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## LEGAL REGULATION OF E-SPORTS: GENERAL PROVISIONS

*In recent years, the e-sports sector is gaining momentum and attracting more and more investment. Due to the rapid development of this area, the complication of public relations, the increase in the number of disputes, etc., there is an urgent need to analyze this area of life from a legal point of view. The relevance of the study is due to the rapid growth of e-sports as a powerful sector of the economy, compared to the low level of legal regulation in this area, both nationally and internationally. The article is devoted to the study of the problems of civil law regulation of e-sports, to clarify its differences from traditional sports and the legal problems faced by the participants in this relationship. The object of the study was the social relations that arise between the participants in the field of e-sports. The subject of the study is the current national regulations that are already used or can be used to ensure the legal regulation of this area. The purpose of the article is to analyze the existing national regulations that should be followed in regulating these relations, and to clarify the features inherent in the field of e-sports. In writing the article, in order to reveal this research topic, the following methods of scientific knowledge were used: the method of generalization, formal-legal method, method of analysis of regulations and comparative law method. As a result of the study, it was concluded that the current legal framework in the country is not enough for proper legal regulation of relations in the field of e-sports, but the question of the feasibility of adopting a separate law to regulate this area remains controversial. E-sports have also been found to be significantly different from traditional sports. First of all, it is about the close connection between e-sports and intellectual property rights, which is absent in the field of traditional sports. In addition, the latest information technologies are actively used in e-sports, which also requires proper legal regulation.*

**Key words:** e-sports, e-sportsmen, sports, sports law, legal regulation, investment, competition rules.

### **Толмачевська Ю.О. ПРАВОВЕ РЕГУЛЮВАННЯ СФЕРИ КІБЕРСПОРТУ: ЗАГАЛЬНІ ПОЛОЖЕННЯ**

*В останні роки сфера кіберспорту набирає обертів і залучає все більше інвестицій. У зв'язку зі стрімким розвитком даної сфери, ускладненням суспільних відносин, збільшенням кількості спорів тощо виникає нагальна потреба у аналізі даної сфери життєдіяльності з правової точки зору. Актуальність дослідження викликана стрімким ростом кіберспорту, як потужного сектору економіки, порівняно з низьким рівнем правового регулювання даної сфери, як на національному, так і на міжнародних рівнях. Стаття присвячена дослідженню проблем цивільно-правового регулювання кіберспорту, з'ясуванню його відмінностей від традиційних видів спорту та правовим проблемам, з якими стикаються учасники даних відносин. Об'єктом дослідження стали суспільні відносини, що виникають між учасниками відносин в сфері кіберспорту. Предметом дослідження є чинні національні нормативно-правові акти, які вже використовуються або можуть бути використані для забезпечення правового регулювання даної сфери. Метою статті є аналіз наявних національних нормативно-правових актів, якими слід керуватись при регулюванні зазначених відносин, та з'ясування особливостей, які притаманні сфері кіберспорту. При написанні статті, з метою розкриття зазначеної теми дослідження, були використані наступні методи наукового пізнання: метод узагальнення, формально-юридичний метод, метод аналізу нормативних документів та порівняльно-правовий метод. В результаті проведеного дослідження зроблено висновки, що наразі наявної в країні нормативно-правової бази недостатньо для належного правового регулювання відносин в сфері кіберспорту, але питання доцільності прийняття окремого закону для регулювання зазначеної сфери залишається дискусійним. Також з'ясовано, що кіберспорт істотно відрізняється від традиційних видів спорту. Передовсім йдеться про тісний зв'язок кіберспорту і права інтелектуальної власності, який відсутній у сфері традиційного спорту. Крім того, в кіберспорті активно використовуються новітні інформаційні технології, що також потребує належного правового регулювання.*

**Ключові слова:** кіберспорт, кіберспортсмени, спорт, спортивне право, правове регулювання, інвестування, правила проведення змагань.

