

MICHALINA DUDA-HYZ¹

Virtual Betting – Is It Really Betting?²

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Abstract

The purpose of this article is to provide an analysis of so-called virtual bets organised by bookmakers legally operating in Poland, as well as to address the question of whether such games can be classified as pari-mutuel bets within the meaning of the Act on Gambling Games. In the study of the regulations defining the rules for organising virtual bets, research procedures appropriate to the logico-linguistic method were applied. When the features of virtual sports and virtual events were presented, they were based on established findings within gambling studies. The analysis carried out led to the conclusion that events involving the generation of pseudo-random numbers and the audiovisual imitation of sports games do not constitute ‘virtual events’ within the meaning of the Act on Gambling Games, but rather represent other random events which, according to the position of the administrative courts, cannot determine the outcome of pari-mutuel betting. For this reason, so-called virtual bets do not fall within the legal definition of book-making within the meaning of the Act.

Keywords: betting, gambling, gambling law, virtuals.

¹ Prof. UO dr hab. Michalina Duda-Hyz – Wydział Prawa i Administracji Uniwersytetu Opolskiego (Polska), e-mail: michalina.duda-hyz@uni.opole.pl; ORCID: 0000-0001-7058-3481.

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MICHALINA DUDA-HYZ

Zakłady wirtualne – czy to na pewno zakłady?³

Celem artykułu była analiza tzw. zakładów wirtualnych organizowanych przez legalnie działających w Polsce bukmacherów, a także próba odpowiedzi na pytanie, czy gry tego rodzaju mogą zostać zakwalifikowane jako zakłady wzajemne w rozumieniu przepisów ustawy o grach hazardowych. W badaniach zgłębiających aspekt zasad organizowania zakładów wirtualnych zastosowano metody badawcze charakterystyczne dla metody logiczno-językowej. Przy omawianiu cech sportów wirtualnych oraz zdarzeń wirtualnych wykorzystano istniejący dorobek nauk o hazardzie. Przeprowadzona analiza pozwoliła sformułować wniosek, że zdarzenia polegające na generowaniu liczb pseudolosowych i audiowizualnej imitacji rozgrywek sportowych nie stanowią „zdarzeń wirtualnych” w rozumieniu ustawy o grach hazardowych, lecz są *de facto* innymi losowymi zdarzeniami, które – w ocenie sądów administracyjnych – nie mogą przesądzać o wyniku zakładów wzajemnych. Oznacza to, że tzw. zakłady wirtualne nie mieszczą się w zakresie definicji legalnej bukmacherstwa.

Słowa kluczowe: zakłady, hazard, prawo hazardowe, wirtualne gry
(lub: wirtualne zakłady).

³ Badania wykorzystane w artykule nie zostały sfinansowane przez żadną instytucję.

Introductory Remarks

In the system of Polish gambling law, provisions relating directly to gambling on the Internet appeared as late as July 2011 with the entry into force of the Act of May 26 of the same year, amending the Act on Gambling Games and certain other acts.⁴ According to a statement by the Council of Ministers, the main goal of the Act was to strengthen the rule of law and protect the public from the negative effects of gambling.⁵ Consequently, a legal basis was created for organising online only one form of games – i.e. betting – as a form of gambling marked by low addictive potential and limited risk of fraud by bookmakers. In April 2017, the provisions of the amendment to the Gambling Act came into force, under which the list of games that could be organised via the Internet was expanded.⁶ The organisation of such games was brought under a state monopoly, with the exception of pari-mutuel betting and promotional lotteries, which can be organised on the basis of granted licences. By virtue of this amendment, the definition of bookmaker bets was also amended, stipulating that the subject of such bets may also be virtual events.

As of 2025, 18 companies are authorised to conduct online betting activities on the Internet.⁷ The regulations for mutual betting of all companies, with the exception of TRAF – Zakłady Wzajemne Sp. z o.o., provide for the possibility of organising online bets on virtual events (so-called virtual bets or virtuals). At the time of submitting this publication for printing, four of these companies did not offer this type of betting on their websites.⁸ Nevertheless, it should be assumed that since such games are included in the regulations approved by the Minister of Finance, they will be launched in the near future.

⁴ Act of May 26, 2011 on amending the Act on gambling and certain other acts, Journal of Laws No 134, item 779.

⁵ See: the legislative rationale for the government draft law on amendments to the gambling act and some other acts, parliamentary print no. 3860, Sixth-term Sejm, p. 2.

⁶ Act of December 15, 2016 on amending the Act on gambling and amending certain other acts, Journal of Laws 2017, item 88.

⁷ Ministry of Finance, *Legitimate players in the Internet betting and gambling market*. January 8, 2025. Available from: <https://www.podatki.gov.pl/pozostale-podatki/gry-hazardowe/zaklady-wzajemne-i-gry-hazardowe-przez-internet/> (accessed: 25.03.2025).

⁸ These were: FUN PROJECT Sp. z o.o., Silesia Entertainment Sp. z o.o., Wett Arena Polska Sp. z o.o. and NOVOBET Sp. z o.o.

