

Esports Laws of the World

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Introduction

DLA Piper Esports Laws of the World is the result of fantastic teamwork of our colleagues worldwide, and demonstrates our commitment to provide our clients with innovative tools to support their business.

The esports market has been booming over the last years, but unfortunately, or fortunately, in some cases, regulations have not been able to catch up. Gambling, sports, and prize promotion/advertising rules might apply to esports events, impose restrictions or grant exemptions, depending on how and where they are organized. There are indeed a number of variables. Is the esports tournament online or land-based? Is a country recognizing esports as an official sport? Can any type of prize be awarded to participants? What are the technical requirements to be complied with? And what is the actual risk of local penalties?

At the same time, there are several different actors in the esports market. From event organizers to media companies, including online platforms, to sponsors and video game publishers which have different roles, responsibilities, and the need to preserve and maximize their profits and exploitation rights. Even stringent contracts and corporate structures might not be enforceable if in contrast with local laws, endangering the profitability of the entire investment.

And the same issues arise in contracting players. These might be players who could become extremely popular in quite a short period of time also through online streaming platforms and channels of communications that are rapidly changing. As such, the appropriate contracting of their services is paramount to avoid subsequent challenges.

This guide is not intended to give a comprehensive review of all the laws affecting esports worldwide, and it should not be considered as a replacement of legal advice. Regulation in this area is constantly changing and we will regularly update the guide, and ensure that it is responsive to clients' requests and feedbacks.

We hope this guide will help you to flag potential issues and solutions. To discuss any of these issues in more detail, please contact the key person/s in the relevant jurisdiction indicated in the guide.



Giulio Coraggio

Partner

DLA Piper Studio Legale Tributario
Associato

T +39 02 80 618 619

giulio.coraggio@dlapiper.com



Argentina

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

There is no comprehensive regulation of esports in Argentina. At the federal level, the Criminal Code – article 301 bis – provides penalties for those who exploit or organize games of chance without the appropriate legal authorization. However, under Argentina's constitutional system, the regulation of esports falls within the jurisdiction of the different provinces, several of which have issued laws on the matter. For example, the province of Buenos Aires has enacted Law 15,079 which regulates gambling on online games, including those based on the ability of the players as well as those based on pure chance.

With regard to the applicability of prize promotion regulations to esports activities:

Decree 274 of 2019 prohibits the offer of participation in games of chance, where such participation is subject to a condition that certain goods or services must be purchased by the participant. This prohibition extends to online games.

With regard to the advertisement of esports related activities:

The relevant provincial laws and regulations include restrictions on advertisements related to unauthorized esports. These restrictions are generally applicable if the advertisement is directed at customers located in the relevant province.

In addition, the federal rules on advertisements – particularly Decree 274 of 2019 – may apply to the

advertising of esports related activities, especially if such advertisement is misleading, false or otherwise implies unfair competition.

With regard to the protection of intellectual property rights as part of esports activities:

Argentine intellectual property rights are fully applicable to esports. The reach of such rights depends on the type of right involved. The Patent Law expressly regulates the types of conduct where the effects in Argentina constitute a violation of Argentine patents. In the case of copyright, the principle of protection, based on the Berne Convention, is generally applicable, and protection will thus extend to conduct taking place within Argentina or specifically directed to the Argentine market. The Trademark Law does not include express rules on the matter, but generally it will be applicable when trademark use takes place in Argentina or when marketing is specifically directed to the Argentine market.

With regard to the processing of personal data as part of esports activities:

The Personal Data Protection Law – Law 25,326 – and its regulations are fully applicable to esports activities. In particular, these rules would be applicable to personal data obtained in connection with persons located within the Argentine territory.

Extra-territoriality

Are national laws enforceable against entities operating abroad?

