

Gambling legislation on duty of care and limit setting in 22 European countries

A study commissioned by the Dutch Gambling Authority

English executive summary of the Dutch report 'Kansspelwetgeving over zorgplicht en limietstellingen in 21 Europese landen'.

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Colophon

This executive summary summarizes the main results of the Dutch report '*Kansspelwetgeving over zorgplicht en limietstellingen in 21 Europese landen*' authored by Gert-Jan Meerkerk. The study was commissioned by the Dutch Gambling Authority and conducted between January and May 2022.

The full report, including more detailed descriptions of national policies, links to legal documents, and a narrative review of the literature on (monetary) playing limits, can be found on the website of the Dutch Gambling Authority (www.kansspelautoriteit.nl) or ordered by mail from the author: gertjan.meerkerk@gmail.com.

The author would like to thank the colleagues who took the time to complete the questionnaire and thereby made the research possible.

Neither the report nor this summary necessarily reflect the opinion or ideas of the Dutch Gambling Authority. Responsibility for the report and summary is the sole responsibility of the author.

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Introduction

Gambling games are, like alcohol, 'no ordinary commodity' (Alcohol and Public Policy Group, 2010). Some gambling games, for instance games with a fast continuous flow such as slot machines, have an addiction potential that can cause players who, for various reasons, are vulnerable, to lose control over playing and develop various (addiction) problems over time that can be directly related to excessive gambling (Hilbrecht et al., 2020). An estimated 0.1 to 3.4% of the adult European population experienced gambling problems in the past year (Calado & Griffiths, 2016).

This characteristic of gambling products legitimates that from a public health perspective a certain degree of responsible gambling regulation is desirable to prevent players from developing gambling problems. On the one hand, this may be accomplished by making players more resilient, for example by informing them about the risks of gambling and by providing them with tools that can help them avoid problems, including the obligation to set (formally capped) playing limits before starting to play. However, it remains to be seen whether players can be held fully responsible for their playing behavior (Hodgins, 2021). There is therefore also much to be said for a responsibility of the gambling operators in the form of a 'duty of care', which obliges gambling operators to examine playing behavior and intervene when a player shows signs of hazardous or addictive playing behavior (Hancock et al., 2008).

A study was conducted, commissioned by the Dutch Gambling Authority (*Kansspelautoriteit*), that aimed at making an inventory of how European jurisdictions currently (i.e., first quarter 2022) deal with formal duty of care and playing limits. The results of this study are described in Dutch in the report '*Kansspelwetgeving over zorgplicht en limietstellingen in 21 Europese landen*'. The present management summary summarizes the main results.

Methods

A short questionnaire was developed to gather information on the formal duty of care and legally enforced playing limits in the country concerned. The questionnaire contained open questions on the existence of a legally enshrined duty of care for licensed gambling operators which obliges them to monitor playing behavior and intervene in case of symptoms of hazardous or addictive playing behavior. Secondly, the questionnaire posed questions on the existence of statutory (monetary) playing limits. The questionnaire was mailed as a 'cooperation request' to 60 gaming regulators of 28 European countries through the Gaming Regulators European Forum (GREF) network. The responses of the gaming regulators were supplemented with inspections of legal texts (when available), which were translated with Google Translate.

Results

Of the 28 European countries that were mailed a questionnaire 21 responded. A short description of the Dutch policies was added later on. This summary therefore describes the following countries:

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|-------------------|-------------------|-----------------|--------------|
| 1. Austria | 7. Estonia | 13. Lithuania | 19. Slovakia |
| 2. Belgium | 8. France | 14. Malta | 20. Slovenia |
| 3. Bulgaria | 9. Germany | 15. Netherlands | 21. Spain |
| 4. Croatia | 10. Great Britain | 16. Norway | 22. Sweden |
| 5. Czech Republic | 11. Ireland | 17. Poland | |
| 6. Denmark | 12. Italy | 18. Portugal | |

Below a brief description of the situation regarding the formal duty of investigation or care and (monetary) playing limits in each of the countries is given. The answers to the questions posed in the survey, as provided by the respondent, were leading in this description. The brief descriptions do not represent all details of the full policy but are intended to give a global impression of the situation with regard to the duty of care and the (monetary) limit positions in the country concerned.

