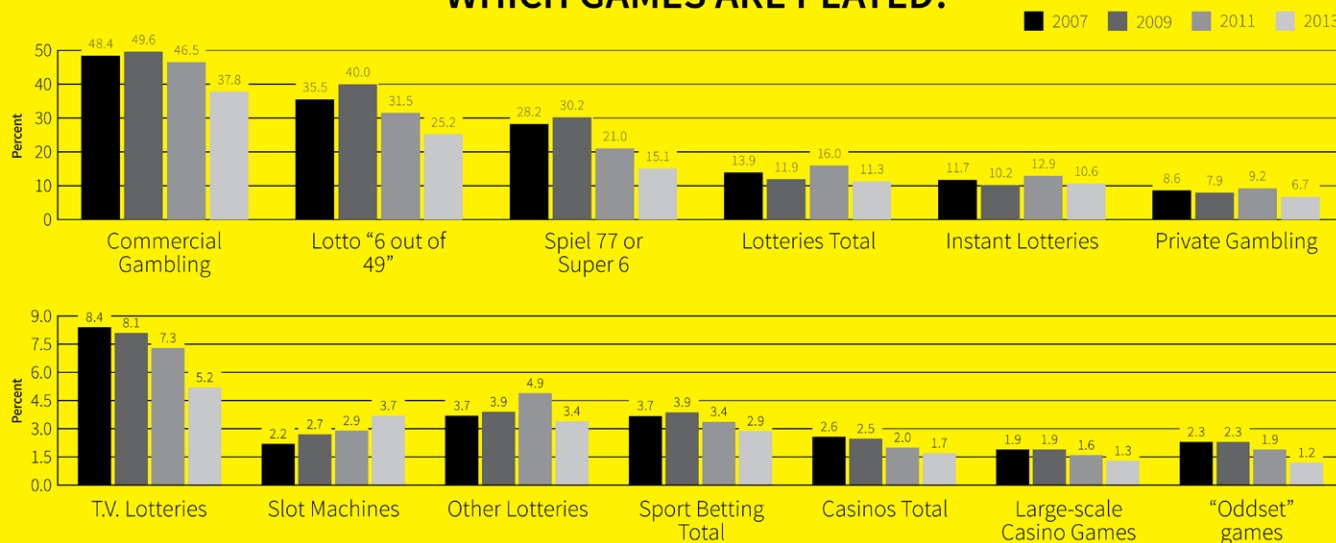
Can we tackle illegal providers with existing legal frameworks in Germany?

Yes. The Inter-State Gambling Treaty, amended in 2012, says that online-providers operating in Germany without a licence should be issued an injunction or even have their financial transfers blocked. These measures must only be enforced. This is where state bodies are needed. In other countries, such as Belgium or Scandinavia, this is already being done successfully.

Why are these measures not being enforced in Germany?

An initial phase needs to create cohesive legal requirements. In a second phase, the wheat must be separated from the chaff. That is the phase we are in now. The responsible authority, the Internal Affairs Ministry of Lower Saxony, has announced intentions to pursue legal action against illegal providers.

WHICH GAMES ARE PLAYED?



Source: Bundeszentrale für gesundheitliche Aufklärung (2014). Glücksspielverhalten und Glücksspielsucht in Deutschland. Ergebnisse des Surveys 2013 und Trends. Köln.

Not only lotto but also sports betting are subject to illegal or alternatively regulated providers siphoning off from their state-licensed counterparts. How can that be prevented?

With sports betting it is true that state-owned providers have been cannibalised by unlicensed online providers in recent years. The state-owned sports betting provider Oddset currently has a market share of around 3%.

Gambling falls under national regulatory competence. That is why we have the Inter-State Gambling Treaty. Everyone must adhere to it – but in reality that is not the case. Apparently those who follow the rules are the dumb ones. The state must prevent this from happening, if it wants to be taken seriously. The state should impose sanctions. Only then, will the rules be complied with. If the state creates laws, it must also ensure that these rules are enforced. So far, that has not happened with regard to the internet. In this field, authorities are faced with new challenges. Often national regulations fall short of the mark. Here, European rules would be needed.

Has federalism reached its limits on the issue of consumer protection and gambling?

No. Consumer protection must simply be implemented. Up until now, it has not been implemented everywhere.

The problem is the incongruence between the law being passed and when it is actually entered into force. But this process is moving forward. The legal requirements have been created. It is a sector undergoing radical changes, after growing rapidly and uncontrolled for many years. Now regulation is taking place. The field is in motion.



MARION CASPERS-MERK

Marion Caspers-Merk is managing director of the state-owned Toto-Lotto GmbH Baden-Wuerttemberg. She was a member of the German Bundestag for the Social Democratic Party (SPD) for almost 20 years. Caspers-Merk served as federal drug commissioner from 2001 to 2005 and parliamentary state secretary in the Health Ministry from 2002 to 2009. She has been awarded the German Federal Cross of Merit and a prize from the German Addiction Medicine Society.

INTERVIEW WITH FRIEDRICH SCHNEIDER:

“WHAT GOOD IS A BAN ON ONLINE GAMBLING?”

Online gambling is largely banned in Germany. But many Germans still play games of chance on the internet. As a result, economist and black market expert Friedrich Schneider calls for legalisation of online gambling. Consumers and public purses would greatly benefit from such a move, he says.

EurActiv: Mr. Schneider, your study shows online gambling only plays an insignificant role for money laundering. In this context, is Germany's ban on online gambling still proportionate?

Schneider: The fact that online gambling is banned might have a certain instructional effect. But it pushes players away to the underground, to foreign providers who are difficult to catch. This problem is intensified by bans. That is why I reject bans.

So bans on gambling are not constructive?

No. There will always be people who play, who have fun playing, without being addicted. That is why it would be better to regulate online gambling and to tax it. Earnings could be used to finance addiction prevention programmes. That would be much more sensible than bans and pushing players underground.

What could be done to tackle illegal, foreign gambling providers?

You could legalise online gambling for providers in Germany. In that case, players would have the choice between legal and illegal offers. Legal alternatives offer considerable appeal because the player knows he can use his winnings completely legally in Germany and that society is benefiting from tax revenue.

Do we need EU-wide minimum standards for online gambling?

In this way it could ensure that unfair betting is not offered, for example. In underground gambling, they have no legal security and they do not know which game is offered and what the odds are. With EU minimum standards, they would have binding standards for all providers. That would create legal certainty and protect consumers.

But so far legislation in the EU has been quite differentiated.

In Germany one must pose the question: What do we gain from a ban on online gambling? Do I really protect gambling addicts and children in this way? In this day and age, every minor can easily find illegal gambling offers on the internet. This is why we need a change in thinking. The advantages and disadvantages of the ban must be weighed against each other. I am convinced that the ban has many more disadvantages than advantages.

The EU should define minimum standards for online gambling, just as it does in many other sectors. Germany is taking the route of banning. Meanwhile many other countries have legalised online gambling and government coffers are benefiting from it.



FRIEDRICH SCHNEIDER

Dr. Friedrich Schneider has been a professor at the University of Linz department of economics since 1986. The native German has taught at Universities in Europe, America and Australia. His research focuses on economic theory in politics, finance economics, economic, environmental and agriculture policy. He has authored 73 books and more than 400 publications in scholarly journals and anthologies.



INTERVIEW JO REICHERTZ:

“SNOOTINESS OF THE MIDDLE CLASS”

The communications researcher, Jo Reichertz, is convinced that bans on gambling do not have any effect and are even counterproductive. He considers current gambling policy to be failed symbolic politics resulting from ignorance and arrogance.

EurActiv: Mr. Reichertz, is gambling a social taboo?