Argentine laws may be enforceable against entities operating abroad. However, the possibility of extraterritorial enforceability differs depending on the type of law involved. Punitive laws, such as Article 301 bis of the Criminal Code, on illegal gambling, apply to

conduct taking place in Argentina or having effects in Argentina such that these effects are the constituent elements of a criminal violation. Similar rules on extraterritoriality are applicable to regulatory statutes. Intellectual property laws are applied extraterritorially on the basis of the principle of protection, pursuant to which the different intellectual property statutes or the case law developed under such statutes determine the international reach of the intellectual property right governed by the relevant statute.

Argentine courts will generally not directly apply their jurisdictional power extraterritorially; rather, they will act through the relevant foreign courts, as provided by applicable treaties or by the general rules on international judicial cooperation.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

There is no general certification requirement for videogames. However, under certain provincial statutes, videogames which imply the possibility of bets or gambling are subject to license requirements.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

Sponsorship of esports tournaments is legal provided it complies with the general rules on advertising. However, if the esports tournament involved is illegal, the sponsor may be subject to the penalties applicable to the organizers of the tournament, if the sponsor has made the tournament possible or has otherwise facilitated or encouraged the illegal activities involved in such tournament.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

The payment of a price to participate in an esports tournament is generally legal. However, if the tournament offers prizes or other payments to participants, the organization of such tournaments may be subject to the provincial regulations applicable to esports, which may require special licenses for the organization or offer of the tournament.

Selection of participants

Is it possible to place any restrictions to the players that can participate in an esports tournament?

Selection of participants is possible if it is based on non-discriminatory criteria. Some provincial regulations restrict the access of minors to esports.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

T&Cs of esports tournament have to comply with several sets of legal requirements, namely:

- Requirements imposed by provincial regulations applicable to esports;
- General requirements imposed by the Civil and Commercial Code;
- Requirements applicable under consumer protection rules; and
- Requirements on false or misleading advertisements.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

The selection of winners and the award of prizes must comply with the rules of the tournament informed by the organizers. Violation of these rules may constitute a contractual breach, a violation of the provincial regulations on esports and, under certain circumstances, criminal fraud.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

These sanctions may be imposed if they were foreseen in the contractual or other rules governing the tournament.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

If the prize is significant, whether in cash or otherwise, the tournament may be classified as a form of gambling and governed by the provincial and other rules applicable to gambling.

With regard to the applicability of prize promotion regulations to esports activities:

In Australia, prize promotions are governed by Commonwealth, State and Territory legislation.

Games of skill do not require licenses and are generally unregulated across all Australian jurisdictions.

The laws and regulations that apply to a prize promotion for a game of chance will depend on where the prize promotion is advertised and made available to entrants. If a prize promotion is to be advertised nationally, the promoter will need to comply with the laws and regulations in each State and Territory.

NAME	
Commonwealth	<ul style="list-style-type: none"> • <i>Australian Consumer Law, set out in Schedule 2 of the Competition and Consumer Act 2010 (Cth)</i> • <i>Privacy Act 1988 (Cth)</i> • <i>Spam Act 2003 (Cth)</i> • <i>Do Not Call Register Act 2006 (Cth)</i>
ACT	<ul style="list-style-type: none"> • <i>Lotteries Act 1964 (ACT)</i> • <i>Gambling and Racing Control (Code of Practice) Regulation 2002 (ACT)</i>
New South Wales	<ul style="list-style-type: none"> • <i>Lotteries and Art Unions Act 1901 no 34 (NSW)</i> • <i>Licensing and Registration (Uniform Procedures) Act 2002 (NSW)</i> • <i>Lotteries and Art Unions Regulation 2007 (NSW)</i>
Northern Territory	<ul style="list-style-type: none"> • <i>Gaming Control Act 2000 (NT)</i> • <i>Gaming Control (Community Gaming) Regulations 2011 (NT)</i> • <i>Northern Territory Code of Practice for Responsible Gambling</i>
Queensland	<ul style="list-style-type: none"> • <i>Charitable and Non-Profit Gaming Act 1999 (Qld)</i>
South Australia	<ul style="list-style-type: none"> • <i>Lottery and Gaming Act 1936 (SA)</i> • <i>Lottery and Gaming Regulations 2008 (SA)</i>
Tasmania	<ul style="list-style-type: none"> • <i>Gaming Control Act 1993 (Tas)</i> • <i>Gaming Control Regulations 2004 (Tas)</i>
Victoria	<ul style="list-style-type: none"> • <i>Gambling Regulation Act 2003 (Vic)</i> • <i>Gambling Regulation Regulations 2005 (Vic)</i> • <i>Gambling Regulation Amendment Regulations 2012 (Vic)</i>
Western Australia	<ul style="list-style-type: none"> • <i>Gaming and Wagering Commission Act 1987 (WA)</i> • <i>Gaming and Wagering Commission Regulations 1988 (WA)</i>