1 Austria

Austria has one license holder for online gambling with a monopoly position. Its legislation provides for an active duty of investigation and care and an affordability check by the license holder. If there is a suspicion of excessive gaming behavior, the license holder is obliged to check whether the player can afford his gambling behavior. If the license holder fails to do so, the license holder is liable for the damage caused by excessive gambling. Players can use the self-checking tool MENTOR. Players can set time and deposit limits where the deposit limit is capped at a maximum of €800 per week. There are no exceptions to this limit.

2 Belgium

There are 76 license holders for online gambling in Belgium. There is no active duty of investigation or care under Belgian law. License holders for online gambling must warn players about the risks of gambling. Players and people in the player's environment can request a voluntary exclusion from participation in games of chance. According to a Royal Decree players must set a total deposit limit for all gaming accounts together of a maximum of €500 per week. The limit can be increased on request. Such an application will be honored if the applicant is not registered as a defaulter. However, there is currently no information system that keeps track of all players' deposits and checks them against a central-level deposit limit. Pending such a system, license holders apply the €500 per week limit on their own website. Also, the information system required to enable players to increase their limit on request is not available and players are therefore unable to increase their limit above the €500 per week limit.

3 Bulgaria

There are 12 license holders for online gambling in Bulgaria. There is no active duty of investigation or care under Bulgarian law. Limits are also not prescribed by law. License holders are obliged to inform players about the risks of gambling and about the possibility of getting professional help for gambling problems. License holders are also obliged to exclude addicted or vulnerable persons from participating. Players can register for an exclusion register.

4 Croatia

There are nine online casino license holders and seven online betting license holders in Croatia. Croatian law does not have an active duty of investigation or care but requires license holders to warn players about the risks of gambling and to point out organizations where help can be obtained for gambling problems. Players can voluntarily set limits on the maximum deposit into the player account and the maximum playing time. The maximum height of these limits is not prescribed or restricted by law.

5 Czech Republic

There are 20 license holders for online gambling in the Czech Republic. The Czech legislation does not have an active duty of investigation or care but does oblige license holders to warn players about the risks of gambling. Players must also be given the opportunity to voluntarily specify (monetary) limits, the nature of which depends on the type of game of chance. The maximum height of these limits is not prescribed or restricted by law. Technical games do have limitations regarding the maximum bet and the maximum net loss.

6 Denmark

There are three license holders for online betting, 16 for online casinos and 17 for both online betting and online casinos in Denmark. Danish legislation obliges license holders to warn players about the risks of gambling, to actively investigate the gambling behavior of players ('duty of attention') and to take measures in case of problematic gambling behavior. The risk assessment of gaming behavior is highly formalized. Players are required to set a deposit limit per license holder, the maximum amount of which is not prescribed or limited by law. Players can temporarily or permanently exclude themselves from participation.

7 Estonia

There are 24 license holders for online gambling in Estonia. Estonian legislation does not have an active duty of investigation or care but does require license holders to warn players about the risks of gambling. Players have the choice of specifying a loss limit for a week or a month per license holder, the height of which is not prescribed or restricted by law and can exclude themselves from participation in gambling for a definite or indefinite period of time.

8 France

There are 15 license holders for online sports betting, horse racing and poker in France. Online casinos are not allowed. French law has an active duty of investigation and care. License holders must warn players about the risks of gambling, but also actively detect problematic gambling behavior themselves and take measures when they identify this. This obligation has been worked out in detail and must be formalized by the license holder in an action plan that is assessed annually by the French gambling commission (ANJ). Players can request self-exclusion per license holder or total, and set limits on maximum deposit, maximum number of bets, and maximum playing time per license holder. The maximum height of these limits is not prescribed or restricted by law.

9 Germany

There are currently eight license holders for online horse racing betting and 33 license holders for online sports betting in Germany. The administrative procedures related to the licensing of online casino games, slot games and poker games are still ongoing. German law has an active duty of investigation and care. License holders must draw up plans to prevent gambling problems and to protect minors. A science-based, algorithm-based automated system for early identification of gambling problems and measures to address existing problems should be part of these plans. Players, and license holders who have factual indications of gambling problems, can request exclusion from participation in gambling. Players can set different monetary limits per license holder and are required to set a total deposit limit of up to €1,000 per month. An electronic register to which all operators must connect, continuously checks whether the stated limit is respected at all times. Operators are allowed to accept any pay-in only after the aforementioned electronic register has stated that the pay-in does not exceed the stated limit. License holders can apply for a permission to deviate from the €1,000 limit in individually requested cases. It should be noted that the German legislation is still in its implementation phase.

