

## **E-SPORTS: A FOOTBALL WORLD CUP WITH 20 MILLION PARTICIPANTS**

*Thousands of fans cheer them on their way into the arena, millions more are glued to their screens at home to see them in action. The talk is not about the football stars of this year's World Cup, but e-athletes. E-sports is not as far away from recognition as a sport, as one would believe.*



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### **What is e-Sport?**

E-sports - or electronic sports - is the athletic competition between people with the help of computer games. So far, it does not receive the amount attention it deserves, because e-sport could very well meet the definition of sport and is highly professionalised in many areas, which in addition to hard training also includes the care of doctors, physiotherapists and psychologists for the players. Sales for the entire e-sports industry are expected to grow to \$1.5 billion by 2020, with a total audience already over 70 million. In addition to hosting major tournaments in stadiums in front of tens of thousands of people, e-sports are consumed via streaming platforms such as Twitch, Hitbox and YouTube Gaming. Thus, e-sports have long since made the move from teenager's bedrooms to the world of professional sports.

E-sports does not just mean playing sports games like football or ice hockey on the computer. In e-sports, the most widely represented computer game genres are real-time strategy games, ego-shooter games and sports simulations. Certain games such as League of Legends are usually played in teams and in the 5 vs 5 mode, while other games are primarily individual sports. Due to technological advances and the way computer games are adapted to them over and over again, disciplines in e-sports are highly dynamic.

The world's best players can earn prize money in the millions. In addition, there are lucrative sponsoring contracts, such as those concluded by the Danish team Astralis with Audi and Jack & Jones. Others are hired as e-athletes under employment contracts. For example, FC Basel has three e-athletes under contract, representing the club in national and international FIFA competitions in the eponymous video game. The German football club VfL Wolfsburg is also hiring three e-athletes as its representatives at FIFA tournaments.

Another club in the German Bundesliga is going one step further by investing in other areas of e-sports in addition to football video games: In addition to its two FIFA e-athletes Schalke 04 has a five-member team under contract, playing the fantasy computer game League of

Legends. The club wants to exploit the huge market potential in the area of sponsoring, marketing revenues from livestreams and merchandising.

### **Is e-Sport classified as a sport?**

E-Sport is currently not recognized as a sport by the umbrella organization of Swiss sports, Swiss Olympic, and you will look in vain for e-sports on the sports list of Youth+Sports (*Jugend+Sport* (J+S)). According to Art. 7 of the Ordinance on the Promotion of Sport and Physical Exercise, the Federal Office of Sports (FOSPO) can apply for a sport to be recognised.

In the definition of sport, Swiss Olympic relies on the specifications of the non-profit organization SportAccord. For the recognition of a sport, the following requirements must be met:

- The sport should include a competitive element;
- It should not depend on luck factors that are specifically integrated into the sport;
- It should not be judged on the basis that it poses an excessive risk to the health and safety of athletes or participants ;
- It should in no way be harmful to living creatures;
- It should not rely on equipment that is only provided by a single supplier.

Given this definition, e-sport can certainly be considered a sport. A special physical exertion is not required. However, Swiss Olympic stresses that sports with limited physical and athletic activity are carefully examined, but does not specify any concrete criteria. Although not obvious at first glance, e-sports are quite physically demanding: in addition to hand-eye coordination, reaction speed and tactical and foresighted thinking, professional e-athletes achieve heart rates that are within the range of "normal" athletes.

Requests for recognition as a mind sport - if one would call e-sports as such – are considered by Swiss Olympic only after consultation with the International Mind Sports Federation (IMSA). It only accepts international sports federations that bring together at least 40 national associations on at least four continents. These requirements are also met by e-Sports as the International e-Sport Federation (IESF) already comprises more than 40 national e-Sports federations spread over five continents. In the long term, international and national recognition is the declared goal of the IESF and the Swiss e-Sports Federation, which was one of the founding members of the IESF.

In some countries (such as the USA, South Korea, Brazil, China and France) e-Sports is already recognized as a sport by the established sports federations.

### **Benefits of recognition and governance**

It is a justifiable question whether an acknowledgment is at all advantageous or even necessary. In addition to higher social esteem, recognition would make e-Sport more attractive to potential sponsors and make it possible to obtain financial support and other services from national sports federations. It would also make it easier to issue visas for participation in international tournaments, as is the case in the US, which recognizes e-athletes as professional athletes.

The installation of a formal, worldwide regulation body would be more important than recognition as a sport. Without global governance international tournaments will be very difficult to

organize. A sustainable grow of e-Sports would only be possible, if consistent rules and regulations apply - inter alia to cheating.

### **Fraud**

Even in e-Sports "cheating" is already a hot topic. In contrast to 'traditional' sports, in e-sports cheating is not only possible with doping and betting fraud, but above all with the installation of configurations and additional programs on the PC that make playing easier and more supportive. Then, in the case of account sharing, it is possible for a player to be represented in online games by another, better player and thus gain a wrongful advantage. The monitoring of the compliance of the games in e-Sports thus has a further level of complication.

In e-Sports, doping issues focus primarily on substances such as Ritalin or Adderall, which promote concentration and reaction speed. Although the Electronic Sports League (ESL) - the world's largest organiser of e-Sports tournaments - has published a list of banned substances, there is currently no independent body monitoring doping in e-Sport on a uniform basis. The majority of e-Sport teams regulate themselves. Schalke 04 takes - as with its football players - blood samples from the e-athletes and tests them for illicit substances. This is primarily intended to prevent damage to the club's reputation.

Thus, recognition in this area by national and international associations would also be helpful for e-Sport. In Switzerland, Swiss Olympic would have the opportunity to impose disciplinary sanctions, which would be assessed by the Tribunal Arbitral du Sport (TAS) in Lausanne in the second instance. The International e-Sport Federation has taken a first step and is the first e-sports association to become a member of the World Anti-Doping Agency (WADA).

### **Intellectual Property**

E-Sports raises unique question regarding IP rights. In traditional sports, the leagues (e.g. Bundesliga, Premier League, La Liga), the FIFA regarding the World Cup or UEFA regarding the Champions League own the rights to their product. In e-Sports, the games publishers own the IP rights to the games and not the tournament organizers or the leagues. This raises the question, whether or not a game publisher's ownership of a game gives it legal control over its use as an e-Sport. Or whether it has legal control over the broadcasting rights and other uses of IP in tournaments playing their games. Moreover, the players do not own their "avatars", meaning the figures with which they play the games, which puts them under the control of the game publishers.

### **Future**

E-Sports will be admitted as a show sport for the first time at the Asian Games 2018 in Jakarta. Four years later, e-Sport will be recognised as an official discipline at the Asian Games in Hangzhou. Against this background, even the International Olympic Committee (IOC) is willing to admit electronic sport as an Olympic discipline. It recently commented that it is a way to arouse the interest of young people. At the Olympic Games 2024 in Paris, e-athletes could make their debut.

After the World Cup in Russia, the FIFA eWorld Cup Final will take place in London from 2-4 August. Out of the original 20 million participants, the best 32 players will compete there against each other and crown their own world champion.

Please do not hesitate contacting our sports law department, if you have any questions.

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