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eSports Regulations and Problematics

Abstract

Digital sports, or eSportst for short, is defined as video game events with tournaments where professional and amateur players compete with each other at regional and international level (Çakar and Güler, 2018). The entry of eSports into our lives begins with the impact of industry 4.0 and the age of digital transformation on societies. Having earned its income through betting, reward systems, tournaments and sponsors, Esports has managed to attract millions of viewers from all over the world. Esports is an innovative and interdisciplinary field where information technology, new media, digital communication, finance and sports intersect. Esports, which is quite new in our country but affects many people in the world, has started to experience many legal problems in both physical and digital fields among its players, clubs and partners, and the mediation mechanism of this field has not been established yet. The regulatory methods used to solve these problems vary depending on the legal structures of different countries or the ownership of eSports companies. In this context, in our study, it has been tried to make the sport arrangements and problematics visible in our country and in the world (South Korea, Germany, Norway, USA) with case studies.

Keyword: Digital sports, eSports, new media, digital communication, regulations of sport.

INTRODUCTION

Computer games were first born with cartridge game machines like Atari, Apple, TRS – 80 and have entered our lives with the development of personal computers. Developments in software and especially graphic, audio and video quality have led to the development of game designs and then the beginning of professional gaming life (Taylor, 2012). Most sports scientists and academics do not accept eSports as a sport. Because they argue that physical activity, skills, rules and stable competition that naturally exist in sports are not in this new game culture. (Rodgers, 1977; Suits, 2007). In addition, Karhulahti of Turku University, Finland, published an article stating that "the ownership nature of the eSports ecosystem and the power of the publisher do not conform to the principle of equality in the nature of sport, and that eSports should be defined as a commercial game, not a sport" (Karhulahti, 2017). However, due to the multi-disciplinary structure of the industrial and sports sciences in the eSports ecosystem, Çakar and Çiloğlu argues "*Although eSports have not been recognized as a sport by most academics, the presence of teams and coaches, trainings, matches, fans, sponsors, and even forums on whether to participate in the Olympic games show that this area is important for sports sciences. ESports should not be considered as computer sports branches with very little physical activity as perceived today. With advances in science and technology, especially with the increase in wearable technology products and the development of augmented reality applications, eSports are likely to become sports with more physical activity*" (Çakar & Çiloğlu, 2018).

With the fact that there will be an industry wherever there is competition, eSports outperformed other branches of sports in terms of developing industry and growth figures. In this sense, South Korea, China and North America are the largest growing markets worldwide. According to 2018 figures, eSports increase balance is 38% for North America, 18% for China, 6% for South Korea and 38% for other countries (ESports and Law Summit, 2019). Turkey is at an important point in these categories. Turkey is ranked 18th in the ranking of digital games with revenue of \$ 87 million (Turkey 2018 Game Industry Report, 2019). It is necessary to distinguish between the digital games market and the eSports market. The growth and development rate of the ESports industry has reached an unprecedented level in the world. In general, while the revenues in the eSports market were 493 million dollars as of 2016, these figures reached 905 million dollars in 2018 (Akgöl, 2019). In addition, while the brand investments were around \$ 280 million in 2016, it reached \$ 694 million in 2018 (T.C. E-spor Raporu, 2018). The global eSports industry is expected to reach \$ 1.5 billion in 2020 (Deloitte, 2019). By 2020, the global eSports industry is expected to reach US \$ 5 billion (Newzoo, 2017a 8). Global eSports market revenue is estimated to reach US \$ 1.79 billion by 2022 (Statista, 2012-2022).

Some of ESports' most popular gaming tournaments are eSports games such as LOL (League of Legends), CS: GO (Counter Strike Global Offensive), Apex Legends and Overwatch. There are companies like Riot Games and Valve where each game creates and develops itself. Since games, publications and rules are monopolized by individual companies in the neo-liberal world, there is no comprehensive international regulation. In terms of institutionalization, there are various efforts and the most prominent example of this is the International Sports Federation IeSF at the international stage. In such a large industry, it is essential in all respects to introduce some basic regulations and common institutionalization. (Özsoy & Kalafat Çat, 2018).