**The relevance of the study.** Today, the field of e-sports has developed particularly rapidly. With the virtualization of many areas of human life, the audience of e-sports competitions continues to grow rapidly. Moreover, the COVID-19 pandemic has given special development to this young sector of the economy. Thus, the urgent of the study is

due to the rapid growth of esport as a young sector of the economy, compared with the low level of legal regulation in this area, both at nationally and international level.

Organizations with a promising audience and revenue prospects in this highly dynamic sector are increasingly seeking to invest in the eSports industry.

Another reason for the industry's popularity for sponsors is the "long game". The relative youth of the audience allows brands to form a pool of loyal customers in advance, even before the peak of purchasing power, because over time, this audience will become even more active and solvent and they will already have a commitment to the brand or another. e-sportsman [1].

The object of the study was the social relations that arise between the participants in the field of e-sports, the subject of the article is the existing national regulations that can be used to ensure the legal regulation of this area.

**The purpose of the article** is to analyze the existing national regulations that should be followed in the regulation of these relations and focus on those features that are inherent in the field of e-sports.

In writing the article, to reveal this research topic, the following methods of scientific knowledge were used: the method of generalization, formal-legal method, method of analysis of regulations, and comparative-legal method.

**Presentation of the key research findings.** Like most areas of human life, the field of e-sports needs legal regulation for its correct and effective operation. In Ukrainian science, there are two basic approaches to understanding sports: narrow and broad. According to the narrow approach, sport can be defined as a competitive activity aimed at identifying and unifying the comparison of human capabilities, a specific form of which is the system of competition. Sport, in a broad, sense is usually defined as a competitive activity, special training for it, as well as specific relationships, norms, and achievements in the field of this activity.

According to Article 1 of the Law of Ukraine "On Physical Culture and Sports" [2], sport is a special area of identification and unified comparison of people's achievements in certain types of physical exercises, technical, intellectual, and other training through competitive activities. Thus, we see that the legal definition of sport corresponds to a broad approach to the understanding of the sport.

On September 7, 2020, e-sports was officially recognized as a sport in Ukraine – such a decision was made at a meeting of the Commission for the Recognition of Sports in Ukraine [3]. This decision was approved in the order of the Ministry of Youth and Sports of Ukraine No. 1557 of September 16, 2020 [4]. According to this order, e-sports were included in Section II Non-Olympic and national sports of the Register of Recognized Sports in Ukraine, approved by the order of the Ministry of Youth and Sports of Ukraine of March 11, 2015, No. 639 [5].

After that, on January 26, 2021, the Ministry of Youth and Sports of Ukraine by its order № 2 / 5.3 / 21 approved the Rules of e-sports (e-sports) competitions (hereinafter – the Rules), where Chapter I of the General Provisions defined e-sports (e-sports), namely defined this concept as an individual or team sport with regulated rules, based on the interaction of the athlete with a fully or partially artificial environment (video game, computer game, mobile game, virtual and / or augmented reality, etc.) and its elements through the use of innovative and / or digital technologies and technical means, in which the achievements, skills, and training of athletes are identified and uniformly compared by conducting a training process and competitions in various disciplines [6]. Therefore, the legislator more often uses the term "e-sports (e-sports)", but in the scientific literature on this area of legal regulation, it is possible to find such terms as "e-sports", "computer sports", etc., which are used interchangeably.

The adoption of the above-mentioned Rules of e-sports (e-sports) competitions has become a significant event in this area. First, these rules were developed following the Rules and Technical Regulations of the International Esports Federation (hereinafter – IESF) [7]. Also, the issue of delimitation of jurisdiction is important, so, according to the Rules, these rules do not apply to the organization and holding of international e-sports competitions in Ukraine, organized by the International Federation of E-Sports. Interesting is the provision according to which the NGO "Ukrainian Esports Federation" [8] may hold particular international competitions without the consent of the International Federation of E-Sports and be governed by the Rules.

Given the recognition of e-sports as an official sport in Ukraine, the legal regulation of relations in this area is also subject to the Law of Ukraine "On Anti-Doping Control in Sport" [9] and the International Convention against Doping in Sport [10].

Moreover, the Procedure defines the age categories of participants in cyber competitions, namely:

- juniors – 14–16 years,
- youth – 17–24 years, and
- adults 25 and older.