The purpose of this article is to analyse so-called virtual bets organised by bookmakers legally operating in Poland, as well as to consider the question of whether, in light of the provisions of the Act on Gambling Games, the organisation of such games constitutes betting activity. In the study of the regulations defining the rules for organising bets on virtual events, research procedures appropriate to the logico-linguistic method were applied. When the features of virtual sports and virtual events were presented, they were based on the achievements of gambling studies, adapting the results of research by representatives of social sciences.

Betting on Virtual Events in Bookmakers' Regulations

The manner in which bookmakers in Poland regulate betting on virtual events varies considerably. Most regulations include a definition of virtual betting.⁹ However, there is no uniform terminological convention for this type of betting. These games are referred to as: virtual betting¹⁰ (in some regulations, the word *virtual* is used in quotation marks¹¹), betting on virtual sports¹² or virtual-type betting. Importantly, the concept of virtual betting (betting on virtual sports/virtual-type betting) is treated as equivalent to betting on virtual events. Definitions of 'virtual events' included in most regulations do not contain normative content other than that resulting directly from the provisions of the Gambling Act. Nevertheless, most of the regulations attempt to define what the essence of virtual betting itself is. In defining what the essence of such forms of gambling activity consists in, it is indicated that:

⁹ Such provisions are not contained in the regulation of Bukmacherska Sp. z o.o.

¹⁰ Section 3.5.5 of BETFAN's online betting regulations; §22 of the "E-TOTO NET" betting regulations. Available from: <https://www.etoto.pl/regulamin> (accessed: 20.03.2025), henceforth cited as: "E-TOTO NET" regulations; §11 of the Regulations for Internet betting organized by SILESIA Entertainment Sp. z o.o. with its registered office in Cieszyn. Available from: <https://www.betters.pl/info/regulamin-zakladow-wzajemnych> (accessed: 20.03.2025), henceforth cited as: SILASIA Entertainment regulations; §8 of the betting regulations arranged by Bukmacherska Sp. z o.o. over the Internet, <https://fuksiarz.pl/regulamin-zakladow> (accessed: 20.03.2025), henceforth cited as: Bukmacherska Sp. z o.o. regulations.

¹¹ §15g of the regulations on betting provided electronically over the Internet organized by "FORTUNA online betting" Sp. z o.o. Available from: <https://www.efortuna.pl/cms/regulaminy> (accessed: 20.03.2025), henceforth cited as: FORTUNA regulations.

¹² Section 19.1. of the STS Internet Betting Regulations. Available from: <https://www.sts.pl/regulaminy>, [access: 18.03.2025], henceforth cited as: STS regulations; §15g item 1 of the FORTUNA regulations; §14b point 1 of the regulations for bets arranged over the Internet organized by Betcris Polska Sp. z o.o. with its registered office in Gdynia. Available from: <https://www.betcris.pl/regulaminy> (accessed: 20.03.2025), henceforth cited as: Betcris regulations.

- 1) "The Company's offer also includes the possibility of betting on virtual events that are digital representations of real sports competitions and rivalries within leagues, cups and other competitions occurring in reality";¹³
- 2) "In betting on virtual sports, the participant has the opportunity to bet on the occurrence of virtual events within the framework of mapped real sports competitions and rivalries, e.g. within leagues, cups and other competitions occurring in reality";¹⁴
- 3) "In betting on virtual sports, the participant of the game has the opportunity to bet on the results of virtual events that are a mapping of real sports competitions and rivalries within leagues, cups and other competitions occurring in reality".¹⁵

LV BET's regulations do not include a legal definition of virtual betting, but they do explain what is meant by 'virtual sports'. According to the adopted regulation: "Virtual sports are inspired by real sports and present computer-generated, random results, processed into a visual image. The results generated for virtual sports are based on team/player statistics and numbers selected by a random number generator (RNG) (computer algorithm)".¹⁶ The regulations also define the different types of virtual sports. Thus: "Virtual football is an application that allows betting on virtual football matches between virtual football teams. Virtual football is a virtual league in which each team faces another team twice during a football season. The result of the matches is generated by a random number generator, applying proportional changes to the listed odds".¹⁷ It is emphasised that matches are played continuously, 24 hours a day, and players can join the game at any time. In defining virtual tennis, it was indicated that it is: "an application that allows sports betting in virtual tennis matches between virtual tennis players. The score of each point in each game is generated by a random number generator, applying proportional changes to the listed odds. The odds for each market are assigned after applying the relative values assigned to each virtual player, depending on the specific stage of the match".¹⁸ LV BET's regulations also define the essence of virtual racing,

¹³ §22 point 1 of the "E-TOTO NET" betting regulations.

¹⁴ §15g item 1 of the FORTUNA regulations.

¹⁵ Item 19.1 of the STS regulations. See also § 11 point 1 of the SILASIA Entertainment regulations; § 14b point 1 1 of the Betcris regulations; §16 point 1 of the Regulations of betting – bookmaker bets arranged via the Internet organized by GO+BET Sp. z o.o. with its registered office in Warsaw, <https://www.goplusbet.pl/regulaminy>, (accessed: 17.03.2025), henceforth cited as: GO+BET regulations.

¹⁶ Chapter 69 of the rules of betting – bookmaker LV BET Zakłady Bukmacherskie spółka z o.o. Available from: <https://lvbet.pl/pl/regulamin/> (accessed: 20.03.2025), henceforth cited as: LV BET regulations.