No. In reality, all of us gamble in some way. Only specific forms of gambling are considered less sexy or uncouth. Meanwhile, visiting casinos in appropriate attire is an accepted, societal facade that people gladly partake in. So, as a whole, gambling does not carry a stigma, only reckless gambling.

What do you mean by reckless?

Playing on machines where the chances of losing money are extremely high.

Would you consider online gambling reckless?

Formally, yes. But it is not yet as well-known as slot machines, which are considered grimy. A social opinion has not yet been formed about online gambling.

Do you think it is right that society labels slot machines as ‘grimy’?

No. It reflects the snootiness of the middle class toward a very risky form of amusement, that they believe is played by less refined individuals. That has to do with social distance and is a part of an exclusion process. Meanwhile, members of the middle class go to the casino and thoroughly amuse themselves. Those who do not earn as much go to these kiosks with flashing lights where they gamble away their limited funds.

What effect does this perception have on gambling policy?

It is the case with many issues, that politicians expressly stand on the side of the middle class, knowing they have a majority behind them. The same thing happened with smokers and even alcohol consumption. Now slot machines and arcades at the same point.

So politicians are setting their sights on a minority when it comes to slot machines?

The well-meaning majority thinks: We must prevent those with a lower income from gambling away the little that they have, the majority says, fearing that these individuals will only end up burdening the state when they can no longer sustain their families. That is a typical response from the “caring middle class” toward supposedly different, lower income classes. But this caring, paternal behaviour misinterprets the significance of games for people.

What significance do these games have for people?

Not only gambling games, but also experiences like mountain climbing without a rope - so-called free climbing - or speeding along the highway: there is a whole slew of risky activities that bring enjoyment and for which people are more than willing to spend money. Risky behaviour has long been a daily occurrence for people from all walks of life. The Greeks called it ‘agonal’. You compete with other people or objects, such as rolling the dice.

Games of chance are as old as human kind. People compete against fate. That also involves taking a risk. Of course this risky life helps define individual identities, namely who you are, how you deal with threats, how you deal with defeats.

In this context, do you agree with the way existing policies deal with slot machines?

Locations with organised gaming, where the owners earn a significant amount of money, must be regulated. But in my opinion, closing these places down or pushing them further away is completely misdirected. In that case the players, who are not going to disappear, will be driven to online gambling and betting shops. People are being forced into a gambling environment that is far less organised, more dangerous and completely devoid of legal requirements. And politicians are knowingly doing this. That is symbolic politics rather than efficient supervision.

What do you suggest instead?

We should recognise that there are people in all social groups that demonstrate risky behaviour, whether it involves their body, their life or their money.

Often it is referred to as a passion. When passion is involved, bans will not work. Instead, outlets.

Even if player protection in arcades has limited effects, it still serves as a framework that is socially structured and creates a certain level of stability. If players are driven to betting shops or online providers, the gambling scene will lose its manageability.

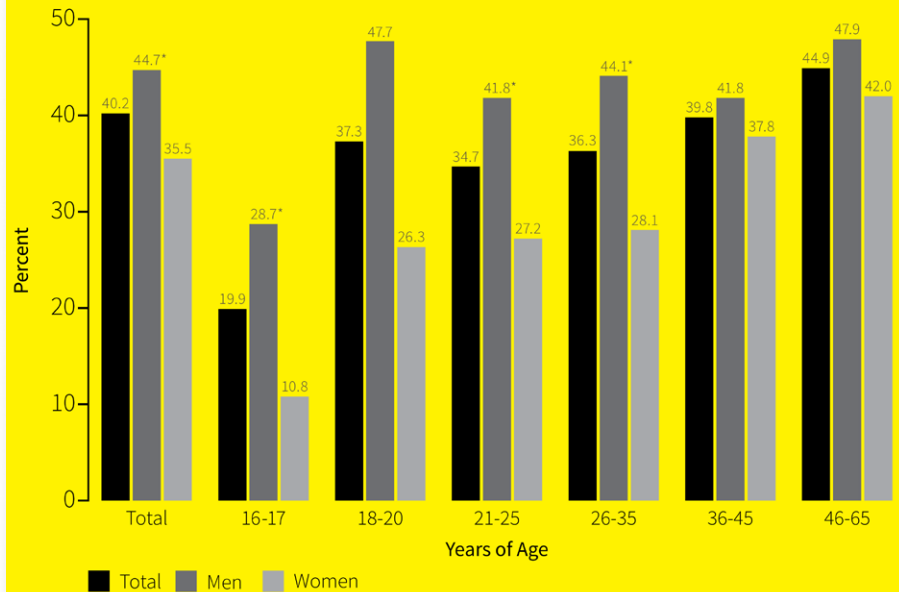
That is why, instead of bans, I am calling for regulation and monitoring.

So the negative effects of gambling cannot be prevented, only limited?

You can try to hinder addiction through preventative measures but the permanent and passionate quest for risky experiences cannot be eliminated.

Risky skiing, for example, also results in high healthcare costs and lasting injuries. Still, no one has ever suggested banning skiing or ski slopes. Instead, you can try to fence it in with certain boundaries allowing as little damage as possible. And if something happens, quality help is available. That is precisely how we should treat gambling: recognise it as a social phenomenon and learn how to deal with it.

PERCENTAGE OF INDIVIDUALS WHO PARTICIPATED IN GAMBLING ACTIVITY - 2013



Basis: 11 501 Personen von 16 bis 65 Jahren; telefonische Befragung
Source: Bundeszentrale für gesundheitliche Aufklärung (2014). Glücksspielverhalten und Glücksspielsucht in Deutschland. Ergebnisse des Surveys 2013 und Trends. Köln.



JO REICHERTZ

Dr. Jo Reichertz has been a professor of communication science at the University of Duisburg-Essen since 1993. He has been a guest lecturer in Vienna and St. Gallen, as well as teaching at the University of Hagen, Witten/Herdecke and Bochum. The focus areas of his work are qualitative research, text and image hermeneutics, cultural sociology, religious sociology, media analysis, media use, empirical police research as well as advertising and business communication. He is a contributing author for two monographs on the topics of "Gambling Culture in Arcades: Jackpot" (2009).



INTERVIEW WITH GÜNTHER ZELTNER

“FROM A PREVENTION PERSPECTIVE, IT IS COMPLETELY INADEQUATE”

Young men with a migration background are particularly susceptible to the temptations of gambling. EurActiv spoke with prevention and therapy expert Günther Zeltner about catalysts and ways out of addiction.

EurActiv: Mr. Zeltner, how important is prevention in the fight against gambling addiction?

Zeltner: Prevention is very important in gambling. On situational prevention, meaning regulation of supply through price and availability, gambling stands somewhere between alcohol and illegal drugs. With regard to alcohol, we have widespread acceptance of consumption with relatively low regulation. But for illegal drugs there is a ban and stark discrimination of consumption.

The central issues in gambling are: Which games should Germany allow in what form and with what kind of damage potential? How widely used and accessible should they be?

Current gambling regulation is inadequate from the perspective of prevention. The preventative measures in place do not orient themselves according to damage potential of various products.

What are the more problematic products?

Slot machines and casinos definitely have the highest potential risk.

Only in the casinos? Not in arcades or restaurants?

Casinos in particular. That is why the number of casinos is limited in Germany.

Arcades or restaurants present the problem of wide availability. But the machines in casinos have a much higher threat potential. The unlimited usage possibilities, high frequency and broad selection offer much more stimulus. But because there are less casinos, they also create less problems.

