



## ANALYSIS OF GAMBLING COMMITMENTSON LINEBY POLICE MEMBERS BASED ON CIVIL CODE AND POLICE DISCIPLINE REGULATIONS

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### ARTICLE INFO

**History of the article:**

**Received: 10/10/2025**

**Corrected: 15/10/2025**

**Accepted : 30/10/2025**

**Published: 30/10/2025**

**Keywords:**

**Bond, GamblingOn line, Police**

### ABSTRACT

The involvement of police officers in online gambling impacts two legal areas: Civil Law (specifically regarding contracts) and the Indonesian National Police Disciplinary Regulations (regarding internal sanctions). Legal regulations regarding gambling contractson lineby police officers is invalid and null and void. This is because the object of the agreement is contrary to law, public order, and morality in Indonesia. Agreements related to gamblingon lineby anyone, including police officers, is null and void in Indonesia because the object is illegal. Police officers involved face severe criminal and ethical sanctions, up to and including dishonorable discharge (PTDH). Law enforcement against police officers involved in gamblingon lineEnforcement is carried out through two channels: criminal sanctions based on general law and disciplinary sanctions and the internal code of ethics of the Indonesian National Police, which can result in dishonorable discharge (PTDH). This law enforcement includes taking action against members who simply engage in online gambling, especially if they are involved as protectors (backers) or part of a bookie network. Police Obstacles in Combating Gamblingon lineChallenges faced by its members include a lack of resources, limited technology, and internal issues such as the potential involvement of certain officers. These obstacles arise from difficulties in collecting electronic evidence, identifying perpetrators, budget constraints, and a lack of technological expertise among investigators, coupled with suboptimal coordination between the police and relevant agencies

### 1. Introduction

The advancement of information and communication technology has given rise to various impacts, both positive and negative, because on the one hand it contributes to increasing human welfare, progress and civilization, but on the other hand it has become an effective means of committing illegal acts.

Information and communication technology has also changed the behavior and lifestyle of people globally, and caused the world to become borderless (*borderless*),and bring about changes in various areas of life. The development of information technology has given rise to a variety of services in the field of information and communication technology with various facilities. In this case, the internet is part of this advancement in information technology, which makes it easier to interact without having to interact directly with each other.

Technological developments have not only had positive impacts on society. For example, internet technology can have negative effects on its users. Through the





internet, various types of crimes have become easier to commit, such as defamation, pornography, account hacking, network destruction, virus attacks, and even gambling.*on line*. One of the tools that is often used in gambling *on line* is *cell phone* and computers, where cell phones are used as a means of communication, while computers are used as a means of work, but in principle they remain the same, they can be used as a tool to commit crimes or criminality. Advances in computer and internet technology have also influenced the growth of gambling crimes, which utilize these two platforms. This type of crime is difficult to eradicate from society, especially given its more private and secretive nature, making it easier for perpetrators to commit these crimes.

In essence, gambling is contrary to religion, morality, and ethics, and endangers society, the nation, and the state, especially from a national perspective. Gambling has a negative impact, harming the morals and mental well-being of society, especially the younger generation. On the one hand, gambling is a social problem that is difficult to address, and its emergence has existed since the dawn of human civilization.

According to the Big Indonesian Dictionary, gambling, or wagering, is a game that uses money as a wager. Gambling is risking money or property in a game of chance, with the goal of winning more than the original amount.

Gambling is a game in which players place bets on one option among several, with only one option being correct and winning. The losing player gives their stake to the winner. The rules and betting amounts are determined before the game begins.

Despite being banned, gambling still persists. The mediums used to wager money are increasingly diverse, from hotel rooms to football matches to the internet. Gambling is a crime that is difficult to eradicate. From a legal perspective, gambling is a criminal offense (*delict*) which disturbs society. Gambling encourages people to always win, making them greedy and obsessed with winning. However, the result is often defeat. Meanwhile, the impact of gambling can encourage people to commit crimes such as theft, robbery, corruption, and other forms of immorality.