¹⁷ *Ibidem*.

¹⁸ *Ibidem*.

indicating that: “bets on virtual races are presented in a similar way to real races. However, unlike a real event, the results are determined by a random number generator (RNG) using variable coefficients in proportion to the given odds”.¹⁹

A different regulatory approach was adopted by Superbet Zakłady Bukmacherskie Sp. z o.o.. Their regulations do not define the concept of ‘betting on virtual events’ but provide a definition of ‘virtual events’ as “computer-generated events relating to sports competition between humans or animals, in which the customer has the opportunity to bet on results that are a simulation of real, the following sports events: speedway races, greyhound races, car races, football, basketball, horse racing, motorcycle races, motocross races, go-cart races, tennis competitions and ice hockey”.²⁰

The rules and regulations of online betting operators also specify, in different ways, how the outcome of events subject to so-called virtual betting is to be determined. In this respect, three groups of regulations can be distinguished. The first group consists of provisions that do not indicate how the outcome of a virtual event is determined, but simply state that the virtual sports software is installed on an independent server which cannot be manipulated in any way, either by the operator or a third party.²¹ The second – and most extensive – group of regulations consists of those in which the method of determining the results is specified indirectly, by indicating that the virtual sports software is installed on an independent server to which the score generator is connected. At the same time, it is stipulated that the operation of the score generator must not be influenced by the operator or any other third party other than its configuration.²² The third category of provisions includes those which explicitly state that the results of virtual sports depend on numbers selected by a random number generator.²³

The absence of a clear indication of the way in which the outcome of a bet is determined in the regulations must be considered a defect in those acts. Nevertheless, the content of those regulations that omit this issue does not provide grounds to assume that the results of the events which are the subject of the so-called virtual bets are determined in a manner other than through the use of a random

¹⁹ *Ibidem*.

²⁰ Point 5.2c of the regulations for internet betting organised by Superbet Zakłady Bukmacherskie Sp. z o.o. Available from: <https://superbet.pl/wiki/regulamin> (accessed: 20.03.2025).

²¹ See: point 19.3 of the Bukmacherska regulations; § 22 point 3 of the “E-TOTO NET” regulations; The regulations of Superbet Zakłady Bukmacherskie Sp. z o.o. completely disregard this issue without even addressing the issue of the software used to arrange the so-called virtual bets.

²² Such provisions are contained in the bylaws of companies: „FORTUNA online zakłady bukmacherskie” Sp. z o.o., GO BET Sp. z o.o., BETCRIS Polska Sp. z o.o. and Silesia Entertainment Sp. z o.o.

²³ Chapter 69 of the LV BET Regulations.

(pseudo-random) number generator.²⁴ The answers given by the consultants of various operators make it clear that the results of the so-called betting events are determined by appropriate software. The above conclusion is also confirmed by the information for players posted by bookmakers on their websites. When explaining the essence of virtual sports, BetFun points out that it is “a simulation of sporting events randomly generated by a special algorithm designed to make each match or sporting game different and surprising (...) the entire game and final result is randomly generated by an algorithm that controls the entire mechanics of virtual sports”.²⁵ STS states that “[v]irtual sports are a competition of algorithms, refereed by an algorithm. Virtual players are computer-generated and each of their plays is the result of complex calculations based on statistics and various parameters spiced with a random factor”.²⁶ According to information provided by BETCRIS Polska Sp. z o.o., “[v]irtual sports in basketball and football are a competition between two teams that are generated by an algorithm and refereed by it. It can be said that the virtual game of teams is a battle of algorithms. The clubs and the players belonging to them are not real, and every play you can see on your screen is created through complex statistical calculations, as well as a random factor”.²⁷ Bukmacherska Sp. z o.o. informs players that “[t]he arrangement of results, as well as specific events in virtual sports, is decided by an algorithm. This is the random element of the whole game. While in real sports you can try to predict the outcome of a match by analysing the personnel situation and the teams’ potential, in virtual sports this kind of activity may not bring the expected result. Why? Because, in the main, virtual sports are determined by a computer algorithm and how both teams play depends on it. Just as the favourite can win the match, the outsider will also spring a surprise. In virtual sports, it is by no means the case that the team with the lower odds, considered to be a sure thing, is 100% guaranteed to win”.²⁸ E-TOTO Company explains that “[v]irtuals are based to a small extent on actual statistics to enable the player to get a better idea of the chances of one side or the other of the encounter. Nevertheless, virtual sports betting is closer to lottery solutions, where chance plays

²⁴ A pseudo-random number generator is a deterministic system, which will always generate the same sequence of binary numbers given the same seed. The seed can be an integer number. See: L.G. de la Fraga, J.D. Rodríguez-Muñoz, E. Tlelo-Cuautle, *Random Number Generators. Verilog Description, Hardware Implementations and Applications*, Cham 2025, p. 3.

²⁵ BetFun, *Czym są sporty wirtualne?* Available from: <https://betfan.pl/sporty-wirtualne> (accessed: 26.03.2025).

²⁶ STS, *Na czym polegają sporty wirtualne?* Available from: <https://www.sts.pl/sporty-wirtualne> (accessed: 26.03.2025).