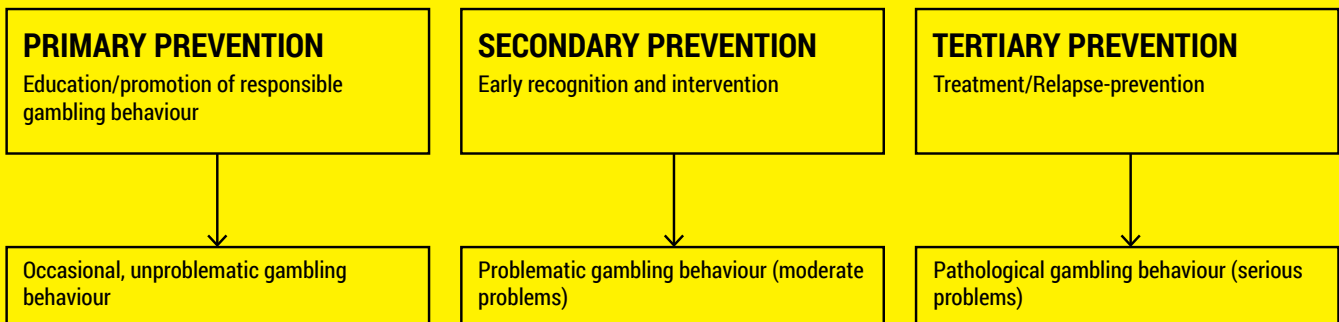
So, purely from a product perspective, gambling machines in a casino are connected with the highest risk potential. But slot machines in arcades and restaurants have a higher availability, making the de facto risk higher.

How does your organisation support prevention?

Regarding prevention, there is division of responsibility. One share is held by the provider and one share by the community, meaning the state or the municipality. A third part lies with the consumer, or player. We are active in two of these areas: Tradi-

PRIMARY, SECONDARY, AND TERTIARY PREVENTION

Source: Meyer & Hayer, 2008, S. 68



tionally, we focus on providing advice and treatment to the players. But for a few years now, we have also been working with gambling providers. After all, these gambling locations are where the players are, who are particularly at risk – at least for terrestrial games.

Prevention should target certain groups at risk. In the case of gambling, these are young men between the ages of 16 and 25 with a low socio-economic status and often with a migration background. They make up a high risk group.

How can this high risk group be reached? What kind of concrete message do you try to communicate to them?

In our “multi-cultural society”, we must take differing migration backgrounds into consideration. They all bring various traditions related to gambling with them, according to their countries of origin. They also handle money differently.

You can’t simply come from the outside and smack these people on the hand. We are trying to reach those affected, by addressing damages that may have already come up due to gambling. We also try to give them information about the games themselves. The expectations over the amount and probability of winning are often very unrealistic. Sports betting is an example of this. People with an affinity for gaming are often under a significant illusion regarding the probability. Many people think poker is about the player’s performance and cleverness. With slot machines, some people think it is about catching the machine at the right moment: after it has consumed enough, it can be “milked”. But of course, these illusions are inaccurate.

How does therapy vary from prevention?

Prevention does not work according to an addiction model. The goal of therapy is to stop players from gambling, however for prevention this is not the case.

Gambling addicts are assigned to treatment groups in which their gambling behaviour, its effects and their personal backgrounds are recorded. Here, the goal is for those affected to make their own decision over how they will treat gambling in the future.

PREVENTATIVE MEASURES

Primary preventative measures are applied early and to a broad range of the population. They are supposed to prevent a gambling addiction from ever happening. Modelled after the three phase model over the emergence of gambling addiction (Meyer & Bachmann, 2011, p. 41), these measures affect players during the familiarisation phase and should promote responsible play while hindering the emergence of gambling addiction. This can be achieved through an effective obligation of notification, illuminating dangers, presenting chances of winning in a clearly visible way (see § 7 GlüStV - German State Treaty on Gambling) or providing information about the radio, internet and television advertising ban for games of chance (see § 5 GlüStV).

Secondary preventative measures are aimed at players who already have gambling-related problems but have not yet developed an addiction. According to the DSM-V criteria, the target of these preventative measures are especially problematic players. At this stage, a progression of existing problems should be prevented. One secondary preventative measure is, for example, the social plan of gambling providers laid down in § 6 GlüStV.

Tertiary prevention is meant for players who already suffer from a gambling addiction. The measures encompassed herein are no longer aimed at prevention but at reacting to existing problems, such as providing an appropriate form of available therapy.

“We must abandon the idea that everything can be regulated with bans. That will never work”

Is treatment stationary or ambulatory?

Both. There are open discussion groups for ambulatory therapy. But whoever wants more intensive therapy can sign up for stationary treatment.

How long does that last?

Stationary treatment usually lasts about eight weeks but sometimes it can last up to 12 weeks. Ambulatory treatment usually covers one year but it is less intensive.

How high is the rate of relapse?

In the stationary category, the success rate for gambling addiction is close to the rate for alcoholism and it is already higher than for those receiving drug addiction therapy.

Two-thirds of gambling addicts achieve either gambling abstinence or are only subject to occasional, minor relapses. But one-third of those affected, only benefits marginally from treatment and falls back into their old behaviour patterns.

In the gambling sector, there is considerable room for improvement with regard to therapy methods. In the counselling centres for gambling, we have the highest dropout rate. Almost half of all gamblers who seek out help at an addiction counselling centre break off treatment.

What do you attribute this to?

Presumably the services provided by the counselling centres do not meet the expectations of those seeking help. The counselling services, which only aim at dealing with addiction, probably do not adequately address the many other problems these people have.

Gambling addicts are often affected by a multitude of other everyday problems. Many players do not primarily seek out help for the addiction, but because of financial difficulties, psychiatric problems or low self-esteem. Without losing sight of addiction symptoms, more attention should be paid to these other issues.

Are relatives included in the therapy?

Yes, if they are prepared to participate. We offer discussion groups and entire weekend programmes for relatives, as well as couples counselling.

According to the German government's addiction report, the self-healing rate among gambling addicts who overcome their addiction is 80%. Is therapy superfluous for gambling addicts?

The self-healing rate is also high among other dependencies. With alcohol, for example, problematic consumption can dwindle with time. Patterns of consump-

tion can be exhausted once people realise they have reached their limit. Among computer-gambling addicts, for example, it is known that excessive consumption often ends as soon as the person has a boyfriend or girlfriend or if they are stimulated by work.

The ones who leave of their own volition are those who can manage it by their own will. For the others, a dynamic develops that they can no longer overcome on their own. These are the kinds of people who end up needing help.

Often, they have suffered from a gambling addiction for a long time or from other dependencies. Often, they are already deep in debt. The more personal problems the person has, the more difficult it is for him or her to overcome the addiction.

What do you expect from a politicians?


Gambling should be accepted as a consumable good. We cannot get rid of gambling. It is a part of human nature. That is why products must be appropriately regulated according to their potential for addiction and damage.

We must abandon the idea that everything can be regulated with bans. That will never work. One must include the consumers in the final solution. Otherwise one loses those who do not understand, who immunise themselves against prevention. We need differentiated prevention efforts. That is something where we are just at the starting point.



GÜNTHER ZELTNER

Certified psychotherapist Günther Zeltner was department head for ten years at Stuttgart's Evangelical Society e.V. (eva). There he was in charge of the credit counselling centre and the counseling and treatment centre for those suffering from addiction. Since October 2014, Zeltner has been senior advisor for the areas of prevention and cooperation with gambling providers.



GUEST ESSAY MARTIN REECKMANN:

“LACKING A REGULATORY PLAN”

One look at gambling regulation in Europe and Germany reveals: separate gambling regulation models have been implemented at the national and regional level. Regulation that has been implemented on paper, but is in reality hardly enforced. Germany, the largest EU member-state, has been a particularly striking example for failed gambling regulation for several years. Over the course of eight years, Germany produced three

inter-state treaties, two of which did not withstand the test of the high court.