Gambling is a behavior that violates the law and has become a habit in almost every social environment. Various forms of gambling have become widespread in everyday life, both openly and covertly. Some communities have even become permissive and seem to view gambling as normal and unnecessary. Consequently, numerous lottery and other gambling agencies have opened in various places, which have actually siphoned off significant amounts of public funds.





## 2. Research Method

Based on the object of research which is positive law, the approach method used in this study is a normative juridical approach. As a normative juridical study, this research is also conducted by analyzing the law, both written in books (*law as it is written in the book*) or laws decided by judges through court proceedings (*law as it is decided by the judge through judicial process*) or what is often called doctrinal research.

In connection with the type of research used, namely normative juridical, with the aim of obtaining qualitative results, the approach taken is a legislative approach (*statute approach*), carried out by means of library research (*library research*) namely by reading, studying and analyzing literature/books, laws and regulations and other sources

## 3. Results And Discussion

Under Indonesian civil law, contracts arising from gambling are void by law because they violate public order and morality. Consequently, the contract is deemed never to have existed, and there is no right to demand repayment of debts arising from gambling.

Gambling agreement *in line* contradicts the valid conditions of an agreement (Article 1320 of the Civil Code), one of which is the existence of a lawful cause (object). Gambling is an activity prohibited by Indonesian criminal law, as stipulated in Articles 303 and 303 bis of the Criminal Code and Law No. 7 of 1974 concerning the Regulation of Gambling. Therefore, the cause of the gambling agreement is not lawful (contrary to law, public order, and morality).

Causes or objects that are not lawful (contrary to law, morality, or public order) based on the Civil Code (KUHPerdata) will be declared null and void by law (*null and void*). This means that the agreement is deemed to have never existed in the first place and does not give rise to any legal consequences.

According to Article 1320 of the Civil Code, one of the objective requirements for a valid agreement is the existence of a lawful cause. This provision is clarified in:

1. Article 1335 of the Civil Code: An agreement without a cause, or one made for a false or prohibited reason, has no legal force.
2. Article 1337 of the Civil Code: A cause is prohibited if the cause is prohibited by law, or if the cause is contrary to good morals or public order.

A lawful cause here refers to the content of the agreement itself or the goals the parties wish to achieve, not merely the personal reasons of each party. If an agreement does not meet the objective requirements (an object or cause that is not lawful), then the agreement is void by law. This differs from an agreement



that can only be canceled (*vernietigbaar*) due to failure to fulfill subjective requirements (for example, coercion, error, or fraud).

Because this is intended for nothing other than the contents of the agreement. The possibility of misunderstanding must immediately be eliminated that this is something that causes someone to make the agreement in question. That's not what the law means for *halal* reasons. Something that causes someone to make an agreement or a mental impulse to make an agreement is in principle ignored by the law. In principle, the law does not care about what a person has in mind or what a person aspires to. What the law or statute pays attention to is only the actions of people in society. For example, I bought a house because I had money saved and I was afraid that in a short time there would be some government monetary action or the value of money would continue to decline.

According to Article 1337 of the Civil Code, a cause is declared prohibited if it is contrary to law, morality, and public order. A cause is said to be contrary to law if the cause in the relevant agreement contains content that is contrary to law, if the cause in the relevant agreement contains content that is contrary to applicable law.

In the legal realm of contractual obligations, the term "cancellation" essentially refers to a situation that results in a contractual relationship being deemed to have never existed. With the cancellation of an agreement, the existence of the contract is automatically erased. The legal consequences of cancellation, which erase the existence of a contract, are always considered retroactive to the date the agreement was made.

Understanding the cancellation of an agreement should be linked to the failure to fulfill the conditions for the validity of the agreement, the failure to fulfill the subjective element, if the agreement is born due to a defect in will or due to incompetence so that the agreement can be cancelled and the failure to fulfill the objective element, if there is an agreement that does not fulfill the conditions for a certain object or does not have a cause or the cause is not permitted so that the agreement is void by law.

Thus, cancellation is more directed towards the process of forming an agreement (closing the agreement). The legal consequence of canceling an agreement is a return to the original position, as it was before the closing of the agreement. The further consequences and effects or working power of cancellation if after the cancellation one of the parties does not fulfill its obligations (return what it has been allowed) then the other party can file a counterclaim (Article 574 of the Civil Code) for the return of its property or an individual lawsuit on the basis of unpaid payments (Article 1359 of the Civil Code).