²⁷ BETCRIS Polska Sp. z o.o., *Sporty wirtualne*. Available from: <https://www.betcris.pl/wirtualne?key=betconstruct> (accessed: 27.03.2025).

²⁸ Bukmacherska Sp. z o.o., *Sporty wirtualne – Fuksiarz*. Available from: <https://fuksiarz.pl/sporty-wirtualne> (accessed: 27.03.2025).

a role rather than the actual condition of any team or player”.²⁹ Similar information was provided on the FORTUNA website, indicating that “the competition between athletes, as well as animals, is in practice a competition of algorithms. Complex computer calculations generate events with a certain predictability (which can easily be followed in the results of Virtual Sports), but still the key variable is randomness”.³⁰

It is clear from the content of the information for gamblers quoted above that the outcome of the events which are the subject of so-called virtual bets is computer-generated, and the game itself should therefore be regarded as a game of chance. Such circumstances as knowledge of the sport in question, the condition of individual players or animals, or the past performance of the competing team or athlete are irrelevant here. Even if the algorithms take into account statistics relating to matches that have already taken place, the final outcome of the event is nonetheless determined at random. This is because the statistics themselves are ultimately created based on the results generated by the computer programme.

Betting on Virtual Events in the Context of the Legal Definition of Bookmaking

The Gambling Act does not contain a classic legal definition of gambling, but only indicates that gambling includes games of chance, betting, card games, and games on slot machines³¹. Significantly, pari-mutuel betting is treated as a separate category of gambling distinct from games of chance. Pari-mutuel betting is defined as betting on winnings in cash or in kind, consisting of guessing:

- 1) the outcome of a sporting competition between humans or animals, where participants pay stakes and the amount of winnings depends on the total amount of the stakes paid – totalisators;
- 2) the occurrence of various events, including virtual events, where participants pay stakes and the amount of winnings depends on the ratio of the payment to the winnings agreed between the bettor and the payer – bookmaking.³²

²⁹ E-TOTO, *Sporty wirtualne*. Available from: <https://www.etoto.pl/virtuals> (accessed: 27.03.2025).

³⁰ FORTUNA online zakłady bukmacherskie Sp. z o.o. Available from: *Obstawianie wirtualnych sportów*, <https://www.efortuna.pl/wirtualne-sporty/oferta> (accessed: 11.10.2023).

³¹ Art. 1 sec. 2 of the Act of 19 November 2009 on Gambling Games, Journal of Laws 2023, item 227, as amended, henceforth cited as the Act on Gambling Games.

³² Art. 2 ust. 2 of the Act on Gambling Games.

The wording of the Act also defines the concept of virtual events, indicating that they are computer-generated events involving sports competition between humans or animals.³³

The content of the online betting regulations and the information provided on bookmakers' websites clearly indicate that the virtual sports which are the subject of these bets do not relate to real sporting competition between people or animals. Nor are they bets in which the amount of the winnings is determined in a totalisator system. Accordingly, the attempt to legally qualify such undertakings must be carried out in the context of the legal definition of bookmaking.

The object of each bet is an uncertain event that determines the existence of the benefit in the aleatory contract concluded. In bets played in a bookmaking system, the object of the bet is an 'event' and, since 1 April 2017, also a 'virtual event'. The Act neither defines the term 'event' nor outlines a list of events on which bets can be placed. This means that the circumstances constituting the subject matter of the bet can belong both to the field of sport, including electronic sport,³⁴ and to spheres of life completely unrelated to sport (e.g. politics, culture, finance, show business, or social life). Another aspect to consider here is that although the generation of a result imitating the outcome of a sports competition by a computer programme in real time is a semantic designator of the term 'event'³⁵ in the Polish language, in the legal state in force until 31 March 2017, permits to arrange this type of betting were not issued. Indeed, the Minister of Finance took the view that, because of the way in which the outcome of virtual games is determined, betting on virtual events should be classified as a game of chance.³⁶

By way of the December 2016 amendment, the legal definition of bookmaking was modified by expressly stating that the object of bets played in this system may also be virtual events. In defining the scope of the name 'virtual event', a classic definition was constructed, in which the *definiens* indicated the scope-overarching phrase, i.e. 'event', and two distinguishing features of the designators of this name. The first refers to the manner in which events occur, which must be computer-generated and – therefore – must be the result of a computer programme. The second narrows the scope of the term being defined to events concerning sporting

³³ Art. 1 ust. 2a of the Act on Gambling Games.

³⁴ In Polish law, competition based on intellectual activity, the aim of which is to achieve a sporting result, is also regarded as sport. Article 2(1a) of the Act of 25 June 2010 on sport, Journal of Laws 2024, item 1488, as amended.

³⁵ The term 'event' in common Polish is understood as 'that which happened, occurred, happened; an accident, incident'. See: *Słownik współczesnego języka polskiego*, ed. B. Dunaj, Warszawa 1996, p. 1350.