From the perspective of the audience, it has left behind the other fields except football as a sports branch and placed in second place. For example, the League of Legends final

World Championship reached 206 million viewers. In addition, the audience following eSports competitions through applications / websites such as Twitch is not included in this reached number. eSports supporters' volume reached 121 million in 2016 and 165 million in 2018. It also is expected to reach 600 million spectators by 2020 (Afra, 2019). Some studies estimate that by 2020, the number of esport spectators will exceed NFL spectators. In this context Turkey has also shown a rapid growth similar to the world. Turkey is also the third country that spends most time gaming. This is due to the fact that the materials to be acquired in the games are acquired either by money or playing the game for a certain period of time. Turkish players prefer to acquire these items, which are generally expensive, by playing for a pre-conditioned period instead of buying them. Therefore, they are the 3rd country in the world to spend time with gaming (ESports and Law Summit, 2019). In addition, eSports has created a market in the field of education. The game industry has started to take a place in higher education thanks to its recognition as a sport, its market size, its rapid development and its audience. This expanding ecosystem of eSports is gradually spreading to other countries, by offering eSports scholarships at college and university level to students especially in South Korea and the United States. All these developments and rapid growth bring many legal gaps. In order to solve these problems, countries, federations and similar organizations are working to form a basis for legal regulations.

ESPORTS REGULATIONS IN TURKEY

First of all, it is necessary to briefly state on which foundations eSports is legally established in 2019 in Turkey. The relevant provisions of the Constitution of the Republic of Turkey in sports is as follows:

In the light of positive knowledge of the state, the independence and the youth entrusted to our Republic, in line with Atatürk's principles and revolutions, the State takes measures to ensure the upbringing and development of the views aimed at eliminating the indivisible integrity of the country and nation. The State shall take the necessary measures to protect young people from alcoholism, drugs, guilt, gambling and other similar habits and ignorance (IX. Youth and Sports, A. Protection of youth. Article: 58).

The state takes measures to improve the physical and mental health of Turkish citizens of all ages and encourages the spread of sports to the masses. The state protects the successful athlete.

(Additional paragraph: 17/3 / 2011-6214 / 1 art.) Only compulsory arbitration may be used against the decisions of sports federations regarding the management and discipline of sports activities. The decisions of the arbitral tribunal are final and cannot be appealed to any jurisdiction against these decisions. (IX. Youth and sports B. Sport protection and arbitration Article 59).

The purpose of the establishment of all sports federations in Turkey is to fulfill the objectives mentioned in the articles of Turkish constitution. When the two articles of our constitution are read carefully and understood what they say, some questions may arise about the policies implemented in sports today.

According to the superior provision of Turkish Constitution; Turkish state has to educate young people who are our future, in line with the developments in science and technology, in line with the Kemalist thought, by protecting against all kinds of ideas against the integrity of our country. Our state (through federations) has to protect the successful athletes by spreading the sport to the masses and protecting their physical and mental health. In addition, Turkish state must protect young people from ignorance and bad habits. When we look at these provisions in the constitution, it is beyond doubt that the duties of federations are of vital importance.

Together with South Korea and France, Turkey is leading the way in officially recognizing and defining eSports and eSports athletes. In this context, in 2011 eSports was recognized by the state in the federation authority with Digital Games Federation of Turkey, and in 2013, with the abolition of this federation, it retired to the deputy chairman presidential level. After this experience, in accordance with the Regulation on Organization, Duty, Authority and Responsibility of Sports Federations (Official Gazette No: 21766) eSports Federation of Turkey (TESFED) was established and began to serve in the Ministry of Youth and Sports.

After the establishment of ESports Federation of Turkey, some of the regulations mentioned below were made in 2018. In parallel with the Athletes License, Registration, Visa and Transfer Regulation (Official Gazette No. 24606) ESports Federation Athletes Registration License and Transfer Instruction has been prepared. The athletes' license is regulated by the relevant article 22 of the youth and sports services law. There is a lack of competence due to the fact that eSports is a new field and due to the lack of determination of who will provide and how to provide ESports players license education.

According to the Regulation on the Working Procedures and Principles of Independent Sports Federations' principles (Official Gazette No: 28358) eSports Federation Presidency of Turkey has prepared the Referee Instructions There are some problems in the implementation of this instruction. The instruction is often not applicable and eSports ecosystem is run by companies and publishers. Here are some examples of these conflicting situations; the instruction stipulates that there will be 5 members in the Central Arbitration Committee and there are 3; provincial representative offices are only available in nine provinces, while each should be spread out to every city.

The Private ESports Halls and Qualification Certificate Instruction has been prepared and entered into force in accordance with the Regulation on Private Physical Education and Sports Facilities (Official Gazette No: 23847). There are not enough provisions on ESports Halls and Gaming House regulations. There is a need for on-site implementation and supervision for Gaming House centers (Occupational Health and Safety Act, 2012).

The registration process of the clubs that will operate in the field of ESports is carried out within the scope of the Sports Clubs Registration Regulation. The relevant legislation of Turkish law requires that these clubs to be 'associations'. The provision of 'no license can be issued on behalf of unregistered clubs' raises the paradox of becoming an association and being a company. At the same time, the prerequisite for becoming an association is a problematic area in terms of ensuring the registration in sports events.