In practice, it's common to encounter clauses that regulate the cancellation of



part of the substance of a cooperation agreement, commonly referred to as "partial cancellation" clauses. These clauses generally stipulate that if one or more provisions are declared void, the voided clauses are deemed never to have existed. However, as long as they are unrelated to the substance of the voided clause and are still enforceable, the remainder of the cooperation agreement remains valid.

Cancellation of an agreement will return both parties to the situation they were in before the agreement was made. If one party has received something from the other, the item will be returned. In such cases, the agreement is not legally void, but cancellation must be requested from a judge. This request must also be made, even if the condition for cancellation regarding non-fulfillment of obligations is stated in the agreement. The judge, at the defendant's request, may grant a time limit of no more than 1 (one) month.

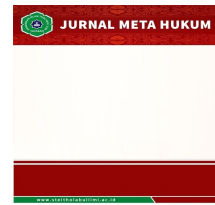
Police members who carry out gambling agreements *son line* This is an act that is not legally permissible. Furthermore, Article 6, letter q of Government Regulation No. 2 of 2003 concerning the Indonesian National Police Disciplinary Regulations also prohibits abusing authority in carrying out their duties as police officers. A police officer who commits the crime of gambling *son line* A judicial process must be carried out and criminal responsibility must be held in accordance with the offense committed. Police officers who commit violations will be held accountable through a Police Disciplinary Hearing, a Police Code of Ethics Hearing, or even a General Court.

Members of the Republic of Indonesia Police who committed the crime of gambling *son line* With the enactment of Law Number 2 of 2002 concerning the Indonesian National Police, these police officers are subject to the same penalties as other civilians who commit crimes. This is clarified in Government Regulation Number 3 of 2003 concerning the Mechanism for Handling Members of the Indonesian National Police Who Commit Crimes.

Members of the Republic of Indonesia National Police who engage in gambling *son line*, then the handling of the case investigation process is handled by the criminal investigation unit, after which it is handed over to the Disciplinary Enforcement Complaint Service (P3D), better known as Propam. The results of the investigation are then submitted to the prosecutor's office for further trial in the local court where the case occurred. If a sentence has been imposed, the member of the Indonesian National Police will receive the same sanctions as other civilians.

Police members involved in gambling cases *son line* In addition to being tried in a general court, sanctions can also be imposed, including dismissal from the Indonesian National Police (Polri) unit. Dismissal from the service unit is





regulated in Government Regulation Number 1 of 2003 concerning Dismissal of Members of the Indonesian National Police.

Police officers involved in gambling crimes *line* undergoing investigation for ethical code violations. National Police Chief Regulation Number 7 of 2022 concerning the National Police Professional Code of Ethics stipulates in Article 7, Letter c, that every police officer performing or carrying out their duties must be professional and procedural. Our investigation indicates that the four individuals were unprofessional and violated standard operating procedures (SOPs), leading to the assault.

Police officers who violate the code of ethics will be prosecuted by Propam. Police officers who commit gambling crimes *line* basically subject to general courts. The criminal responsibility of the Indonesian National Police is subject to general courts, this has been regulated in Law No. 2 of 2002 concerning the Police, Article 29 paragraph (1) which states: Members of the Indonesian National Police are subject to the authority of the General Courts.

Propam's role in enforcing the police professional code of ethics against police officers who violate it is to assist in providing security and oversight within the police organization. Investigations into alleged violations of the police professional code of ethics are conducted through the following stages:

- a. Audit investigation
- b. Title case
- c. Preliminary examination and filing
- d. Issuance of legal advice opinions
- e. Code of ethics hearing by the Indonesian National Police professional code of ethics commission.

