

Challenges and developments in the European esports sector

Lighthouse Europe

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While the world's largest esports market in terms of **viewership** is the **Chinese** market, esports is more prevalent in **North America** than any other region in terms of population. In Europe, the market is growing fast. Spain has one of the largest fan bases in the European market as well as one of the most developed esports communities in Europe, with a diverse and extensive list of amateur, high-level and professional competitions. Esports is no longer a new market but **a sector worth millions of dollars** in the global entertainment market. In 2021, the total amount of **prize money** for esports tournaments reached **240 million euros**.

Esports is also becoming a lever of **soft power**. Public authorities are beginning to focus their attention on the sector. In early June 2022, **Emmanuel Macron** welcomed a certain number of esports personalities to the Elysée. The French President spoke of entering a **new era** of restructuring, moving forward and continued progress in the field of esports.

While esports is becoming a topical subject, it has **not**, as of yet, been **legally addressed** at the **European level**. This article addresses the main challenges surrounding its definition, legal understanding and opportunities.

Definition and governance

A heterogeneous discipline

The IFSE (Interactive Software Federation of Europe), **Europe's video games industry** association, defines esports as "*leagues, competitive circuits, tournaments, or similar competitions where individuals or teams play video games, typically for spectators, either in-person or online, for the purpose of entertainment, prizes, or money*".

There is a wide diversity of esports. When one thinks about esports, one could link it to a "true" sport just like FIFA with football, or NBA2K with basketball. However, **Esports is diverse**. The most well-known genres of esports are:

- Battle Royale (PUBG, Fortnite...);
- Tactical first-person shooter (Counter-Strike...);
- Multiplayer Online Battle Arena (League of Legends, Dota, Arena of Valor...).

Although few game franchises or games have worldwide tournament circuits and audiences, there are several titles in each of these genres with entire communities of fans and tournaments in different parts of the world.

The composition of the fanbase varies from game to game, but **78% are over 21** and **62% are male**. The number of female fans is growing every year and reached 38% in 2020 according to an [IFSE study](#). Appealing to Millennials and Generation Z is an important reason why brands engage in esports, since younger audiences can be harder to reach through TV and other traditional media.

A lack of overarching body and common rules

Although some regulatory bodies exist, there is **no overarching esports body**, and the highly ambiguous nature of esports makes comprehensive legislation difficult. The Electronic Sports League (ESL) has the longest tradition. The ESL, in collaboration with the World Anti-Doping Agency, introduced an anti-doping policy for the esports world. This policy includes random doping controls in a similar manner as regular athletes. Some, albeit not all tournament organisers have adopted similar policies.

Nonetheless, there is **no coherent and adequate approach to the legal and regulatory** governance of esports **at European level**, and in most Member States there is no specific legislation on esports. The question of whether sports law applies to esports often arises. It is also unclear under which legislative remit esports falls (or should fall). If the industry is to continue to grow and retain a loyal audience, a **high level of integrity must be ensured**, which can only be achieved through effective regulation.

For example, regulatory standards could be set by a parent organisation, with regulation devolved to smaller, games-focused organisations. For example, FIFA, the world governing body of football, has delegated its powers to national bodies such as the Football Federation.

In view of the expansion of the esports sector, a European regulation could also soon be in the works.

Towards common European legislation

Current esports legislation

At European level, and in most Member States, esports are covered by **existing legislation**. There are provisions on **advertising, protection of minors, and events**. The same is true for traditional sports but with different legal concerns. Similar regulation could be introduced for esports. Most of the regulatory obligations for traditional sports are rather local, but esports could benefit from a single **European regulatory guarantee**. The question is, which level should the regulatory body for esports be at. In traditional sports, this is very local, but esports are more international and heterogeneous.

The **definition of sport** in **EU primary legislation** places more emphasis on the **physical element** than many national definitions. This further emphasises the need for differentiation. The following EU legal

competences apply to esports: **competition law** (in particular Articles 101 and 102 TFEU) and **consumer protection** (in particular Article 169 TFEU), as well as the **competence to promote, coordinate and monitor sport** (Articles 6, 165, 166, 167, 168 and 173 TFEU).

Many non-EU and EU countries have little or no esports legislation. South Korea and France have the most extensive provisions. In addition to legislation supporting esports, a number of other issues need to be regulated, such as **labour law**, **procedural law** and **gambling**. Examples include clarification of **tax law** (taxation of players and prize money), **visa regulation** (separated for esports), **regulation of the non-profit status** of pure esports clubs operating at an amateur level, and in general, parallel legislation on the legal significance of traditional sports.

The European Parliament's report on esports and video games

In March 2022, the **European Parliament's Committee on Culture and Education** (CULT) launched its **own legislative procedure on esports and video games**. While this procedure does not aim to create binding rules on a given subject, it is used to inform the European Commission and make recommendations, including on the potential introduction of a legislative proposal.

Laurence Farreng (Renew, France), the **rapporteur** on this file for the CULT Committee, presented her [draft report](#) on esports and video games in April 2022. The report was adopted in committee and is scheduled to be adopted **in November in plenary**.