Croatia

Governing law

What are the main applicable governing laws, sports laws or codes for esports (if any)?

With regard to the applicability of gambling laws:

NAME
Croatian Gambling Act (Official Gazette No. 87/09, 35/13, 158/13, 41/14 and 143/14 – “Croatian Gambling Act”)
Esports are not explicitly regulated in Croatia and there is generally no case law, jurisprudence or other literature available concerning this subject matter.
The nature of esports should not be mistaken with gambling and/or lottery games. According to the Croatian Gambling Act, gambling and/or lottery games refer to games of chance where the gain or loss depends mainly on a coincidence or other uncertain event. It should be noted that betting on esports games is subject to Croatian gambling regulations.

With regard to the applicability of prize promotion regulations to esports activities:

NAME

With regard to the advertisement of esports related activities:

NAME
Consumer Protection Act (Official Gazette nos. 41/14, 110/15 and 14/19)
Act on Prohibited Advertising (Official Gazette no. 43/09)
Electronic Communications Act (Official Gazette nos. 73/08, 90/11, 133/12, 80/13, 71/14 and 72/17)

With regard to the protection of intellectual property rights as part of esports activities:

NAME
Copyright and Related Rights Act (Official Gazette nos. 167/03, 79/07, 80/11, 125/11, 141/13, 127/14, 62/17 and 96/18)
Patent Act (Official Gazette nos. 173/03, 87/05, 76/07, 30/09, 128/10, 49/11, 76/13 and 46/18)
Trademark Act (Official Gazette no. 14/19)

With regard to the processing of personal data as part of esports activities:

NAME
Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data
Act implementing the General Data Protection Regulation (Official Gazette no. 42/18)

Extra-territoriality

Are national laws enforceable against entities operating abroad?

As esports are not explicitly regulated in Croatia, there are no specific rules applying directly to the foreign entities providing esports services. However, the entities incorporated abroad shall comply with general Croatian laws and EU laws when providing services to the Croatian market.

It should be noted that according to article 68 of the Croatian Gambling Act foreign entities are in principle prohibited to provide games of chance in Croatia.

Technical requirements of esports tournaments

Do videogames need any certification to be used as part of esports tournaments?

Esports are not explicitly regulated in Croatia and accordingly there are no rules regarding certification used as part of esports tournaments.

Sponsorship of esports tournaments

Are particular requirements applicable to sponsorship agreements relating to esports tournaments?

There are no specific requirements applicable to sponsorship agreements for esports tournaments.

It should be noted that according to article 66 and 67 of the Croatian Gambling Act the advertising of games of chance in media aimed at children and youth are prohibited. According to article 68 of the same act, the advertising of games of chance which are provided abroad is strictly prohibited.

Also, the type of consideration due by the sponsor and the services provided by and to the sponsor can lead to regulatory and tax implications.

Participation in esports tournaments

Can players pay any price to participate in esports tournaments?