Increasing the effectiveness of the federation should be one of the priority areas for career planning for ESports players after quitting. There are crucial legal issues that need to be resolved in order to grant authorization to the eSports Federation to make regulations to

ensure the sustainability of sports, club and publisher relationships, and to take legal steps to resolve these issues. For example, problems in eSports houses. In an interview by Colin Johnson, the coach of the world-famous Fanatic FIFA eSports team, on 21.09.2018, the actress was at home; Talking about the issues such as eSports players not being able to bring guests, not going out at certain hours, and having to train for long hours reveals that this situation causes social development and legal problems of the players. It is not acceptable for most of the professional eSports players to be young at the level they are legally considered to be children, and to live away from outside life and be restricted during the season, considering that they are at an important stage in both their social development and their educational life.

Producing faster and more effective solutions in this rapidly developing sport is a serious necessity (Kılınç, 2020). It is also considered within the administrative structure of eSports Federation that there may be legal problems in the future. Issues such as presence of a representative of Riot Games within the Federation, representative of Riot Games being also a member of the Board of Directors of the eSports Federation (Corragio, 2019). The protection of the interests of the two sides suggests that the interests of the players and other weak members of the ecosystem cannot be protected, as both structures represent a single structure. It is not possible to say that the Federation has the ability to represent eSports players and other members of the ecosystem in the current structure.

It is considered that the subjects such as sponsorship and turnover are consciously excluded from the scope of regulation and left to the will of the parties. As in other sports, it is considered that there will be a legal gap in eSports according to which law or regulation the attitudes and behaviors of the fans and people in the system are evaluated (Law on Prevention of Violence and Disorder in Sports, 2011). There are issues conflicting with other laws regarding the implementation procedures and principles regarding how the law or regulation will be implemented, therefore, it does not seem possible to determine which law or regulation will evaluate the events that may occur in eSports activities.

Since IT law and sports law are new to Turkish law, some regulations and transformations are required for eSports. eSports fraud software and protection regulations for competitions, which is under the IT Crimes, are among the issues that need to be developed and regulated (ESports and Law Summit, 2019).

This area, which is expected to become more complex as the eSports ecosystem evolves in terms of betting, gambling, bribery and handicapping in terms of criminal law, is one of the areas where transformation and supervision should be carried out strictly.

The federation is subject to administrative law. The federation establishes governing bodies, makes legal regulations and implements them. If the club or player conflicts with the federation, there is an effective administrative law. However, private law provisions apply between the player and the club. In Turkish law, it is clearly stated that the labor law cannot be applied to mentally and physically defined athletes as the person doing this activity (Labor Law, item 4, item g). By agreement, its legal nature is that it must have a service contract and be subject to the provisions of the law of obligations. In case of conflict, it is subject to the law of obligations, not the labor law. In addition, when athletes terminate their contracts, there may be different reasons for termination. The Code of Obligations contains regulations that can be agreed otherwise; these regulations are not mandatory provisions. Under normal circumstances, federations may impose heavier or lighter regulations than in the Code of Obligations. In this context, the issues of termination of the contract must be

taken into account. For example, the termination of the contract that we encounter most in football in our country; Regulations are also made in the 26th article of the Status and Transfers Instruction of Professional Footballers. Accordingly, the party wishing to exercise the right of termination must send the protest to the other party, including the termination statement. When the TFF notifies the copies of the aforementioned notifications, it records the termination and informs the parties about this transaction.

In case of termination, the football player can be transferred only if he signs that he accepts that the club to which he will be transferred will be responsible for the legal and sportive criminal consequences of the termination.

They have to send the termination notifications of both the club and the football player to TFF for information. During the period of protecting the Professional Football Player Contract, the terminator may pay compensation to the other party for a justifiable reason, as well as some sports penalties against him in accordance with the Article 26 of the Professional Footballers' Status and Transfers Order.

The protection period is specified in the article 2 of the Status and Transfers Instruction of Professional Footballers. Accordingly, the protection period; A three-year or three-season period following the entry into force of the contracts signed by the professional football player before the age of 28 (provided that the precedent is taken as the basis before), or a two-year or two-season period following the entry of the contracts signed by the professional player after the age of 28 express.

The sportive penalties are specified in the 27th article of the Status and Transfers of Professional Footballers Instruction. Accordingly, if unfair termination is carried out by footballers during the protection periods, the football player will be banned from official competitions for six months. In the case of entertaining reasons, the term of the ban can be extended up to twelve months. In any case, these sportive penalties start from the first official competition after the footballer's registration to a new club.

The termination of the contract without any justified reason or sportive justified reason after the protection period does not cause sportive penalties. In addition, disciplinary penalties may be imposed on the player in case the club does not terminate the contract outside the protection period within 15 days from the last official game of the club in which it is registered.