10 Great Britain

There are more than 200 operators licensed to offer online gambling facilities in Great Britain. British regulation prescribes an active duty of investigation and care and requires operators to proactively identify customers who experience harm, or are at risk of experiencing harm, and to intervene to reduce harm. The Remote gambling and software technical standards makes provision for financial limits, time requirements and reality checks (a reality check is a periodic notification (pop-up) of which the frequency can be set by the player, whereby a link to the customer's account history should be provided and the player should be offered the facility to exit the gaming session or log out of their account). Players must be given the opportunity to voluntarily specify monetary limits, such as a deposit limit, and this must be offered upon sign up. Limits are not prescribed or restricted by the Commission. Operators are required to offer self-exclusion for at least six months. Multi-operator self-exclusion schemes are also in place for the land-based arcade, betting, bingo and casino sectors. A separate scheme exists for the online sector. New rules will come into effect on 12 September 2022 for at-risk customers and work on the Single Customer View, which will enable a cross-operator view of a customer's gambling activities, is ongoing.

11 Ireland

Ireland is preparing a new law for the comprehensive regulation and licensing of all forms of gambling activities. Current legislation is outdated and does not take online gambling into account, there is no specific regulation for online gambling apart from basic online betting licenses. Online gambling is not illegal. There are no statutory requirements relating to affordability checks and no regulations regarding (monetary) deposit or betting limits for gambling activities.

12 Italy

There are 96 license holders for online gambling in Italy. There is an active duty of investigation carried out by Ministry of Health. License holders must allow players to exclude themselves from participation for a definite (30 – 90 days) or indefinite period of time. Players are required to set (monetary) playing limits. The maximum height of these limits is not prescribed or restricted by law.

13 Lithuania

There are eight license holders for online gambling in Lithuania. Lithuanian law does not have an active duty of investigation or care but does require license holders to warn players about the risks of gambling and to allow them to set monetary and time limits. The maximum height of these limits is not prescribed or restricted by law. Players can also request a self-exclusion of at least six months.

14 Malta

There are 328 Malta Gaming Authority licensed operators for remote gaming operations in Malta. Maltese law prescribes an active duty to employ measures to detect and identify problem gambling which must be laid down in various policies and procedures. If the license holder identifies signs of problematic gambling, the license holder must take measures to prevent further damage. License holders are required to provide players with the ability to set monetary limits, including deposit and wagering limits. The maximum height of the limits is not prescribed or restricted by law. License holders should make readily available, at all times, a procedure whereby a player may choose to exclude themselves from participation in a license holder's gambling for a definite or indefinite period of time. Finally, players must have the option of setting reality checks.

15 Netherlands

There are 19 license holders for online gambling in the Netherlands. Dutch legislation provides for an active duty of care by the license holder. License holders need to have a prevention policy, which must be established, performed and evaluated in cooperation with experts on gambling addiction including experience experts. License holders are obliged to inform players about the risks of gambling and about the possibility of getting professional help for gambling problems. License holders must make a risk assessment of all their games, using a scientifically based risk assessment tool. License holders must register gambling behavior including signals of gambling

problems. In case of (possible) gambling problems, they must intervene in accordance with the 'stepped care' model, i.e., light measures for light problems (for example a pop-up message) and more serious measures for more serious problems. The most severe measure is involuntary exclusion. When opening an online gambling account players must determine their personal gambling limits per license holder relating to the maximum time spent on the gambling website per day, week or month, the maximum amount of money that is deposited on the gambling account per day, week or month, and the maximum quantity of money on the gambling account. The maximum height of these limits is not prescribed or restricted by law. Lowering the limits comes into force directly, increasing the limits comes into force after a week. Players can temporarily or permanently exclude themselves in 'CRUKS', the central exclusion database. Central exclusion applies to online gambling, the land-based casinos and slot machine halls at the same time.