As esports are not explicitly regulated in Croatia, there are no specific rules related to participation in esports tournaments. As long as the price of participation in esports tournaments would be compliant with the applicable consumer laws, we do not see any major issue.

Selection of participants

Is it possible to place any restriction to the players that can participate in an esports tournament?

As esports are not explicitly regulated in Croatia, there are no specific rules related to selection of participants in esports tournaments. General rules of Croatia related to the objective, transparent and non-discriminatory selection criteria will apply.

Furthermore, according to the general Croatian family law rules, a person who is 15 years old or older can enter into legal transactions independently, provided that such transactions do not significantly affect a person's personal or property right. Also, the applicable data protection regulation in Croatia provides for certain specific conditions regarding the consent for the processing of data given by a person younger than 16 years. It is thus advisable to acquire parental consent for the participants younger than 16 years.

Contracting esports players

Are there particular requirements for T&Cs of esports tournaments?

As esports are not explicitly regulated in Croatia, there are no specific rules related to contracting esports players and/or T&Cs of esports tournaments. General contract and consumer law rules will apply to this matter.

Selection of winners

Are there any requirements for the selection of winners and award of prizes for esports tournaments?

As esports are not explicitly regulated in Croatia, there are no specific rules related to the election of winners and award of prizes for esports tournaments.

General contract and consumer law rules as well as T&Cs of esports tournaments, if applicable, will apply to the proper selection of winners.

Sanctions against players

Can esports tournament organizers impose sanctions against players involved in match-fixing, corruption or illegal gambling during a tournament?

As esports are not explicitly regulated in Croatia, there are no specific laws related to imposing sanctions against players.

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.

Prizes of esports tournaments

Is there any restriction on the type of prizes that can be awarded as part of esports tournaments?

As esports tournaments are not explicitly regulated in Croatia, there are no restrictions on the type of prizes that can be awarded as part of esports tournaments.

Online vs. offline esports tournaments

Are different regulations applicable to online esports tournaments compared to land-based esports tournaments?

As esports are not explicitly regulated in Croatia, there are no specific rules related to online and land-based esports tournaments.

Other local requirements

Are there any other key local requirements?

As esports are not explicitly regulated in Croatia, there are no specific rules related to any other key legal requirements. However, games of chance, including but not limited to betting on esports games, are subject to local gambling regulation and therefore as a consequence, are regulated under Croatian law.

Detailed review of the mechanics of esports tournaments is necessary to avoid any challenges and ensure compliance with the local rules.

Timing

Is there the need to comply with specific timing to ensure compliance (other than reviewing the terms and conditions)?

As esports are not explicitly regulated in Croatia, there are no specific rules related to specific timing to ensure compliance.

Translations

Are the terms of the esports tournament required to be translated by law?

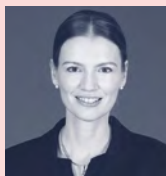
According to the Croatian consumer protection rules, the information intended for consumers and users must be made available in the Croatian language and in the Latin alphabet. This however, does not exclude the possibility of using other foreign languages if the aforementioned condition is fulfilled.

Penalties for non-compliance

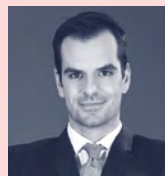
What are the penalties for non-compliance?

As esports are not explicitly regulated in Croatia, there are no specific rules related to penalties for non-compliance. On the contrary, in cases of breach of gambling laws, misdemeanour sanctions will apply consisting of pecuniary penalties, seizure of profit and different security measures (e.g. prohibition of undertaking the activity or seizure of the items).

Key contacts



Jasna Zwitter-Tehovnik
Partner
DLA Piper Weiss-Tessbach
Rechtsanwälte GmbH
T +43 1 531 78 1042
jasna.zwitter-tehovnik@
dlapiper.com



Ivan S. Maleš
Senior Associate
DLA Piper Weiss-Tessbach
Rechtsanwälte GmbH
T +43 1 531 78 1925
ivan.males@dlapiper.com