Sportive penalties can only be imposed by the Dispute Resolution Board upon request. For this, it is necessary to apply to the Dispute Resolution Board until the end of the transfer and registration period following the notification made by TFF pursuant to article 26 of this instruction. This period is a deserving time.

It is normal and necessary to be subject to the relevant legislation of Turkish law in terms of insurance, labor law, benefits and opportunities. The regulation on how and under which regulation the eSports ecosystem revenues, which are generated in the context of intellectual property law, advertising law, internet and broadcasting regulations and covers almost all the revenues, will be distributed has not been regulated yet. However, such a regulation should not be in question. Such legislations will harm the development of eSports and foreign game owner / publisher / producer / the companies will probably draw operations from Turkey. In addition, in some exceptional cases where regulation is required, it can be regulated not by the Federation but by the ICTA (Information Technologies Board)

or RTÜK (Radio and Television Supreme Council). This should be considered in the context of freedom of contract; intervening is detrimental to any investor relations.

In 22 of the 48 member countries of the International Federation of eSports, eSports are recognized by the National Olympic Committees. Lastly, the Asian Olympic Council announced on April 17 2017 that the Asian Games, which will be held in China in 2022, will take part in medal competitions as an official game. In addition, the International Olympic Committee has decided to include the eSports in the Paris 2024 Olympic Games and has not yet decided whether to participate in medal competitions (cited by: Mustafaoğlu, R., DiFrancisco-Donoghue & Balentine, 2018).

From the standpoint of standard contracts and supervisory bodies, it is noteworthy that these areas should be regulated. The establishment of a federation for the eSports ecosystem, both for the protection of the rights of professional eSports players and for the protection of the interests of the two parties, as well as for the standardization of the leagues and the competitions, has been one of the important steps taken to close this gap. However, disciplinary disputes and contractual disputes have not yet reached the nature of bilateral interest because the representatives of the broadcaster, producer and federation representing one side. In order to attain this quality, a behavioral pattern should be developed over time. For this reason, it will be more efficient to address what kind of regulations exist and focus on what can be done for its standardization and do research/ scientific studies in this field.

International eSports Federation (IeSF) represents eSports at the international level. TESFED represented Turkey and applied on behalf of Turkey to the IeSF at the 3rd Global eSports summit in Busan in South Korea. The absence of an international framework institution and regulation in a federative sense is also a problematic area for this side of the argument. Lack of standardization can lead to unfair situations, as there is no set of rules for both the player and the market. While Riot Games, AB, Valve can organize competitions and establish leagues within their own set of rules, ESL, Gfinity and DH are subject to the license held by the publisher outside their rules (Taylor, 2012).

Almost all eSports teams worldwide are companies. The rationale for association request is necessary to be legally bound to the federation; however, the fact that the federation is not a fully independent federation can compromise the enforcement viability of the eSports federation by narrowing its maneuvering area. Associations are non-profit organizations due to their nature, while companies are for profit. The provision of becoming an association is a justification for the development of the sports branch in the newly developing sports branches, in order to prevent the aim of making money by protecting the financial cycle within the sports branch. For this reason, the Ministry does not allow the incorporation of newly developing sports. The difference is not the regulations to which they will be subject, but the difference in the distribution of profits to the partners. There is no such situation in the association; an association cannot distribute income to members of the association or any other persona. The main purpose of the companies is to distribute profit to the shareholders by providing income. Since these sports are accepted in the amateur branch / developing sports category, it is inconvenient for the development of the sport to be made for profit. In terms of audit, there is no problem related to this subject, even if eSports teams are companies, they may be audited according to the nature of the operation due to the existence of audit institutions such as Competition Authority or Free Market Institution in Turkey. There are no problems in terms of supervision regarding the regulations to which they will be subject.

EVALUATION and CONCLUSION

In today's online world, does eSports, which has emerged from a different concept of accessibility than traditional sports, want to be connected to the institutions and organizations that traditional sports are affiliated with? The question comes to mind. eSports ecosystem, which has already explored and developed its structure and configuration within companies in a neo-liberal world where almost every system (from sports to health and our daily lives) is incorporated in a conjunctural sense, why would it want to link itself to a regulation-binding state? Questions as such are likely to be asked by the parties (actor / producer / publisher / owner company) of the argument.