³⁶ See: the position of the Minister of Finance in the case which is the subject of the judgment of the WSA in Warsaw of 4 December 2015, ref. no. V SA/Wa 256/15, Central Database of Administrative Court Jurisprudence (Centralna Baza Orzecznictwa Sądów Administracyjnych).

competition between humans or animals. Those events generated by a computer programme must therefore relate to sporting competition, and have some connection to that competition.³⁷

The wording of the legislative rationale to the Bill of 23 May 2016, on the basis of which the amendment to the Gambling Act of 15 December 2016 was adopted,³⁸ implies that the extension of the existing legal definition of bookmaking to include ‘virtual events’ was intended to adapt the legislation to the realities of the changing gambling market, particularly virtual sports.³⁹ The problem is that the term ‘virtual sports’ is used in Polish and English in different senses. Western literature indicates that virtual sports (understood as electronic leagues) originate from fantasy sports, i.e. online games where players create their own virtual teams to compete against teams created by other players. These teams consist of real players who play matches in the real world, and their achievements and stumbles (e.g. goals, assists, passes, penalties, red cards, etc.) translate into team points in a fantasy game.⁴⁰ In this type of game, teams and clubs function only in virtual reality, as they are created within the game by its participants, while points are awarded for the real-life achievements of athletes selected by the players during specific competitions, e.g. leagues. Participants of such games develop strategies for optimising their team’s performance by managing rosters, making trades, or adapting to unforeseen circumstances – such as injuries.⁴¹ In fantasy sports, the skill of the athletes plays a decisive role. However, as an element of randomness is also present, in some countries such games may be classified as gambling.⁴²

³⁷ In common Polish, the word “dotyczyć” means “to relate to someone or something, to have a connection with someone or something”. See: *Słownik współczesnego języka polskiego*, ed. B. Dunaj, Warszawa 1996, p. 195.

³⁸ Act of December 15, 2016 on amending the Act on Gambling and certain other acts, *Journal of Laws* 2017, No 88.

³⁹ See: The legislative rationale to the Bill of 23 May 2016 amending the Gambling Act and other Acts. Available from: <https://legislacja.rcl.gov.pl/projekt/12285702/katalog/12354295#12354295> (accessed: 27.03.2025).

⁴⁰ For more see: R. Burton, K. Hall, R. Paul, *The Historical Development and Marketing of Fantasy Sports Leagues*, “*The Journal of Sport*” 2013, 2, pp. 185–215; S.M. Anderson, N.D. Bowman, *The Origin of Fantasy Sports*, in: *Fantasy Sports and the Changing Sports Media Industry*, London 2016, pp. 4–9; A.C. Billings, B.J. Ruihley, *The Fantasy Sport Industry. Games within games*, London–New York 2014; D.D. Burke, B.P. Meek, J.M. Norwood, *Exploring the Legality of the Lucrative World of Fantasy Sports*, “*Journal of Legal, Ethical and Regulatory Issues*” 2016, 19(1), pp. 38–39; B.J. Ruihley, A.C. Billings, N. Buzzelli, *A Swiftly Changing Tide: Fantasy Sport, Gambling, and Alternative Forms of Participation*, “*Games and Culture*” 2021, 16, pp. 681–701. In Poland, popular games of this type include: ‘Official Fantasy Extraklasa’, ‘Win the ORLEN League’, ‘Fantasy 1.Liga’, ‘FIFA 23’ or ‘Fantasy Premier League’.

⁴¹ See: L. Wilkins, *A Bibliometric analysis of fantasy sports research*, “*Entertainment Computing*” 2024, 48, p. 1.

⁴² For more see: R. Zammit, *Fantasy Sports Games*, “*EGL*” 2016, Spring Issue, p. 19; T.I. Ron, A. Arika, *The Grey Matter – Discussing Daily Fantasy Sports, e-sports and Skill Games for Cash*, “*EGL*” 2016, Spring Issue, pp. 20–21; J.T. Holden, Ch.M. McLeod, M. Edelman, *Regulatory Categorisation and Arbitrage: How Daily Fantasy Sports Companies Navigated Regulatory Categories Before and After Legalised Gambling*, “*American*

The 'virtual sports', which are the subject of so-called virtual bets offered by bookmakers operating in Poland and around the world, are of a different nature. These are games inspired by real sports competitions, which are – in fact – only computer imitations of matches, races, and other forms of sports competition. In this type of game, the outcome does not depend on the actual performance of the players, but is the result of a computer programme that generates pseudo-random numbers. Due to the hybrid nature of virtual sports, which on the one hand imitate sporting competition by taking into account a number of sport-specific rules and on the other are based on the operation of random number generators, betting on their results is classified in the literature as a form of entertainment with features of sports betting and casino games⁴³. It should also be emphasised that the concept of virtual sports cannot be equated with e-sports, which are forms of competition using computer (video) games and which fall within the scope of the legal definition of sport under Polish law.⁴⁴

The events that are the subject of so-called virtual betting in the sense adopted in the wording of the regulations of Polish bookmakers are undoubtedly computer-generated. Nevertheless, unlike fantasy sports and e-sports, they do not involve sports competition between humans or animals.⁴⁵ A player betting on this type of event is in fact confronted with randomly generated results processed into an image that is a more or less faithful imitation of the competition in individual sports. The outcome of competitions in virtual sports is therefore in no way linked to real forms of sporting competition between individuals or animals.