The provisions regarding the Indonesian National Police's professional code of ethics as stipulated in Law Number 14 of 2011 are moral principles with the hope of fostering a high level of commitment among all members of the Indonesian National Police to adhere to and implement the Indonesian National Police's professional code of ethics in all aspects of their lives, including in carrying out their duties in daily life and in serving the community, nation, and state. These moral principles are important to understand and actualize because, in any case, the success of implementing a provision, norm, or rule, including the code of ethics, depends on its implementation. Every member of the Indonesian National Police must have a strong commitment to upholding its code of ethics. The success or failure of the Indonesian National Police institution depends on the high moral integrity of each member. The Indonesian National Police is the institution closest to the community, so that immoral acts committed by a handful of members of the Indonesian National Police will damage the image of





the Indonesian National Police as an institution.

In addition to carrying out police duties and functions, Indonesian National Police investigators also have the authority to investigate and enforce the law against members or individuals who commit crimes. In addition to the above, investigators are required to pay attention to and properly resolve reports and/or complaints from the public, in accordance with their duties and functions as investigators.

Investigation of members of the Republic of Indonesia National Police who committed the crime of *gambling on line*, carried out by investigators as regulated in the criminal procedural law applicable in the general court environment, which is emphasized in Article 2 of the Government Regulation of the Republic of Indonesia Number 3 of 2003 concerning the Technical Implementation of General Court Institutions for members of the Police of the Republic of Indonesia.

Examination of Polri members is carried out according to rank level, namely in accordance with the provisions of Article 5 of Government Regulation Number 3 of 2003 concerning the technical implementation of general judicial institutions for Polri members, where examination of Polri members in the context of investigations is carried out by taking into account rank.

For any violation of the law and/or crime involving or involving a member of the Indonesian National Police (Polri), the role of the Criminal Investigation Agency (Ankum) is crucial. Ankum is a superior officer who, due to his/her position, is authorized to impose disciplinary action on his/her subordinates. The importance of Ankum's role lies in its ability to identify members who commit violations of the law, including criminal acts, to be prosecuted, both internally within the Polri and through the general judicial process. Every legal process must be conducted with the knowledge of the Ankum, as it has full authority and is considered to be more knowledgeable about the issues faced by each of its members.

Article 29 paragraph (1) of Law Number 2 of 2002 concerning the Indonesian National Police and Government Regulation Number 3 of 2002 concerning the technical implementation of general judicial institutions for members of the Indonesian National Police provide the basis for the types of criminal violations committed by members of the police. Article 29 paragraph (1) states that members of the Indonesian National Police are subject to the authority of general judicial bodies.

The statement of this article explains in broad terms that if a member of the Indonesian National Police commits a type of crime, then he must submit to the general courts as regulated by law. The same thing is also found in Article 7





paragraph (4) of MPR Decree Number 7 of 2000 concerning the Role of the Indonesian National Armed Forces and the Role of the Republic of Indonesia National Police, which states "Members of the Indonesian National Police are subject to the authority of the general courts."

The implementation of legal proceedings against members of the Indonesian National Police (Polri) requires a legal basis that can be used as a formal legal basis for taking action against any Polri member who commits a crime. Investigation of alleged violations of the Polri professional code of ethics against Polri members who commit gambling crimes *on line* carried out after the criminal case has been tried in the district court and has permanent legal force

#### 4. Conclusion

Legal regulations for gambling contract *on line* by police officers is invalid and null and void. This is because the object of the agreement is contrary to law, public order, and morality in Indonesia. Agreements related to gambling *on line* Any action by anyone, including police officers, is legally void in Indonesia due to its illegal nature. Police officers involved face severe criminal and ethical sanctions, up to and including dishonorable discharge (PTDH).

Law enforcement against police officers involved in criminal acts gambling *on line* Enforcement is carried out through two channels: criminal sanctions based on general law and disciplinary sanctions and the internal code of ethics of the Indonesian National Police, which can result in dishonorable discharge (PTDH). This law enforcement includes action against members who simply gamble online, especially if they are involved as protectors (backers) or part of a gambling network.

Police obstacles in combating gambling *on line* Challenges faced by its members include a lack of resources, limited technology, and internal issues such as the potential involvement of certain officers. These obstacles arise from difficulties in collecting electronic evidence, identifying perpetrators, budget constraints, and a lack of technological expertise among investigators, coupled with suboptimal coordination between the police and relevant agencies

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