There is currently much evidence suggesting that the German regions have overreached themselves in the latest gambling treaty. This is demonstrated, for instance, by the three areas placed under central authority: issuance of sport-betting permits, setting up a central suspension file and disrupting payment routes for illegal gambling on the internet. All three task fields are either long overdue or have not made a significant impact.

The ban on casino games on the internet also has nothing to do with reality. The scale of growth seen over many years on the black market for gambling illustrates the structural enforcement deficit for gambling law in Germany. This deficit is caused by wrong decisions on the normalisation of gambling law and the organisation and implementation of the administrative process. As a result, this raises serious questions regarding the legitimisation of existing gambling normalisation.

In Germany, numerous fragmented authorities with inadequate personnel and material resources are supposed to monitor and control a vast and constantly changing supply of gambling. Oversight is only successful for gambling providers with fixed locations like casinos, with traditionally the highest concentration of supervision. Supervisory authorities have

unlimited access to casinos. But in other market areas there is little, less or the least – culminating in factual tolerance of illegal activity, such as for cross-border online gambling which is widely forbidden in Germany.

What good is a ban, if it only exists on paper? It benefits providers of illegal gambling, who can generate quick money with little effort. For consumers, whose right to information and protection should be the focus of regulation and who are left to fend for themselves, it does nothing. And for the treasury also nothing.

Another example of failed regulation in Germany is the use of player suspensions as a protective measure. All in all, the 16 German regions have six different suspension schemes, five of which are for the arcade sector. A nation-wide player suspension works as a life-long ban on gambling for players seeking protective measures. Tiered or individualised plans according to the scope of play are hardly possible. On the other hand, many players want to suspend themselves from all types of gambling.

GAMBLING SUSPENSIONS IN GERMANY

Under § 8 GlüStV casinos are required to implement a suspension scheme. Suspended players are not allowed to participate in games of chance. § 20 para. 2 GlüStV explicitly prohibits these persons from participation in games of chance. The structure, as a comprehensive suspension scheme, is supposed to prevent players from circumventing the suspension via other forms of gambling.

Games of chance on this comprehensive suspension list include the 67 casinos but also products of the German Lotto and Toto Block Oddset, Toto and Keno, which can be played more than twice per week.

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But the sector is missing a comprehensive suspension scheme covering all games of chance and beyond German borders. Here, the lack of a consumer protection scheme becomes very clear.

When differences are as significant in legislation and in practice as they are currently in Germany and other parts of Europe, we must return to an understanding of the purpose of gambling regulation. The goal of socio-political understanding must be agreeing on a regulatory plan to shape the legal framework for gambling regulation. A plan like this is missing in Germany and in the EU. That is – along with badly organised enforcement – the second source of the problem.

On the way to a necessary and urgent socio-political understanding, ideological ballasts must be thrown overboard.

1. There is no reason to stigmatise games of chance, gambling providers and finally gamblers. Gambling is not undesirable in our societies in Europe but, rather, a very real and normal part of life. In Germany alone, there is massive demand among consumers for state lotteries (903 million orders for lottery tickets in 2013) and for casinos (5.8 million visits in 2013). Almost half of the population participates in at least one game of chance per year – without even getting close to problematic or pathological gambling behaviour.

2. Like any other activity that is free of toxic effects, gambling is not addictive. But gambling can – just as work, shopping, sports, sex, etc. – become an addiction. This is most likely to occur when gambling is used by a disposed person to compensate for a crisis situation in their life.

3. Prevention should be a priority for all gambling providers – and not simply handed over to the PR department. Player protection and protection of minors are *conditio sine qua non*.

Regulation is not just about paragraphs, but more importantly about factual implementation of agreed rules.

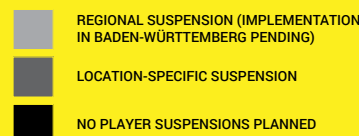
Implementation requires that gambling providers offer games of chance that are not manipulated and proportionate to demand. Furthermore, supply should be directly connected to measures for prevention against gambling addiction. Universal prevention for the vast majority of unproblematic (social) players, selective prevention for the small share of problematic players and targeted prevention for the few pathological players who suffer considerable effects from addiction. This presents a growing challenge for gambling providers, who cannot fulfill their responsibility without a predictable revenue base.

As a result, implementation also depends on the authorities who oversee certified gambling providers and ward off illegal competitors. A relationship characterised by cooperation rather than mistrust between gambling providers and supervisory authorities would unburden the latter, while illegal gambling must be confronted with unmistakable state repression.

Around ten years from now, the Digital Natives in Europe will set the pace, at which point the focus of regulation should shift from gambling at fixed locations to gambling on the internet. To do

this, Germany and the EU must prepare themselves. Maintaining the status quo would mean EU institutions watching from the sidelines and leaving consumers to fend for themselves, as they do now in sport-betting and casino games of the online gambling sector. ■

PLAYER SUSPENSIONS IN GERMANY



Source: P. Schulte-Bang, Institut für Verhaltenssicht, Sigmund Freud Privatuniversität Wien



MARTIN REECKMAN

Martin Reeckmann, former Senior Government Official, is an independent attorney in Berlin and executive chairman of the Federal Association of Private Casinos in Germany e.V. (BupriS). He has dealt with the gambling sector since 1994 and managed gambling supervision in the state of Berlin until 2002.

INTERVIEW TILMAN BECKER:

“LAWMAKERS ARE MOVING IN THE OPPOSITE DIRECTION”

Tilman Becker from the University of Hohenheim explains that while economic damages caused by gambling may be comparatively low, prevention is still a must. He continues by outlining what should be taken into account.

EurActiv: Mr. Becker, what kinds of economic and social damages are caused by gambling in Germany?

Becker: In total, all types of gambling drain about €326 million in costs annually. This number is for 2008, but will not have changed much since then. The sum includes costs for therapies, hospital stays, inability to work but also social costs like debt counselling, criminality, legal proceedings, criminal prosecution and divorce as well as child and player protection and prevention research. These direct costs amount to €153 million. Indirect costs include job loss, illness-related absence and reduced productivity, covering a total of €173 million.

What about in other European countries?

There are comparable studies for the Steiermark in Austria and Switzerland. The social costs per pathological player in Germany, an average of €1,367 per year, are a bit higher than those in Austria but below similar costs in Switzerland, where the average is €1,830.

But that definition of damage seems quite broad.

Yes, but these costs can actually be measured. In comparison: Estimates for tobacco are between €20 and €50 billion. Annual costs brought on by alcohol consumption are estimated at around €20 billion.

So from an economic point of view, gambling is a comparatively insignificant problem?

Alcohol and tobacco amass high costs due to organic damage. People who gamble do not become physically ill. This reduces the cost. But there are unmeasurable costs as well, such as suffering among the gambler's relatives. Costs in this category are at least as high for gambling as they are for alcohol and probably higher than for tobacco.



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“Just try getting a kick out of playing the lottery. It’s almost impossible.”

Does Germany have sufficient preventative measures against gambling addiction?

You have to differentiate. Lotto, for example, has hardly any risk of addiction. And in this category, the protective measures are excessive. Advertising restrictions, employee training and social plans are much too extreme for lotto. But for more dangerous games, like slot machines, prevention does not go far enough.

How effective are advertising restrictions?

For lotto and other harmless games they are pointless because there are almost no pathological lotto players. But for slot machines and arcades, restrictions on advertising are definitely appropriate. You have to differentiate between individual games and game types.

How do you determine the varying potential for addiction among different types of games?

Just try and get a thrill playing the lottery. It’s almost impossible.

Why?

It has to do with the frequency of events: putting down money, anticipation, winning, losing, re-betting – all of that happens much slower in the lottery than it does in other games of chance. In lottery games, the so-called skill portion is smaller, meaning the player has little real or perceived influence on the odds of winning.