The presented characteristics of virtual sports lead to the conclusion that such sports do not constitute 'virtual events' in the meaning provided by the Act on Gambling Games. The second characteristic distinguishing the designations of this name, i.e. reference to sports competition between people or animals, is missing. On the other hand, competitions involving digitally created teams, in which the results depend on the achievements of the players 'creating' them in the real world, may be qualified as virtual events. This is because the events are computer-generated

Business Law Journal" 2020, 57(1), pp. 113–167; M. Das, *Fantasy sports and gambling regulation in the Asia-Pacific*, "The International Sports Law Journal" 2021, 21, pp. 166–179.

⁴³ See: V. Bogdanov, *How Virtual Sports Product Work*. Available from: <http://intersog.com/blog/mobile-app-development/how-virtual-sports-products-work/> (accessed: 16.08.2017); *EZ Guides: Online Gambling – Sports Betting/Poker/Casino/Bingo*, e-book, ICE Games Ltd 2010, s. 26, 89–90 and 184.

⁴⁴ Among the most popular games of this kind are: Counter Strike, League of Legends, Dota 2, King of Glory, Warcraft.

⁴⁵ In the context of the wording "events involving sporting competition between humans or animals", a doubt has arisen in economic practice as to whether operators who arrange bets on virtual events can apply a gaming tax rate of 2.5%. See: individual interpretation issued by the Director of the National Fiscal Information dated 5 June 2018, 0111-KDIB3-3.4013.91.201.1.PK, SIP Lex no. 469632.

and at the same time relate to real human competition. As virtual sports organised in Poland do not involve ‘virtual events’ in the statutory sense, it is necessary to consider whether they constitute other, non-virtual ‘events’ within the meaning of the legal definition of bookmaking.

The determination of the outcome of a game by a computer programme is obviously an event of some kind in the sense of the common Polish language. The term ‘event’ includes any act of obtaining a result through a random number generator or pseudorandom number generator, regardless of the field in which it is used. The gambling business uses pseudo-random number generators, which are devices used to create sequences of numbers using specific algorithms.⁴⁶ However, it is a well-established position in the jurisprudence that a state of uncertainty resulting not from the absence of rules describing how the sequences of words are formed, but due the lack of knowledge necessary to identify them, can be regarded as randomness within the meaning of the provisions of the Act on Gambling Games.⁴⁷ A game is therefore ‘random’ not only when its outcome depends on chance, but also when the outcome is unpredictable to the player, although not objectively random.⁴⁸ Pseudo-random number generators are used not only in so-called virtual bets, but also in slot machine games and most games of chance played online – such as instant lotteries, bingo, and number games. They are also used in electronic versions of casino games. In so-called virtual bets, players place their bets on the outcome of a pseudo-random number generator, which is depicted in a way that imitates human or animal sporting competition. Participants in such bets are therefore betting on a random event (deterministic randomness).

The Act on Gambling Games does not contain an express prohibition on betting on results obtained at random. What is expressly prohibited is the conclusion and

⁴⁶ For more see: N. Turner, R. Horbay, *How do slot machines and other electronic gambling machines actually work?*, “Journal of Gambling Issues” 2004, 11; R. Wiczorkowski, R. Zieliński, *Komputerowe generatory liczb losowych*, Warsaw 1997, p. 13 *et seq.*; Z. Kotulski, *Generatory liczb losowych: algorytmy, testowanie, zastosowania*, “Matematyka Stosowana” 2001, 2, pp. 1–2; Cf. M. Leśniewicz, *Sprzętowa generacja losowych ciągów binarnych*, Zegrze 2009, p. 28.

⁴⁷ See for example: Judgment of the Voivodship Administrative Court in Wrocław of 29 January 2014, ref. no. III SA/Wr 90/13, SIP Lex no. 1435721; Judgment of the Voivodship Administrative Court in Gliwice of 5 June 2014, ref. no. III SA/Gl 77/14, SIP Lex no. 1508307; judgment of the Voivodship Administrative Court in Gliwice of 26 August 2014, ref. no. III SA/Gl 502/14, SIP Lex no. 1513697; judgment of the Voivodship Administrative Court in Poznań of 8 November 2016, ref. ref. no. I SA/Po 2082/15, SIP Lex no. 2180566; judgment of the Voivodship Administrative Court in Bydgoszcz of 16 February 2016, ref. no. II SA/Bd 690/15, SIP Lex no. 2050093; judgment of the Voivodship Administrative Court in Warsaw of 2 March 2016, ref. ref. no. V SA/Wa 1375/15, SIP Lex no. 2055251; judgment of the Voivodship Administrative Court in Gorzów Wlkp. of 26 October 2016, ref. no. II SA/Go 623/16, SIP Legalis no. 1542423.