Within the framework of the report, **policy recommendations** were made by the Policy Department for Structural and Cohesion Policies of the European Parliament. A definition of esports was proposed, based on the main characteristics listed below:

- **human elements**, such as players, to distinguish them from machines and artificial intelligence (i);
- **digital elements**, such as video games, to distinguish them from analogue types of competition (such as traditional sports) (ii); and,
- **competitive games** to distinguish them from non-competitive games. This definition covers an incredibly broad spectrum. However, it may be functionally restricted to specific contexts (iii).

The report itself covers a wide range of topics. It emphasises that data, definitions and a harmonised legal framework are still lacking in order to fully exploit the potential of these ecosystems. The rapporteur calls on the European Commission to :

- explore the **synergies between the video games industry**, including the emergence of esports, and **innovation strategies**, particularly **in relation to the metaverse**;
- work with broadcasters, clubs and competition organisers to develop a charter to promote European values in esports competitions;
- consider establishing a **harmonised framework of rules** on the **employment** status of **professional esports players**;
- consider introducing a visa similar to the Schengen Athlete Visa for professional esports players.

One of the major points of concern for the rapporteur is identifying the **differences between esports and traditional sports**. Mrs Farreng argues that esports and traditional sports complement each other and promote similar values and skills, such as fair play, teamwork, anti-racism and gender equality.

The rapporteur also wants increased **visibility of esports** to create the right conditions for Europeans who want to play as a team. Mrs Farengo believes that creating an environment for teamwork, tournaments and sectoral expansion in Europe would be beneficial for the entire ecosystem.

The report also underlines that esports is characterised by its predominantly **digital element** and the fact that all esports are based on intellectual property rights in which the video games are owned by **private operators**. The logic of organising competitions is therefore inevitably linked to making a profit. This ought to differ from the case of traditional sports, which are supposedly run by non-commercial associations. Nonetheless, between 2015 and 2018, FIFA earned around 5,6 billion dollars, with part of it coming from the well-known video game franchise.

Finally, the report warns that intense video game play can lead to **addiction and harmful behaviour**, especially among aspiring professionals, and believes the EU should take a responsible approach and promote video games and esports as part of a healthy lifestyle that includes physical activity.

Although the process is still at a preliminary stage, these elements can foreshadow what future esports legislation in the European Union could look like.

Expected developments

An expanding market

A 2022 study by games and esports analytics firm Newzoo predicts that **esports revenues will reach \$1.7 billion by 2024**. This figure includes revenue from sponsorship, media rights, ticket sales and sales of tickets and merchandise related to teams and leagues, broadcasting fees, digital revenue and streaming revenue. As for the audience, the firm underlines that the total **number of esports enthusiasts** in 2021 was 240 million worldwide and is expected to grow over the next two years to **292 million by 2024**, while the total audience is 474 million and is expected to reach 577 million in 2024.

The attractiveness of investing in esports is based on several key factors. Revenues and audiences are expected to grow significantly; the primary target audiences for esports are Gen Z and Millennials, who are hard to reach whilst being a desired audience. The esports industry relies heavily on **sponsorship**, which accounts for almost **60% of revenues**. This can be difficult in times of economic downturn, as marketing budgets are highly cyclical and dependent on a limited number of customers. However, the industry is still in its infancy, experimenting with revenue streams and business models.

A sector for the future

The growing popularity of esports has also had a **positive impact on the hardware and electronics industry**, which manufactures and sells specialised gaming equipment - such as PCs and monitors - as well as accessories for competitive games. The **future** of the global esports industry could be defined by **mobile phones**, which will further lower the barriers to entry and enable more players and fans to participate. In 2021, **mobile gaming accounted for over 40%** of the total global esports market. This popularity is already spreading in some highly competitive regions, such as China, where the mobile sports market is booming.

Moreover, some actors linked to esports are at the forefront of the **metaverse's emergence**. While the exact shape that the metaverse will take is still unclear, some actors such as Epic Games are placing themselves as major actors of this future metaverse. Much of the technology community's interest in creating a metaverse stems from the success of games like Roblox and Minecraft. These games incorporate many of the **key elements** of the **metaverse** with **simultaneous participation** by a large number of players, a **shared environment** where users own durable goods, and **virtual economies** in the game that often have real-world value. As the report of the European Parliament states, an esports regulation could come hand in hand with potential regulatory development on the subject of the metaverse.

On 14 September 2022, just before her State of the Union speech, **President of the European Commission Ursula von der Leyen** published her [Letter of Intent](#), which details the actions the Commission plans to take in the **following year** by means of legislation and other initiatives. In the section *A Europe fit for the digital age*, the letter mentions an **upcoming legislative initiative on virtual worlds**, such as the metaverse. This initiative, which is expected to be presented in **2023**, could be a good opportunity to **harmonise rules** and allow the esports sector to grow further in the EU.

As a public affairs firm based in Paris and Brussels, Lighthouse Europe supports its clients in the analysis of French and European political priorities, particularly in the digital and environmental sectors.

Nicolas Rocher

Consultant - EU and French digital policies