Live sports betting, on the other hand, is much more addictive in comparison.

Each person thinks they can predict who will score the next goal. The gamer gets the impression of knowing how the game will end up. Slot machines also give the player a sense of control over the game, although the outcome is completely random.

In some German states there is a minimum distance required between arcades. Construction in the vicinity of schools is also not allowed. Are such building regulations really effective in preventing addiction?

No. That should also not be the purpose of building regulation. Building regulation can only be used to create conditions that make it easier for municipalities to keep arcades out of certain areas. But existing building laws allow arcades to be built in city centres, for example. This is completely absurd from an addiction prevention perspective. It would make much more sense to have a large arcade an industrial park outside the city centre - a place that people would have to drive to, rather than downtown where people are anyway.

In that sense, minimum distance regulations and multiple franchising bans are misdirected. It is easier for larger arcades to hire adequately trained personnel and implement social strategies.

But lawmakers are moving in precisely the opposite direction. Right now there are many small arcades. Often, managers cannot even speak German well enough. How, then, are they supposed to implement social strategies?

But the situation is much worse in restaurants and snack bars, where slot machines are also not uncommon. That is usually where kids start playing. Virtually nothing is regulated there.

Because other rules apply?

Exactly. Although the limit for the number of slot machines allowed in restaurants is expected to be reduced from three to two, many restaurants will continue to offer slot machines.

Because arcades are being forced further and further back, small restaurants are becoming more popular. These places do not have entry or ID checks. Just look at who is playing in the snack bars. Usually

kids, whose IDs are not checked by anyone. Politicians have simply replaced one evil with another.

How could players be better protected?

With personal player ID cards for all risky forms of gambling. One card that they would have to insert into the gaming machine before they can play - regardless of whether they are in a casino, an arcade or in the snack bar around the corner.

This card would contain a maximum playing time as well as a monetary limit, which would cut the player off as soon as a limit is reached. In this way, players can monitor their own behaviour and see how much money they have gambled away at any time.

TILMAN BECKER



Dr. Tilman Becker has been the managing director of Hohenheim University’s Gambling Research Center since 2004. In addition, he is a member of the Executive Committee at the European Association for the Study of Gambling and a member of the Editorial Board for the Journal of Consumer Policy.



INTERVIEW DANIEL BUCHHOLZ:

“BETTER NOT TO HAVE ANY MACHINES IN RESTAURANTS”

Berlin's arcade law is one of the strictest in Germany. EurActiv spoke with one of its initiators, Berlin Social Democrat Daniel Buchholz, about implementation of the measure in practice.

EurActiv: Mr. Buchholz, since 2012, the number of arcades in Berlin and slot machines in such establishments has steadily decreased. Meanwhile the number of machines in restaurants and snack bars is growing. How effective is Berlin's arcade regulation if players can simply migrate to restaurants where small-scale gambling is not as strictly monitored?

There hasn't been significant migration to so-called 'cafe casinos'. We were concerned about that but luckily it did not occur. The feared suppression effect of arcade regulation did not appear.

Up to two or three machines are allowed in restaurants without a permit. But player protection and protection of minors can hardly be guaranteed there.

Unfortunately, yes. In order to be consistent, slot machines would have to be banned from all restaurants. Actually, they do not belong there. Typically, slot machine use does not begin in arcades but, rather, in local snack bars. From a prevention perspective, this means it would be most consistent to completely remove slot machines from all restaurants.

In addition, slot machines in casinos and in arcades should be covered by a single legal provision. This should occur at a federal level if not even at a European level, so that consistency and coherence can be guaranteed. It would definitely be in the interest of consumer protection.

But a law is only as good as the ability to enforce it.

Correct. Berlin has the strictest arcade law in Germany and we also enforce it in practice. With targeted raids conducted by all responsible state and district authorities. Up to 150 people are involved in these raids. It is an expensive operation but it pays off. Those involved in the industry understand that the law is enforced.

Does Berlin have enough and sufficiently qualified personnel at its disposal for enforcement?

Yes. We have our own department of illegal gambling in the state criminal investigation office. Roughly a dozen employees work in the department. They are absolutely necessary for the coordination of targeted operations. As you can see, it works. But other states don't have something like that.

Over the next 10 years, around 10,000 of Berlin's state employees will retire. Will enforcement suffer a loss from this?

No. The police force is currently being reinforced with 350 new jobs. No reductions will be made there. With regard to district offices for public order, it is also clear that the budget cuts have their limits.

CONTINUED ON PG 48

THE BERLIN ARCADE LAW

Source: Berlin Senate, 2014

KEY REGULATORY PROVISIONS

1

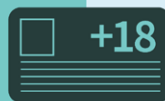
Arcade per building

500 M

Minimum distance to other arcades



Only 8 cash gambling machines per arcade



Age restriction for children and minors



No flashy advertisements featuring stimuli or invitations



No free food or drinks

€50.000

High penalty upon violation



No slot machines or similar machines in spaces adjoining the arcade

Extension of cut-off times from 1 to 8 hours

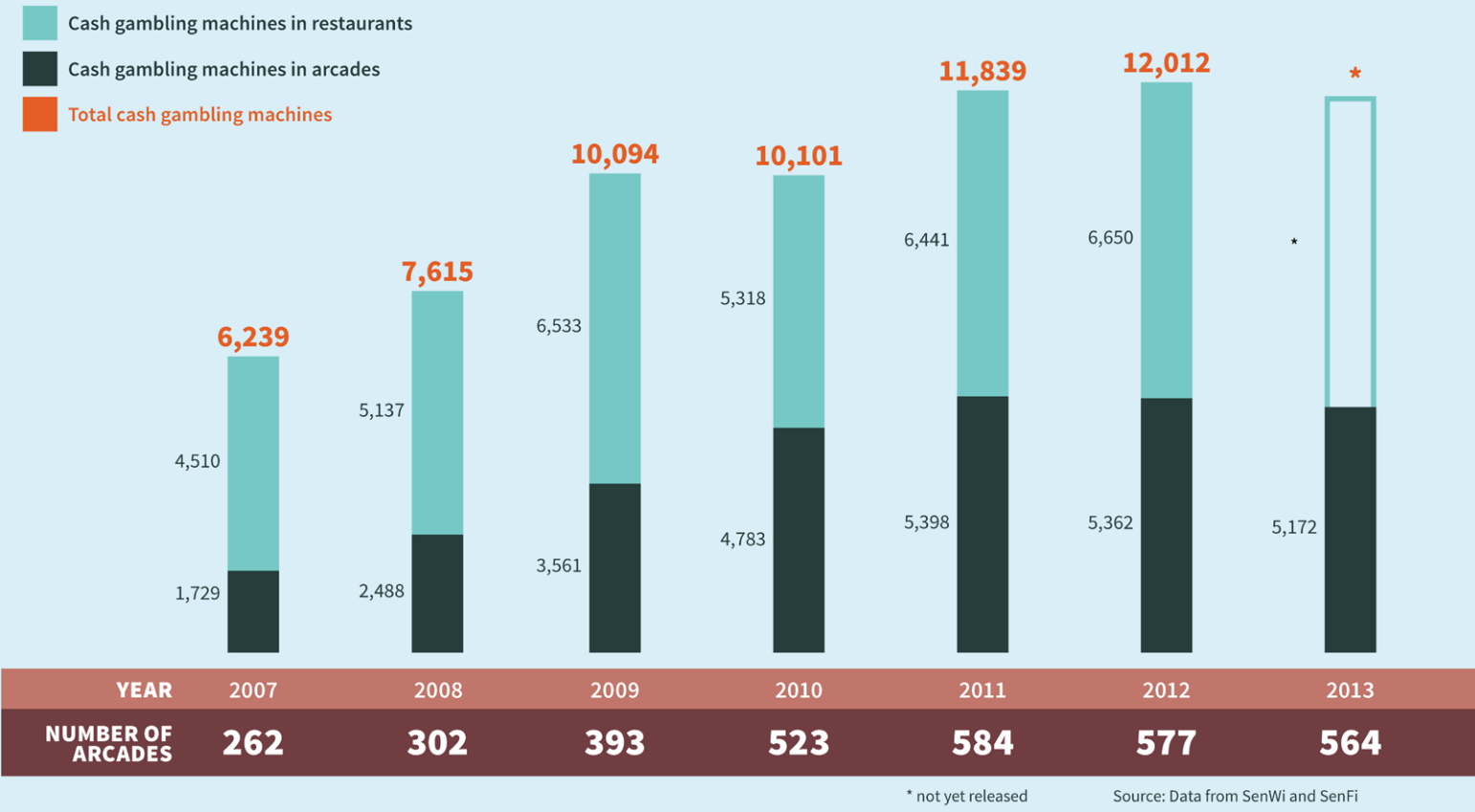
Stricter permit requirements for arcade owners and a certificate of expertise