⁴⁸ See: judgment of the Supreme Court of 7 May 2012, ref. no. V KK 420/11, published OSNKW 2012, no. 8, item 85.

acceptance of bets on the results of number games, which constitute one of the categories of games of chance.⁴⁹ Nevertheless, it should be noted that in the period prior to the entry into force of the December 2016 amendment, the judiciary's firm position was that "[i]t is not a bookmaker's bet if the result depends solely on chance, e.g. on a draw".⁵⁰ It was emphasised that "[t]he essence of a bookmaker's bet, is to guess the occurrence of various events, the outcome of which depends not on chance, but on elements other than chance, such as, for example, knowledge of the political situation, sport, etc.". ⁵¹ In the opinion of the administrative courts, it was therefore impermissible – in relation to a betting event – to introduce the principle that the outcome of the betting event depends on chance.⁵²

The supposition that the legislator's intention was to create a legal basis for betting on events of an entirely random nature is also contradicted by the content of legislative resources. In 2011, the key argument in favour of limiting permitted online gambling to betting was based on the assumption that such games cannot be classified as so-called hard gambling because the bettor relies on their knowledge, experience, and familiarity with the field in question.⁵³ It was emphasised that in relation to a form of gambling activity such as betting between a player and an operator, the Internet is merely a distribution channel.⁵⁴ When drafting the 2016 amendment, it was pointed out that the state monopoly was applied to online casino games "which have a much higher addiction rate than betting and promotional lotteries".⁵⁵ If the purpose of establishing a broad monopoly was to ensure an appropriately high level of protection for gamblers against addiction, there is no basis for assuming that the intention of the legislator was to legalise betting on

⁴⁹ Art. 31 sec. 1 of the Act on Gambling Games. See also: judgment of the Voivodship Administrative Court in Warsaw of 16 March 2010, ref. no. VI SA/Wa 26/10, CBOSA.

⁵⁰ Judgment of the Supreme Administrative Court of 10 February 1999, ref. no. II SA 1826/98, SIP Lex nr 1027346. In its judgment of 6 October 2011, ref. II GSK 819/10, SIP Lex no. 984628, the Supreme Administrative Court held: 'Although guessing the set of numbers to be drawn by the machine in the course of drawing the results of a particular number game is an event of some kind, it cannot be assumed that it is an event referred to in Article 2(2) of the 1992 Act on Games and Betting.

⁵¹ Judgment of the Voivodship Administrative Court in Warsaw of 8 March 2010, ref. no. VI SA/Wa 2119/09, SIP Lex nr 607006.

⁵² See: Judgment of the Voivodship Administrative Court in Warsaw of 14 June 2011, ref. no. VI SA/Wa 791/11, SIP Lex nr 996524.

⁵³ See: Legislative rationale do the government bill to amend the Gambling Act and certain other Acts, Parliamentary Paper no. 3860, Sixth Sejm, p. 2.

⁵⁴ *Ibidem*. For more on the rationale behind the legalisation of online betting see: M. Duda-Hyz, *Gry hazardowe zarządzane przez sieć Internet i ich opodatkowanie w prawie polskim oraz innych krajów europejskich*, Lublin 2019, pp. 165–171; M. Duda-Hyz, *Reglamentacja działalności hazardowej w Polsce – w poszukiwaniu intencji prawodawcy*, [w:] *Gra i grywalizacja w kulturze XXI wieku*, ed. M. Szablowska-Zaremba, Wydawnictwo KUL, Lublin 2022, pp. 206–220.

⁵⁵ See: Legislative rationale do the government bill to amend the Gambling Act and certain other Acts, Parliamentary Paper no. 795, Eight Sejm, p. 3.

events of chance. Betting on the outcome of a pseudo-random number generator, graphically expressed as an imitation of a sports competition, is no different from betting on the same outcome presented in another graphical form, such as an image of roulette, a drawing machine, dice, playing cards, or an arrangement of symbols on a slot machine. So-called virtual betting – like casino games or instant lotteries – is characterised by a number of features that determine the increased risk of gambling disorders. This is because they are games with a high event frequency,⁵⁶ available at any time, which require virtually no knowledge and which can be played individually.⁵⁷

In conclusion, it should be stated that although obtaining a result through a pseudo-random number generator is an event of some kind within the meaning of the common Polish language, it cannot be assumed that it is an event within the meaning of the provision containing the legal definition of bookmaking. Adopting the opposite view would mean that it is also permissible to accept bets on the results of other games of chance (e.g. electronic casino games or lotteries) – with the exception of number games. Such a position would be in clear contradiction with the main assumptions behind the enactment of the current legislation.

Concluding Remarks

The analysis carried out leads to the following conclusions:

1. The events constituting the subject-matter of the so-called virtual bets within the meaning of the regulations of bookmakers operating in Poland are undoubtedly computer-generated. They do not, however, relate to sporting competition between humans or animals, and their results are not in any way linked to the achievements of actual athletes or teams. In fact, the bettor is dealing with randomly generated results processed into an image that is a more or less faithful imitation of competition in specific particular sports.
2. The events that are the subject of so-called virtual betting – i.e. virtual 'sports' – do not constitute 'virtual events' within the meaning given by the Act on Gambling Games. This is because the second feature distinguishing

⁵⁶ The rapid event frequency means that the period of time between the initiation of the game and its result is very short. See: M. Griffiths, *Gambling Technologies: Prospects for problem gambling*, "Journal of Gambling Studies" 1999, 15, pp. 268–269.

⁵⁷ Szerzej zob. B.J. Bernhard, D.R. Dickens, P. D. Shapiro, *Gambling Alone? A Study of Solitary and Social Gambling in America*, „UNLV Gaming Research & Review Journal" 2007, 11(2), pp. 1–13.

the designators of this term, namely the reference to sporting competition between humans or animals, is missing. On the other hand, competitions of digitally created teams, in which the results depend on the achievements of the players in the real world (*fantasy sports, fantasy leagues*), may be qualified as virtual events.