In general, the requirements for basic sports should apply to eSports and eSports players. Requirements are: Sports education, sports management, sports economy, sports industry, sports technologies, sports and health sports tourism talent selection should be determined in a general framework; within the framework of contemporary sports management approach and approaches, it is recommended that all citizens, children, young, adult, elderly women, men and disabled people should be evaluated by taking into consideration the examples in the world without disregarding the disadvantageous groups and also by taking into consideration the problems arising in the light of previous sports council decisions and sub-commission studies and existing legal regulations on issues such as ministry of sports, federations, clubs, local administrations, incorporation, commercialization, professionalization, sports law, sponsorship, social security, broadcasting rights, games of chance, violence, tax applications (Devecioğlu, 2011).

The data below presents a comparison of 4 countries in terms of legal regulations and laws in terms of eSport.

Laws on General Applicability

South Korea

According to Article 12, an organization responsible for the collection of games can be selected, and KESPA is currently appointed as such an agency, to pick and fund a variety of sports games as 'specialized games.'

Germany

Sec. 657 ff. of the German Civil Code might apply as long as no payment to participate is required and a reward of any kind is paid.

Norway

Not mentioned.

The USA

Not mentioned.

Laws on Gambling

South Korea

Article 48, Items 3 and 4 provide for criminal sanctions for the illegal sports lotto. Article 246, Paragraph (1) provides for criminal punishments for gambling, including gambling on the result of a game. Article 314 provides for criminal penalties to be enforced on a person who interferes with the business of a tournament organizer by manipulating the result of a match or by fraudulent means. Article 317 provides for criminal penalties for a individual who, by manipulating the result of a match, defrauds a betting company and thereby obtains a financial benefit.

Germany

"Sec. 762 of the German Civil Code providing that games and bets do not establish a legal obligation ('Game' is interpreted to refer to gambling and skill games; esports might be interpreted to be skill games). Sec. 33i para. 1 sent. 1 in conjunction with Sec. 33d para. 1 sent. 1 of the Trade, Commerce and Industry Regulation Act ('GewO') requiring a gambling hall license for the commercial organization of a gaming (not necessarily gambling) event with prize money. According to German case law, only applicable if the event is held

predominantly for the purpose of playing; therefore, it should not be applicable if the main purpose of the event is to watch other people play. Sec. 6 of the German Youth Protection Act ('JuSchG'): in the context of esports only as far as Sec. 33i GewO applies (see above): prohibiting to permit minors to be present in gambling halls. Interstate Treaty on Gambling ('GlüStV') (referring to gambling and betting, thus in the context of esports only applicable to betting activities, especially Sec. 4 and 5). Sec. 284 of the criminal code ('StGB') providing criminal sanctions for the illegal offering of gambling and betting activities."

Norway

The main acts applicable to gaming in Norway (the "Gaming Acts") are the Act dated 1 July 1927 no. 3 relating to betting using a totalisator system, Act of 28 August 1992 no. 103 relating to Cash Gaming etc. and Act dated 24 February 1995 no. 11 relating to Lotteries etc. In addition, there is a Payment Blocking Regulation of 19 February 2010 no. 593 under which banks and payment providers are obliged to block payments to and from account numbers associated with gambling which do not have a license in Norway.

The USA

"The most frequently-invoked federal anti-gambling statutes in the United States include: (1) Illegal Gambling Business Under The Organized Crime Control Act ("OCCA"), 18 U.S.C. §1955. The Travel Act, 18 U.S.C. §1952. Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. § 1961 et seq. Unlawful Sports Gambling Act, 28 U.S.C. § 3702. Federal Lottery Statutes, Various State Laws, The Unlawful Internet Gambling Enforcement Act of 2006 (the "UIGEA"). The Wire Act, 18 U.S.C. § 1084. "

Laws on Applicability of Regulations

South Korea

"Article 26, paragraph 1 provides for a compulsory shutdown program in which Internet gaming service providers (generating KRW 30 billion or more of annual sales) must block access to Internet gaming by juveniles under the age of 16 between midnight and 6 a.m. The compulsory shutdown program also extends to juveniles competing in an esports tournament. Article 59, Item 5 provides for criminal penalties on a person who violates the mandatory shutdown system (imprisonment for up to two years or a fine of up to KRW 20 million)."

Germany

Not mentioned.

Norway

Not mentioned.

The USA

To be legal in the United States, esports tournaments and other competition activity must be structured in a way that complies with (a) federal and state anti-gambling laws [which generally prohibit (i) placing a "bet, stake or wager" (ii) on an event whose outcome is determined predominantly by chance (iii) in the hope of receiving a prize or something of value], and (b) federal and state laws prohibiting illegal private lotteries [generally defined as consisting of (i) a "prize" (i.e. legally defined as just about anything that has measurable value – such as money, a new car, or even a contestant spot on a game show – that is discriminatingly provided to contestants based on chance or their relative merit), (ii) chance (i.e. the selection of a winner through a random drawing or any means other than bona fide skill) and (iii) mandatory consideration, which may be monetary or non-monetary in nature (i.e. in order to enter, participants must make a purchase, pay an entry fee, engage in a substantial amount of time or effort, provide personally sensitive information that is not required in the context of the game or for purposes of awarding a prize, or waive a legal right)]. If all three elements exist in an esports competition or in any online, offline or mobile gaming operation, that operation constitutes an illegal private lottery or illegal gambling, which are treated interchangeably for purposes of this Guide.