Mandatory personal training on preventing and treating addiction

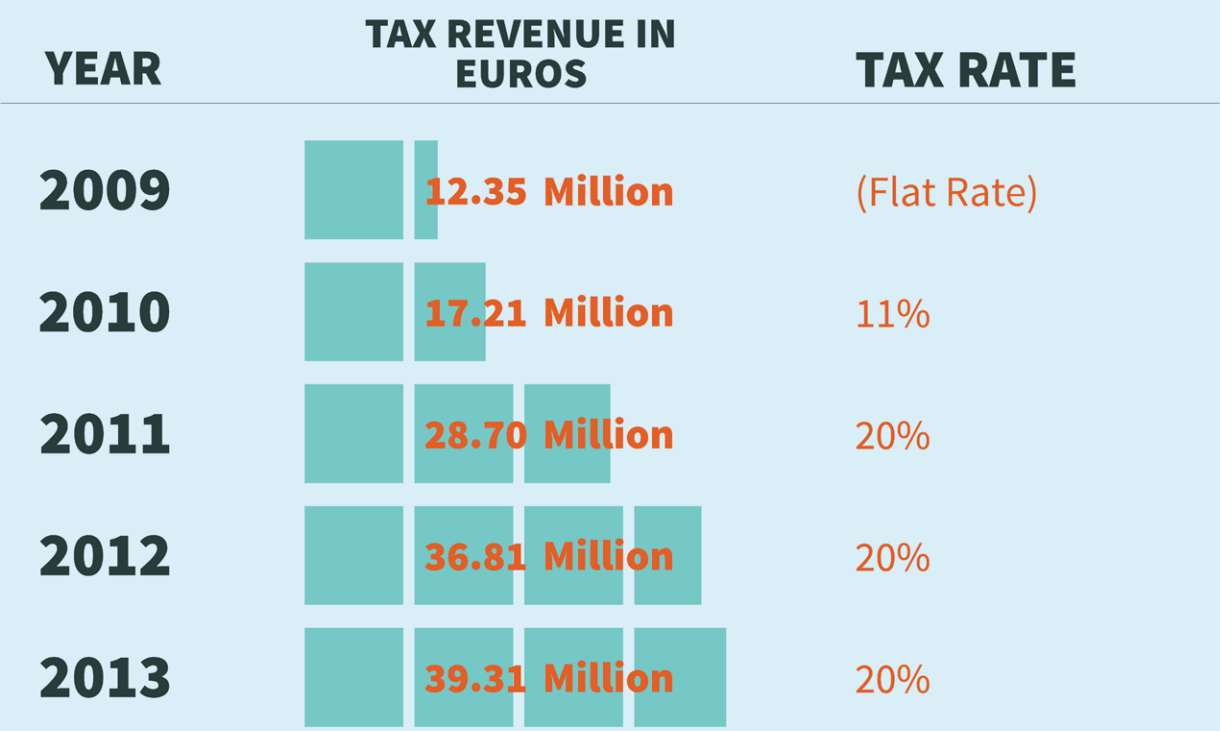
Self-suspension available to players

Reduced number of machines from 12 to 8

NUMBER OF ARCADES AND SLOT MACHINES IN BERLIN



REVENUE FROM THE GERMAN AMUSEMENT TAX



Berlin is growing. 150,000 new citizens moved here over the last three years. But at the same time services provided for and with citizens must still be guaranteed. Law enforcement will not suffer from this.

Arcades also have to implement player protection. But Berlin's arcade regulation allows up to eight slot machines per arcade. Can these establishments even still afford to protect the players?

Average gross profit per month and machine is €2,000-3,000. Especially good locations might even exceed €5,000. With 8 machines that amounts to at least €16,000 per month. Even after taxes and other costs are deducted, the arcades will still be able cover their costs.

Couldn't player protection be enforced better at a few large locations than at many small ones?

Theoretically, yes – but not in practice. In reality, the large machines in casinos are subject to significantly different regulation than those in arcades. If there was a move to develop nation-wide, uniform regulation, there would likely be considerable resistance and even legal action against it.

As another part of the solution, reducing the number of decentralised arcades would also be realistic. That is what we are currently attempting in Berlin by tackling oversupply. Most arcades are in poorer neighbourhoods where residents have the lowest average income and where social problems are the most acute. That is where we have, by far, the most arcades. We are confronting this issue and it has been effective so far.

With regard to unrestricted gambling in restaurants, that is where national lawmakers are needed. It is encouraging that the number of machines allowed has finally been reduced from three to two. But it would be even better not to have any machines at all in restaurants.



DANIEL BUCHHOLZ

Daniel Buchholz (SPD) has been a member of the Berlin House of Representatives since 2001 for the electoral district of Spandau. He was the initiator of Berlin's arcade regulation, which is considered the strictest of its kind in Germany.







GUEST ESSAY ROBERT HESS & JOSEF KRON

IN A DIALOG AGAINST ILLEGAL SUPPLY

Daniel Buchholz, the Social Democratic Party's (SPD) spokesman for environment and energy in the Berlin state legislature, does not tire of taking every opportunity to emphasise that, "Berlin's arcade law is the most rigid in a nation-wide comparison." Most recently he made a statement to that effect at a meeting of the Berlin state legislature's Committee for Urban Development and Environment on 10 December 2014. The question remains, what he hopes to say to the public with this claim. Is it that the supply of gambling machines in arcades and their number must be massively reduced, to dampen or even prevent abnormal, pathological behaviour? The supply has definitely grown in such an inflationary way that politicians must react, he argues.

This was also the view of Berlin's Christian Democratic Union (CDU) which explained on 22 March 2010 that this inflationary development of arcades must be stopped. Frank Henkel, then chairman of the CDU in the state legislature and current senator for internal affairs and sports and mayor of Berlin, stated that the explosive increase in arcades presents a significant problem for many reasons.

"Of course in principle a legal business must be accepted. But the political question is to what extent the level of acceptability has been exceeded and whether an intervention is justified for the protection of the general public," he is roughly quoted as saying in the *Berliner Morgenpost* (2 February 2011). Since then, the political "conflict" is not only in the arcades in Berlin. The impression emerges, whether intentionally or unintentionally, that this is about wild growth beyond laws and regulations which must

be stopped in its tracks.

Berlin's Hermann Street an example of failure

What was the catalyst in Berlin? It had to have been the now nationally "notorious" Hermann Street in Berlin's Neukölln district. For about a two-and-a-half kilometre stretch, even a casual observer gets the impression that something is not right on the street and has gotten out of hand. Tightly packed in a row, are 36 shops in which patrons are offered gambling machines. 26 of these shops advertise gambling machines very plainly. So it seems to be just as politicians have been suggesting to this day: arcades are popping up out of the ground like weeds, ruining entire streets with bright and shrill advertisements and ultimately destroying urbanity.