Additionally, the rights and responsibilities of e-sportsmen, coaches, team representatives during competitions, and tournament organizers are prepared. The issue of sanctions applied during the competition (warning, removal, technical defeat in the game, and technical defeat in the match) is raised.

A meaningful event for the eSports industry was the decision of the Asian Olympic Council

(hereinafter – AOC) to include eSports in the official program of the Asian Games-2022 [11]. The AOC recently announced the disciplines for the upcoming 2022 Asian Games in China. Thus, the program included competitions in eight cyber disciplines: Dota 2, FIFA, League of Legends, Dream Three Kingdoms 2, HearthStone, Arena of Valor, PUBG Mobile, and Street Fighter 5 [12].

It should be remarked that the headquarters of the International E-Sports Federation is located in South Korea, where e-sports began to develop earlier and more actively than in other countries, which is why it is possible to note that the degree of legal regulation of e-sports in this country is higher.

Olympic Virtual Series [13] is a new unique experience aimed at expanding direct interaction with the audience in the field of virtual sports [14]. With its launch, the International Olympic Committee (hereinafter – OIC) [15] entered the field of e-sports. The eSports competition will be held for the first time at the 2021 Summer Olympics. Meanwhile, OIC President Thomas Bach emphasizes that the disciplines have been carefully selected, but he does not yet see the possibility of including the most popular disciplines in e-sports, such as Call of Duty and Counter-Strike in the Olympic program. In his opinion, such games contradict Olympic values. Currently, in the Olympic virtual series, e-sports competitions are divided into the following disciplines:

- Sailing: Virtual Regatta;
- Cycling: International Cyclist International (UCI);
- Rowing: open format;
- Motorsport: FIA / Grand Tourism, and;
- Baseball: World Baseball Softball Confederation (WBSC) – e-Baseball Powerful Pro Baseball 2020 [13].

Currently, the OIC is purposefully choosing to hold competitions in virtual versions of physical sports [16]. Therefore, the issue of including computer games in the Olympic program is currently open and in question.

Regarding the legal regulation of e-sports at the international level, we should turn to the IESF, which was founded in 2008 and currently has 109 member countries, including Ukraine [17]. Its charter contains mainly organizational provisions. Among the goals

of the activity are the establishment of standards for e-sports, including the adoption, development of wording, issuance, implementation, and modification of codes and manuals [7]. The Official Rulebook 2021 should now be taken into account [18].

A noteworthy issue in the field of e-sports is the issue of intellectual property for computer games. The legislation of Ukraine does not define such an object as a “computer game”, and in essence, it is a kind of such an object as a “computer program” [19]. That is why, when regulating this aspect of e-sports, one should refer to the Law “On Copyright and Related Rights” [20] and Article 433 of the Civil Code of Ukraine [21].

Thus, it should be remarked that when regulating e-sports at the national level, reference should be made, first of all, to the following regulations:

- Constitution of Ukraine;
- Civil Code of Ukraine;
- Law “On Physical Culture and Sports”;
- Law “On Copyright and Related Rights”;
- Law “On Anti-Doping Control in Sports”;
- Rules of e-sports, etc.

**Conclusions.** Based on the results of the study, the following conclusions can be drawn. Today, e-sports is an object of active investment both internationally and nationally. The scientific literature often raises the question of whether it is necessary to adopt a separate law that would regulate all aspects of e-sports in full, or whether the existing individual regulations are currently sufficient for the proper functioning of this specific area of human activity. It should be noted that the need to adopt a special law regulating relations in the field of e-sports is justified only if a sufficient level of specificity of this sport (namely – its electronic component) is recognized, which will no longer apply existing legislation and will require other progressive norms. Thus, there is currently no clear answer to this question, as there is no proper legal experience in the world based on the practice of regulating such relations.

E-sports have also been found to be significantly different from traditional sports. First of all, it is about the close connection between e-sports and intellectual property rights, which is absent in the field of traditional sports. In addition, the latest information technologies are actively used in e-sports, which also requires proper legal regulation.

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