Laws on Advertisement

South Korea

Article 34, Paragraph (1) prohibits the suggestion of a game rating that is different from the actual rating, advertising content that is different from the actual content of the game, and advertising that encourages a speculative spirit.

Germany

"German Copyright Act ('UrhG'), especially Sec. 23 sent. 1 and Sec. 39 para. 1 prohibiting the modification or alteration of the work without consent of the owner (modifying or altering the videogame by inserting advertisement). German Act against Unfair Competition ('UWG'), especially Sec. 5a para. 6 prohibiting surreptitious advertising. Interstate Treaty on Broadcasting for offers on broadcast media ('RStV'), especially Sec. 7 requiring advertisement to be separated and identifiable as advertisement. Sec 5 para. 3 GlüStV as far as betting on esports is concerned (prohibition of online advertisement)."

Norway

Act relating to the control of marketing and contract terms and conditions, etc. dated 9 January 2009 (the "Marketing Act". Act relating to distance selling contracts dated 20 June 2014 No. 27 ("Distance Selling Act"). Regulation on unfair commercial practice dated 1 June 2009 No. 565

The USA

The Federal Trade Commission Act (5 U.S.C. §§ 41–58) prohibits "unfair" and "deceptive" acts and practices. The Federal Trade Commission Guides Concerning the Use of Endorsements and Testimonials in Advertising, 16 CFR Part 255

Laws on Intellectual Property Protection*South Korea*

Article 2, Item 1 provides for the protection of copyright from a me-too game that has similar rules and/or expressions. Article 35 provides for the first-to-register system for trademarks. Article 13 protects and fosters creative activities related to games as intellectual property rights.

Germany

"German Copyright Act ('UrhG'), especially Sec. 23 sent. 1 and Sec. 39 para. 1 prohibiting the modification or alteration of the work without consent of the owner (modifying or altering the videogame by inserting advertisement). German Copyright Act ('UrhG'), especially Sec. 2 in conjunction with Sec. 69a ff.; Sec. 2 defining which elements are protected; Sec. 16, 19, 19a, 20, 22, 23 defining the exploitation rights. German Trademark Act ('MarkenG')."

Norway

Act relating to copyright etc. dated 15 June 2018 No. 40. Act relating to trademarks etc. dated 26 March 2010 No. 8

The USA

The Copyright Act codified in Title 17 of the United States Code. The Lanham Act (15 U.S.C. §§ 1051 et seq.) is the primary federal trademark law in the United States. The Lanham Act prohibits a number of activities, including trademark infringement, trademark dilution, and false advertising. State Franchise Laws and the Federal Franchise Rule (16 CFR Parts 436 and 437) gives prospective purchasers of franchises (including esports teams sold in a franchised league) the material information they need in order to weigh the risks and benefits of such an investment. The Rule requires franchisors to provide all potential franchisees with a disclosure document containing 23 specific items of information about the offered franchise, its officers, and other franchisees. California Talent Agency Act (Cal. Lab. Code §1700 et seq.) prohibits unlicensed talent agents from procuring employment for an artist. Sherman Antitrust Act (15 U.S.C. § 1) prohibits unreasonable restraints on trade; and unlawfully obtaining, maintaining, or abusing monopoly power.

Law Enforcement Outside Legal Territory*South Korea*

"Business companies working overseas must comply with Korean law when providing gaming services or tournaments to Korean users. If a game service is provided for Korean users, but the game service provider does not comply with Korean law, the Korea Communications Commission ("KCC") can block and has blocked such non-compliant games."

Germany

Even when operating abroad, institutions shall comply with German law in the event of esports events targeting the German market, e.g. by addressing German players and/or consumers, even if they are also open to players and/or consumers of other countries.

Norway

"Entities operating abroad shall comply with Norwegian law in cases of esports events addressed to Norwegian players and/or consumers, even if they are also open to players and/or consumers of other jurisdictions. The usage of claims in Norwegian, accepting payments in Norwegian currency, language of website, nationality of sponsor and other circumstances will be considered by Norwegian authorities as indicators of the applicability of Norwegian law."

The USA

Entities operating abroad are required to ensure that their activities in the United States and their online activities that are directed to users in the United States comply with United States privacy, consumer protection and other laws.