But a differentiated, exact examination would help to illuminate the real causes of that which seems to have gotten out of hand. Of the 36 shops, only two (!) are "real", approved arcades. For their establishment and operation, the operator is required to have three official permits or authorisations. To do this, a building permit is needed first and foremost. After this bureaucratic obstacle is passed, an official establishment permit is required and a so-called suitability certificate. The latter includes approval from the responsible authority, that gambling machines are permitted at the location in question. This process does not run itself. As with all authorisations, these can be refused after each official examination on the basis of existing law.

All other objects that appear to be arcades (café casinos), are

not. Instead, they are conventional establishments (so-called full gastronomy, in which alcohol can be served), döner and sausage joints, state-tolerated betting shops and permission-free establishments. And here is where the problems begin. It is not permitted to set up gambling machines in state-tolerated betting shops, as this is illegal. But regulatory authorities do not seem to be taking action against this!

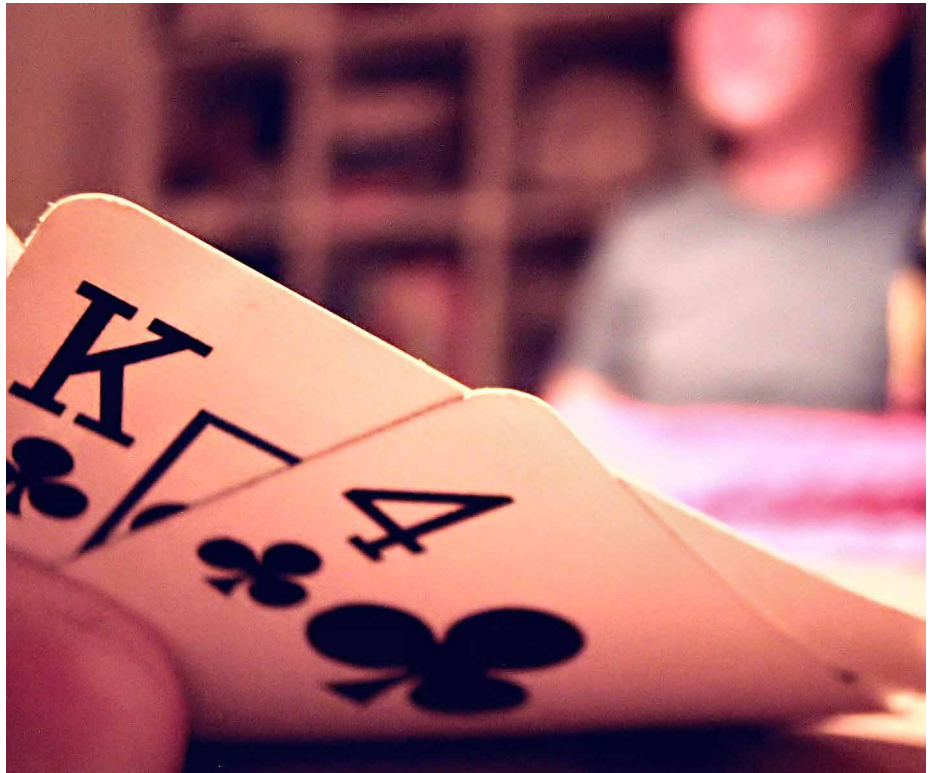
Regarding the permission-free establishments: A few months ago, certain locations were, in principle, legally permitted if they had the appropriate suitability certificate for setting up gambling machines. But these are no longer permitted to do so according to the 6th amendment to the Gambling Ordinance from November 2014. With this amendment to the Gambling Ordinance, the federal and regional governments have sent a strong message in favour of player protection. But in practice, at the municipal level, nothing has come of this. Doing nothing undermines political goal-setting! And in this way the “notorious” Hermann Street in Berlin is likely to remain in tact.

Player protection pushed to the back burner

The Berlin Regional Arcade Law, which is and has been based on purely quantitative restriction of supply for arcades, has accelerated this trend of evasion to the extent of illegality. As a result, there are around 2,500 so-called “cafe casinos” and around 300 betting shops in existence today alongside the roughly 600 legally authorised arcades (minutes from the meeting of the Committee on Urban Development and Environment in the Berlin state legislature, 51st meeting, 10 December 2014, p. 5). With an upward trend! And not only in Berlin. In the meantime, the “Hermann Street” effect has taken hold all over Germany.

In light of these developments, the uncontrolled expansion of illegal set-up locations on the one hand and the lack of government action on the other, the original goals of player protection are being pushed to the back burner – in Berlin’s Regional Arcade Law but also in the amendment to the Inter-State Treaty on Gambling. Not to mention the European legal assessment regarding the coherence issue. A market that is obviously expanding unchecked, even if it is an area from gray to illegal, can surely not be in the interest of European jurisdiction nor is it in the interest of gambling addiction prevention and thereby also not in the interest of consumers. The opposite is true.

In a recent study on this area from gray to illegal, Jürgen Trümper (Unna) assumes that, alongside the first market for games of chance (certified casinos and certified lottery and betting supply) and the secondary market for gambling machines (commercially-run arcades and gastronomic businesses with the appropriate suitability), a firmly anchored third market from gray to illegal now exists in Germany. In this category, he includes bet-



ting shops without permits to operate in Germany, sports-, gambling- and internet cafes that present themselves as arcades and club premises whose only goal seems to be offering betting and games of chance. For him, the fragmented or only barely existent youth and player protection poses a particularly problematic chapter, from a health policy perspective. He estimates the current market volume to be 30,000-40,000 machines – with an upward trend. In this area slot machines are no longer a source of entertainment and an acceptable past time for adult citizens.

Machine industry is obligated

The legal, commercial slot machine industry, which is clearly oriented according to the goals laid down in § 1 of the amendment to the Inter-State Gambling Treaty, is called on here to join in the discussion with prevention, scientific and political representatives over courses of action. First and foremost, that includes clearly distancing itself from illegal supply in legal locations. And most certainly from illegal activities outside laws and regulations. Self-commitment from individual union members would be a plain signal in the direction of credibility.

The responsibility of the legal, commercial slot machine industry goes much further. It must give answers over what it stands for, such as for its transparency, dependability and its sense of responsibility. Passive waiting leaves less room for manoeuvre. Only a will to contribute active, constructive work in central issue areas will result in perspectives for the future. Neither politicians nor the various representatives for prevention and addiction studies nor representatives from other sectors of the gambling industry are opponents. Instead, they are people who rightfully express their opinions, concerns and suggestions in the democratically structured discourse. This discourse should be participated in constructively in order to develop a solution to obvious problems.

Issues surrounding player protection are of central importance. Here, our clear declaration is to reinforce the idea that we do not wish to earn money off of people who are ill. We know that individuals exist, who can develop serious problems with our legal supply. We must extend a helping hand to those who are affected and pave the way for them to professional assistance programmes. We must invest more than ever in general prevention. This includes further active development of our social standards and player protection plans. Consistent training for employees must be a part of this. Our goal must be a uniform nation-wide social plan and training standards. The escapades of federalism must be curbed.

Approach tasks – in a dialogue

People who seek self-suspension from our supply, must be given this opportunity without any if's or but's. Together with representatives from prevention, the scientific community and politicians, solutions must be sought out that prevent players from gambling and do not inhibit non-suspended players from pursuing their own entertainment.

Initial experience drawn from a regional player suspension file for arcades in Hesse have so far revealed more questions than answers. Here, feasible solutions must be found with Hessian regional politicians that are in the interest of player protection but also allow for an economically sensible commercial activity. Particularly when other German regions are considering similar solutions.