16 Norway

There are two license holders with a monopoly position in Norway: Norsk Tipping (online casino games, slot machines and sports betting) and Norsk Rikstoto (horse racing). Norwegian legislation prescribes an active duty of investigation and care for the two monopolistic license holders, whereby the license holders use software (Playscan and Mentor) to monitor and analyze gaming behavior. By recording the full (legal) gambling behavior of every player, responsible gambling measures such as loss limits can be effectively set and enforced. The loss limits are mandatory and are limited to a maximum of NOK 20,000 (approx. €2,000) per month for all games combined per license holder. Lower loss limits apply to high-risk gambling games (online casino games including online scratch games and online bingo and IVTs). There are no exceptions to these limits. In addition, the license holders offer players the opportunity to take breaks and gain detailed insight into their own playing behavior.

17 Poland

The Polish state has a monopoly for the organization of online gambling except for betting and lotteries, 23 companies are licensed for online betting. Polish law does not have an active investigation obligation but does oblige license holders to draw up a plan for responsible gambling. Players should be warned about the risks of gambling and made aware of organizations where help can be obtained for gambling problems. Players must set (monetary) limits, the maximum height of these limits is not prescribed or limited by law.

18 Portugal

There are 15 license holders for online gambling in Portugal. Portuguese legislation does not have an active obligation to investigate but license holders have a duty of diligence and care and must foster moderate, non-compulsive and responsible gambling. License holders are obliged to make prevention plans and to place preventive elements on their websites. Players should be given the opportunity to voluntarily set limits regarding deposits, wagering and playing time. The maximum height of these limits is not prescribed or restricted by law.

19 Slovakia

There are 17 license holders for online gambling in Slovakia. Slovak law does not have an active duty of investigation or care but does require license holders to inform players about the risks of gambling and to allow players to set limits on the maximum amount of all bets and the maximum loss at each login. Players can exclude themselves from participation and certain groups of people, such as people who are part of a household receiving social assistance benefits, students receiving a social grant and people who, according to a court decision, have a maintenance obligation for a child, are pre-excluded from participation.

20 Slovenia

In the field of online classic gambling (betting, lotteries, etc.) there are two license holders in Slovenia. There is only one license holder in the field of online special gambling games (slot machines), however currently no online special gambling games are organized in Slovenia. Slovenian legislation does not have an active duty to investigate but obliges license holders to warn players and provide information about the risks of gambling. Players should be given the opportunity to voluntarily set limits on the maximum amount per game, session or period. The maximum height of these limits is not prescribed or restricted by law.

21 Spain

There are 81 license holders for online gambling in Spain. Spanish law prescribes an active duty of care and investigation and obliges license holders to take measures and contact the player when they identify gambling problems. Spanish law has legally defined deposit limits: €600 per day, €1,500 per week, €3,000 per month per license holder. In addition, players can also voluntarily set other (time) limits. Individual players can ask the license holder to play with a higher limit or no limit. These requests are granted if the player passes a gambling addiction test and a responsible gambling test and, on a second or later request, if the analysis of the gaming behavior shows no problems.

22 Sweden

In Sweden there are 66 license holders that offer online casino games and betting, and one license holder that offers games on electronic gaming machines (EGM). Swedish law prescribes an active duty of care that is elaborated in detail and obliges license holders to collect information about the player and his gaming behavior in various ways and to intervene actively when there are signals that indicate risky gaming behavior. It is the responsibility of the license holder to gather the correct knowledge and to take the correct measures to protect the player against excessive play. Players must set limits regarding the maximum deposit into the player account or the maximum loss. They can also voluntarily indicate the maximum playing time. The maximum height of the limits is not prescribed or limited by law, but license holders must actively check whether there are any gambling problems when a player sets a deposit limit of at least SEK 10.000 (approx. €930) per month.

Europe

There is no European legislation for online gambling regarding responsible gaming. The European Commission has, however, formulated recommendations relating to, among other things, the registration of players so that license holders can keep track of player behavior and raise the alarm if necessary. The Commission also recommends that players have the option of setting spending limits.