Video game Certification

South Korea

There is a certification procedure only applicable to sports tournaments. However, all games must be assessed by the GRAC, and if there are questionable elements to any tournament, such as a very high entry fee or prize, the game might be graded as 18+. If an Esports Tournament is considered to be gambling, the GRAC may refuse the rating of the game, or the KCC may block access by Korean users.

Germany

"There is no separate certification for the use of video games in esports tournaments, with the exception of the certifications necessary for their sale to the public, such as those provided by age-rating system of the German Self-Regulation Organization for Entertainment Software (USK). According to German case law, a gambling hall license is required for the commercial organization of a gaming event with prize money if the event's predominant purpose is for attendees to play. Consequently, it should not be required if the predominant purpose is to watch other people play."

Norway

There is no dedicated certification for the usage of video games in esports tournaments imposed by law. The rating systems provided by the Norwegian video game and Internet content age rating system are based on the self-certification rule (e.g. PEGI).

The USA

No certifications are needed to use video games in esports tournaments, but the game developer and/or publisher controls the public performance rights in the games that they own, so public esports tournaments that are conducted without permission from the game owner risk violating the game owner's copyright and other rights in the game.

Sponsorship Agreements Requirements*South Korea*

There are no particular requirements or regulations applicable to esports tournaments sponsorship.

Germany

There are no specific requirements applicable to sponsorship agreements for esports tournaments, requirements are in general similar to those of normal sports events (see e.g. Sec. 8 RStV).

Norway

There are no specific requirements applicable to sponsorship agreements for esports tournaments, requirements are in general similar to those of normal sports events (see e.g. Sec. 8 RStV). For further regulations see applicable laws on advertisement above.

The USA

No specific requirements apply to sponsorship agreements for esports tournaments, but the California Talent Agency Act (Cal. Lab. Code §1700 et seq.) prohibits unlicensed talent agents from procuring employment for an artist and could be implicated by various sponsorship structures that require players to perform certain types of services.

Participation Requirements*South Korea*

"A participation fee may be required. However, if the esports tournament system is such that entry fees are pooled together for a game of chance and the pool is distributed to the winner(s), then it could be viewed as gambling and be prohibited. The participants should be determined based on the age rating for the game in the esports tournament."

Germany

In general, the organizer can make use of its domiciliary right ('Hausrecht'), but it is highly recommended to make sure that the criteria of selection are objective, transparent and nondiscriminatory.

Norway

"The Gaming Acts grants the monopoly to the State or subject to a license issued by the state on "the organization and exercise of games of skill and betting competitions, for which a reward of any kind is paid and whose participation requires the payment of a monetary stake". In this respect, the risk is that the payment of an annual registration fee to an esports tournament league might be considered as the monetary stake against which the reward is granted. Therefore, agreements with players need to be structured so that such risk is avoided. Criteria for the selection of participants need to be objective, transparent, and non-discriminatory."

The USA

"Under United States law as currently interpreted and enforced, esports tournament organizers can

generally require participants to pay an entry fee to compete, provided the tournament is properly structured as a skill-based competition and the prize pool is structured in a way that prevents the entry fee from being converted into an illegal bet, stake or wager. Most esports tournaments are open only to players who are 13 years of age or older. Other criteria for selecting participants need to be nondiscriminatory. Services Agreements with players need to be structured in a way that complies with state and federal labor and employment laws."

Player Contracting

South Korea

There are no special measures for this issue. However, the enforcements of the Standardized Contract Regulation Act shall be the measurement.

Germany

Terms and Conditions have to be transparent and made accessible for participants before they enter the tournament. They should provide information about the rules of the game and how winners will be selected.

Norway

There are not any specific requirements applicable to sponsorship agreements for esports tournaments, other than the general ban on any form of direct and indirect advertising related to betting activities, gambling and other types of games with cash winnings which do not have a Norwegian license as well as the prohibition on marketing of certain alcoholic beverages and tobacco.

The USA

Esports tournaments need to be structured in accordance with United States contest and sweepstakes laws and anti-gambling laws, with long form Official Rules governing participation in the tournament, game play rules describing how the tournament will be scored, short form disclosures that inform prospective entrants about basic tournament information and where they can learn all the relevant information about the tournament, and tax laws and rules governing the prizes that are awarded. Because personally identifiable information and other personal data will be actively and passively collected from players who participate in the tournament, state and federal privacy laws also need to be taken into account in the Official Rules or other T&Cs for the esports tournament, including any qualifying rounds.

Selecting the Winner

South Korea

There are no specific requirements concerning this issue. However, if the selection was unjust, the participants may bring a lawsuit. Also, the prize should not be a product of gambling.