3. Although obtaining a result by a pseudo-random number generator constitutes an event within the meaning of the common Polish language usage, it cannot be assumed that it is an event within the legal definition of bookmaking. Adopting the opposite view would mean that it is permissible to accept bets on the results of other games of chance, with the exception of number games. Such a position would be in clear contradiction with the main assumptions underlying the adopted regulatory model of e-gambling.
4. Events involving the generation of pseudo-random numbers and the visual imitation of sports games do not constitute 'virtual events' within the meaning of the Act on Gambling Games, but other random events which, according to the position of the courts, cannot determine the outcome of pari-mutuel betting. For that reason, it seems reasonable to conclude that so-called virtual bets do not fall within the legal definition of bookmaking within the meaning of the Act.
5. The main intention of the Polish legislature was to protect players from the negative effects of gambling. This objective was to be pursued by e.g. subjecting online games with immediate results to the state monopoly. However, the Minister of Finance issues licences for so-called virtual bets, which – like lottery and casino games – are games of chance producing immediate results. Since the situation covered in this article is one of the many manifestations of inconsistency in Poland's gambling policy, it is necessary to call for a redefinition of its objectives and, subsequently, an adjustment of the existing gambling law.

References

- Anderson S.M., Bowman N.D., *The Origin of Fantasy Sports*, [w:] *Fantasy Sports and the Changing Sports Media Industry*, London 2016.
- Bernhard B.J., Dickens D.R., Shapiro P.D., *Gambling Alone? A Study of Solitary and Social Gambling in America*, „UNLV Gaming Research & Review Journal” 2007, 11(2). <https://doi.org/10.9741/2327-8455.1127>
- Billings A.C., Ruihley B.J., *The Fantasy Sport Industry. Games within games*, London–New York 2014. <https://doi.org/10.4324/9780203119945>

- Burke D.D., Meek B.P., Norwood J. M., *Exploring the Legality of the Lucrative World of Fantasy Sports*, „Journal of Legal, Ethical and Regulatory Issues” 2016, 19(1).
- Burton R., Hall K., Paul R., *The Historical Development and Marketing of Fantasy Sports Leagues*, “The Journal of Sport” 2013, 2.
- Das M., *Fantasy sports and gambling regulation in the Asia-Pacific*, “The International Sports Law Journal” 2021, 21. <https://doi.org/10.1007/s40318-021-00198-8>
- Duda-Hyz M., *Gry hazardowe zarządzane przez sieć Internet i ich opodatkowanie w prawie polskim oraz innych krajów europejskich*, Lublin 2019.
- Duda-Hyz M., *Reglamentacja działalności hazardowej w Polsce – w poszukiwaniu intencji prawodawcy*, [w:] *Gra i grywalizacja w kulturze XXI wieku*, ed. M. Szabłowska-Zaremba, Wydawnictwo KUL, Lublin 2022.
- EZ Guides: Online Gambling – Sports Betting/Poker/Casino/Bingo*, e-book, ICE Games Ltd 2010.
- de la Fraga L. G., Rodríguez-Muñoz J. D., Tlelo-Cuautle E., *Random Number Generators. Verilog Description, Hardware Implementations and Applications*, Cham 2025.
- Griffiths M., *Gambling Technologies: Prospects for problem gambling*, “Journal of Gambling Studies” 1999, 15. <https://doi.org/10.1023/A:1023053630588>
- Holden J.T., McLeod Ch.M., Edelman M., *Regulatory Categorisation and Arbitrage: How Daily Fantasy Sports Companies Navigated Regulatory Categories Before and After Legalised Gambling*, “American Business Law Journal” 2020, 57(1), pp. 113–167.
- Kotulski Z., *Generatory liczb losowych: algorytmy, testowanie, zastosowania*, „Matematyka Stosowana” 2001, 2.
- Leśniewicz M., *Sprzętowa generacja losowych ciągów binarnych*, Zegrze 2009.
- Ron T. I., Arika A., *The Grey Matter – Discussing Daily Fantasy Sports, e-sports and Skill Games for Cash*, EGL 2016, Spring Issue.
- Ruihley B. J., Billings A. C., Buzzelli N., *A Swiftly Changing Tide: Fantasy Sport, Gambling, and Alternative Forms of Participation*, “Games and Culture” 2021, 16. <https://doi.org/10.1177/1555412020966161>
- Słownik współczesnego języka polskiego*, ed. B. Dunaj, Warszawa 1996.
- Turner N., Horbay R., *How do slot machines and other electronic gambling machines actually work?*, „Journal of Gambling Issues” 2004, 11. <https://doi.org/10.4309/jgi.2004.11.21>
- Wieczorkowski R., Zieliński R., *Komputerowe generatory liczb losowych*, Warsaw 1997.
- Wilkins L., *A Bibliometric analysis of fantasy sports research*, “Entertainment Computing” 2024, 48. <https://doi.org/10.1016/j.entcom.2023.100613>
- Zammit R., *Fantasy Sports Games*, EGL 2016, Spring Issue.