We must support politicians, when they search for ways to dismantle local implementation deficits. In light of the fact that many municipalities are on tight budgets, a call from our side for an increase in personnel for the enforcement authorities would fall on deaf ears. So we must seek out innovative solutions together, which would make it relatively easy for enforcement authorities to easily differentiate the legal from the illegal.

Those who are politically responsible in the regions have agreed to a reduction of our commercial gambling supply. So far this is simply intended to be implemented quantitatively. The instruments are well-known: minimum radius and ban for arcades with more than one permit with a maximum of 12 machines. We should convince political decision-makers in the regions with good strategies that can and will lead to more sensible results, especially in the interest of youth and player protection.

Together with other gambling providers we should devote ourselves to the comprehensive issue of consumer protection. Surely everyone has an interest in regulations that protect susceptible people on the one hand and on the other continue to offer a legal, socially acceptable and attractive leisure activity for people who are not affected. The political culture has changed. The responsibly-minded entrepreneurs in the commercial slot machine industry should recognise this and face the new facts. Honestly, transparently and consistently! ■



ROBERT HESS

Robert Hess has gained experience in the regional parliament and state chancellery of Rhineland-Palatinate and has served as full-time mayor in this state. His shift to the business sector first took him to a large beverage company. For almost two decades now, he has held various positions in the commercial gambling machine sector, and is currently at the SCHMIDT Gruppe.



JOSEF KRON

With a degree as a business economist (Diplom-Betriebswirt), Josef Kron has worked in the commercial gambling sector for 38 years. Since 1986 he has been managing director of Löwen Play GmbH and CEO of the company since 2008.

INTERVIEW WOLFGANG G. CRUSEN

“A FEDERAL SUPERVISORY AUTHORITY IS MISSING FOR GAMBLING”

Often it is fiscal interest and not the well-being of the consumer that is prioritised, warns gambling expert Wolfgang G. Crusen. He calls for a central supervisory body, as it exists in Denmark.

EurActiv: Mr. Crusen, what effect does atomised regulation of gambling have in Germany?

The effects can be seen in the current market situation. On the one hand, there are state-owned providers who are subject to considerable regulation. On the other hand, you have private providers who are covered by a diverse array of regulation, depending on whether they operate arcades or casinos. The problem with this model is that arcade owners are subject to commercial law and therefore fall under the authority of the Federal Ministry of Economic Affairs. Meanwhile, other forms of gambling are regulated on a regional basis. As a result, you have a situation where providers are not treated equally by the state and the market is fairly scattered.

Can gambling regulation fulfil its purpose in this way?

That depends on whether those involved can agree on a common approach. The existing gambling agreement was an attempt to involve federal authorities but the latter did not cooperate. Germany is missing something like its Federal Financial Supervisory Authority (BaFin) that would oversee the gambling sector, a central body that collects all the related information, handles all of the applications and makes decisions. Our northern neighbour, Denmark, already has such a central body.

At the very least, there should be a common commission among the regions, comparable to the Licensing and Mon-

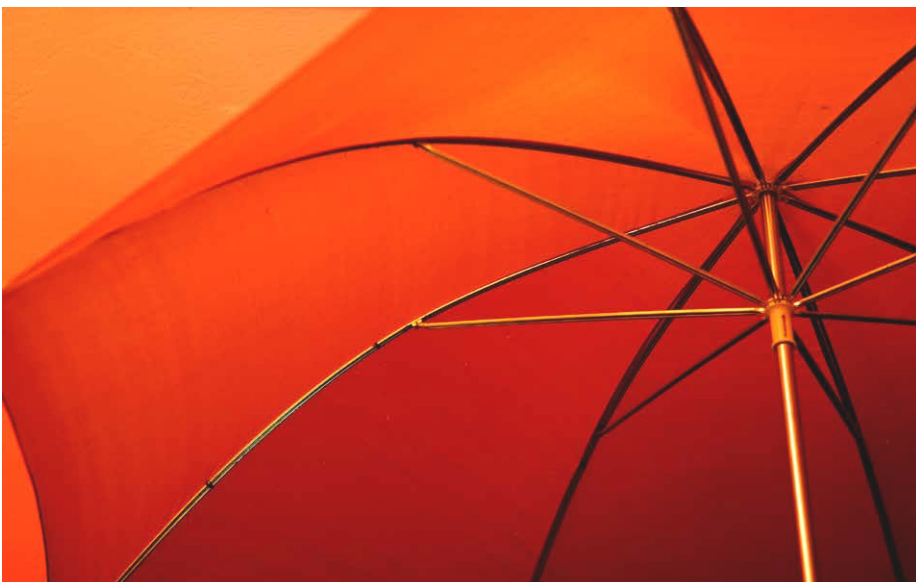
itoring Commission (ZAK) in the media sector. This authority would not only offer relevant expertise but also decision-making competence.

“With regard to gambling, federalism is reaching its limits”

You mentioned the Danish gambling commission...

Exactly. That would be the simplest solution, for Germany as well. But in our federal system that is difficult. With regard to gambling, federalism is reaching its limits because every region does what it considers right. Even the state-regulated forms of gambling, such as lotto, had commercial gaming syndicates in North Rhine-Westphalia for example, whose activity was essentially banned in Baden-Wuerttemberg. But the group was still able to benefit from betting revenues beyond regional borders.

The existing gambling agreement is intended to remedy this situation and intends to create certain focus areas within the regions – not an optimal solution. Just take sports betting as an example: The



region of Hessen, responsible for distributing licenses, appears to be completely overwhelmed with the task. Not a single licence has been handed out to this day. The total number of licences (20) available is also completely arbitrary. Three to four times as many providers have applied. Meanwhile, state advisers on gambling are still completely overwhelmed with the material. While they are obliged to respect the collective interest of the market, regional interests must also be considered.

In addition to this, there is a certain amount of legal uncertainty involved: The authority does not pursue legal action against licence-seekers who, for example, offer illegal casino games on the internet.

Another example: in the lotto sector, nation-wide advertising activities must be negotiated with North Rhine-Westphalia. In Baden-Wuerttemberg, a “shadow department” has formed in the government’s presidency in Karlsruhe, accompanying the advertising activities of Baden-Wuerttemberg’s Lotto Association.

A central, nationally operative authority with the relevant know-how and decision-making competence would surely be a better solution.

Is this overburdening of regulators and supervisory authorities a nation-wide phenomenon in Germany for the entire gambling sector?

If one looks at the development of the market and sees how difficult it has been to change the gambling agreement, then in my mind it is a sign of overburdening. In



addition there is the problem that political actors only seem to deal with gambling issues when they involve money, or own revenues. This only hinders a joint effort.

Does that mean gambling regulation does not prioritise consumers’ well-being but, rather, fiscal interests?

Yes, only that should not be said too loudly. The regions are dependent on revenue from gambling. They count on these funds in budget-planning, primarily to finance charitable causes.

But don’t the negative aspects of gambling also create significant costs?

That is true, but these are secondary. Individual regions are struggling with the addiction issue. Each region has its own unique approach to tackling addiction prophylaxis.

And it is a fatal flaw, that we do not have a harmonised approach at the EU level. Some online providers simply move to Malta and offer internet gambling from there – also reaching Germany. We all know how difficult it is to control such offers.

What effect does this have on consumers?

Consumers are not adequately protected from illegal providers. A consumer could end up on a website provided illegally and run the risk of not being paid his winnings. We need more transparency on the market so that customers can recognise snares themselves. Not to mention the fact that illegal providers do not work with addiction counselling services. In this way, gambling addicts are left to deal with their problems on their own.



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More Information on the Danish Gambling Authority:



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