Germany

There are no legal requirements in choosing the winner but it is strongly recommended to set out requirements for the selection of winners and the awarding of prizes and restrictions (e.g. the rules of the game) in a terms and conditions document, especially if the players are non-professionals and therefore to be treated as consumers. Apart from that, general contract and consumer law rules will apply to the proper selection of winners.

Norway

General contract and consumer law rules will apply to the proper selection of winners.

The USA

The Official Rules for each esports tournament should describe how winners are selected and the prizes that are available. The winner selection protocols must be structured in a way that complies with United States contest and sweepstakes laws and anti-gambling laws.

Legal Action Against Players

South Korea

Esports tournament organizers can impose sanctions in accordance with the terms and conditions of the tournament. Such enforcements can take place during the period of the tournament, and the organizers may request the banning of these players permanently.

Germany

Organizers can enforce contractual provisions set out by the T&Cs of the tournament. Additionally, organizers might be able to substantiate sanctions on the basis of their domiciliary right.

Norway

Organizers can only enforce contractual provisions set out by the T&Cs of the tournament. However, limitations can apply to actions that can be taken against players without a court order.

The USA

Organizers can enforce any such restrictions set out by the T&Cs for the tournament. This activity could also expose the people or entities that participate in such activity to potential criminal prosecution by government authorities.

Prizes*South Korea*

There are no special measures for the prize selection. However, if the worth of the prize is excessively high, this may result in gambling, thus, may require measures according to the gambling law.

Germany

Organizers can enforce contractual provisions set out by the Terms and Conditions of the tournament. Additionally, organizers might be able to substantiate sanctions on the basis of their domiciliary right.

Norway

"There are no requirements for selecting the prize. However, if players are paying in cash to participate in an esports tournament which contains elements of chance and obtain a prize in cash or in kind with economic value, there is a risk of requalification of the tournament as gambling. " Regulations of Online and Offline Tournaments

The USA

Cash and non-cash prizes can be awarded in esports tournaments that are conducted in the United States, but prize restrictions and limitations should be described in the Official Rules for the tournament and tax law and rules may affect how the prize fulfillment is administered and, in particular, whether withholding taxes must be taken out of or otherwise paid for by the winner before the prize is awarded. If players are paying a cash entry fee to participate in an esports tournament, care must be taken to avoid converting the prize pool into an illegal purse, which would risk converting the entry fee into an illegal bet, stake or wager.

Regulations of Online and Offline Tournaments*South Korea*

There is no difference in the applicable regulations.

Germany

According to German case law, a gambling hall license is not required for online games. The existence of a virtual domiciliary right is widely recognized at least if the person owns the servers used. Consequently, at least if the organizer of the online esports tournament owns the servers used, he might exercise this right. The online advertisement of bets on esports events is prohibited.

Norway

Where the Norwegian gambling laws apply it does not matter whether there is an online or offline esports tournament.

The USA

Offline esports tournaments generally implicate the same laws, rules and regulations as online esports tournaments, and vice versa, except some United States privacy laws are technically focused on the online collection of information, as opposed to the offline collection of information.

Translation of Terms*South Korea*

According to the Standardized Contract Regulation Act, adhesion contracts must be written in the Korean language. However, there is no sanction or penalty for violating this requirement.

Germany

Under consumer regulations, terms and conditions must be provided in German in order to be clear and unambiguous for participants in Germany.

Norway

Under consumer regulations, the information intended for consumers and users shall also be shown in Norwegian.

The USA

Not required.

Penalties of Non-Compliance*South Korea*

Statutory penalties depend on the type of violation. It can range from an administrative fine to criminal penalties.

Germany

Criminal sanctions like imprisonment or fines can apply in the case of exploitation of the protected elements of a videogame (reproduction, distribution or communication to the public) without the consent of the right holder (Sec. 106).

Norway

In cases of infringement of marketing law, an administrative sanction can be issued. The level will depend on the gravity of the case and whether there are repeated instances. In case of breach of gambling laws, criminal sanctions can apply. Additional sanctions and fines can apply, depending on the challenged breach.

The USA

A violation of the criminal anti-lottery or anti-gambling laws can result in criminal prosecution and can also constitute a predicate act that exposes the party violating those laws to civil liability.

Recently, eSports has become a worldwide profession (especially between the ages of 16-22). There are nearly 50 e-sports teams and 250 licensed players in our country, especially football clubs. Although it is not accepted by some academics and sports scientists whether or not eSports is a sporting activity, it is important to make the work areas of digital sports visible in terms of positive or negative propositions of sports scientists.

It is suggested that federations should try to find solutions to the problems by briefly defining eSports' relations with different disciplines, distinctive features of organizations and competitions, and profiles of communities and supporter groups. In order to reach valid, reliable and consistent concepts related to eSports, cause-effect relationship should be carried out from the perspective of sports science.

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