Overview

Table 1 presents an overview of the number of license holders, the statutory or non-statutory duty of investigation and care by license holders and the voluntary or mandatory playing limits, whether or not legally prescribed, in the 22 European countries. The table makes clear that half (50%, n=11) of the European countries that took part in the study have a legally prescribed duty of investigation and care implying that a license holder is formally obliged to monitor the gaming behavior of its customers and to intervene if there are signs of problematic gaming behavior. The other eleven (50%) countries do not have a legally prescribed duty of investigation and care. The way in which the license holder must fulfill or carry out this duty of investigation and care is largely left to the license holder itself, although a country such as France, for example, does describe general principles, implementation guidelines and examples of best practices. Three elements can be distinguished in the duty of investigation and care. First, the license holder must monitor and analyze the gaming behavior of its players in order to identify hazardous or problematic gaming behavior. If the license holder identifies such behavior or should reasonably suspect that there could be problematic gaming behavior, the license holder must verify the suspicion and intervene in an appropriate, proportionate and effective manner where applicable. Finally, the license holder must check whether the interventions have produced the desired result and intervene again if this is not the case.

Table 1 Number of license holders, duty of investigation and care, and playing limits

Country	Number of license holders	Legal duty of investigation and care	Legally prescribed limits (voluntary or mandatory). The limits apply per license holder unless stated otherwise ('total')
1 Austria	1	Yes	Mandatory total deposit limit of max. €800 per week, various mandatory limits
2 Belgium	76	No	Mandatory total deposit limit of max. €500 per week (not operational)
3 Bulgaria	12	No	No
4 Croatia	16	No	Various voluntary limits
5 Czech Republic	19	No	Various voluntary limits
6 Denmark	41	Yes	Mandatory deposit limit
7 Estonia	24	No	Voluntary loss limit
8 France	15	Yes	Various voluntary limits
9 Germany	44	Yes	Mandatory total deposit limit of up to €1,000 per month + various voluntary monetary limits per license holder

Country		Number of license holders	Legal duty of investigation and care	Legally prescribed limits (voluntary or mandatory). The limits apply per license holder unless stated otherwise ('total')
10	Great Britain	200 plus	Yes	Various voluntary monetary limits and reality checks
11	Ireland	-	No	No
12	Italy	96	Yes	Various mandatory limits
13	Lithuania	8	No	Various voluntary limits
14	Malta	323	Yes	Various voluntary limits and reality checks
15	Netherlands	19	Yes	Various mandatory limits
16	Norway	2	Yes	Mandatory total loss limit ≈€2,000 per month per license holder + various (lower) mandatory limits for different games
17	Poland	24	No	Various mandatory limits
18	Portugal	15	No	Various voluntary limits
19	Slovakia	17	No	Various voluntary limits
20	Slovenia	3	No	Various voluntary limits
21	Spain	81	Yes	Mandatory deposit limit of max. €600 per day, €1,500 per week, €3,000 per month + various voluntary limits
22	Sweden	67	Yes	Mandatory deposit/loss limit (above ≈€930 per month triggers investigation obligation) + voluntary time limit
Total		Range 1 - 323	50% yes (n=11) 50% no (n=11)	45% mandatory limits (n=10) 45% voluntary limits (n=10) 10% no prescribed limits (n=2)

Most countries (90%, n=20) have legally prescribed voluntary (45%, n=10) or mandatory (45%, n=10) (monetary) playing limits. These limits usually relate to (a variant of) a deposit or loss limit. In five of the ten countries with a mandatory monetary limit, the maximum amount is limited by law. The maximum amount of the mandatory deposit or loss limit varies from €1,000 per month in Germany to approx. €3,400 per month (€800 per week) in Austria. The deposit or loss limits are not always operationalized in the same way. For example, the deposit limits of Belgium and Austria are defined per week (respectively €500 and €800 per week) and those of Germany and Norway per month (respectively €1,000 and approx. €2,000 per month). In addition, several separate lower mandatory limits apply in Norway for high-risk gambling. Spain has different deposit limits per day, week or month. However, these Spanish limits apply per license holder, unlike the German deposit limit which refers to total deposit, aggregated over all license holders. In Belgium, too, the limits would apply to all license holders together, but due to technical problems this has not (yet) been achieved. Finally, the Norwegian limit of approx. €2,000 per month applies to each of the two license holders separately. Limits that apply per license holder obviously allows players who play with multiple license holders to deposit or lose significantly more than the deposit/loss limit. Finally, Sweden does not have a legally capped maximum limit, but does require the license holder, as part of its duty of care, to contact a player when he sets a deposit/loss limit higher than approx. €930 per month.

Overall, policies regarding duty of investigation and care, and setting voluntary or mandatory playing limits show major differences between the 21 countries. Mutual consultation and coordination can contribute to the (further) development of a gambling policy in which the protection of the players is central.

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