

E-sports cities: a study on special legal problems connected with e-sports from the point of view of a local government

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Abstract

Introduction: Labeling video games (e-sport) as sports is a controversial topic. Proponents argue that e-sports are a fast-growing "non-traditional sport" which requires "careful planning, precise timing, and skillful execution". Others claim that sports involve physical fitness and physical training, and prefer to classify esports as a mind sport (e.g. like chess). E-sports is a discipline that is gaining increasing popularity in the contemporary world. The effect of the increasing popularity of this area is the rapid development of the e-sports market, as well as the development of numerous organizations involved in e-sports. The growing importance of e-sports means that it could become an important element in the development of smart cities in the near future. The study will also discuss the definition of e-sports in law, the possibilities of financing e-sports by local governments and the threats related to e-sports. **Material and methods:** The article will include the analysis of legal definition of e-sport and legal regulations which enable financing e-sport by towns and municipalities from different countries (dogmatic-legal method and comparative law method). Moreover, the article will also describe what benefits local governments could obtain from financing e-sport (e.g. promotion). **Basic results, conclusions:** Electronic sports will soon become an important element in the structure of Smart City 4.0. Financing e-sports by local government units brings measurable marketing and social benefits although it also carries risks (e.g. doping, corruption, video-game addiction). The bounds between e-sports and local government not only include digitization or development of new technologies, but also promotion of the city and many law problems which local government should solve.

Keywords: financing e-sport, act on sport, sport grants, smart city, video games, promotion

Intorduction

The earliest known video game competition took place in 1972 at Stanford University for the game Spacewar. At first it was purely amateur entertainment. Everything changed in the late 2000s, when participation by professional gamers and spectatorship in these events through live streaming (especially in the Internet) has become very popular (see more Dyer-Witheford & De Peuter, 2009; Holden & Edelman & Baker III, 2020; Yamanaka & Campos & Roble & Mazzei, 2021). One of the first countries to recognise e-sports as a sport in the traditional sense was China. More recently, e-sports in China has been recognised as a normal profession. According to the Ministry of Human Resources over few next years, China's competitive video gaming industry can absorb close to 2 million workers (Ren, 2019).

All over the world, the importance of e-sport has been gaining momentum in the recent years. For example Hungary has become one of the first countries in the world where, at a sports gala organized by the Association of Hungarian Sports Journalists for the Best Athletes in 2019, a title for the best e-athlete was also awarded to Tamás "Vizicsacsi" Kiss, the former professional player of the League of Legends. György Szöllősi, the president of the Association of Hungarian Sports Journalists, substantiated his decision to award the distinction as follows: "We have recently received a lot of suggestions to add new awards to our gala. The first of them concerned a title for recreational sports and the other for e-sport. A lot of people have been looking at e-sports recently considering it a phenomenon and in Hungary we have a lot of young people, who practice e-sports professionally. E-sports means real competition, talents and stars. This year the award goes to Tamás "Vizicsacsi" Kiss, who has achieved the highest level of e-sports competition in the world. From now on, every year during the gala we will be awarding the e-athlete of the year".

In order to participate in e-sports tournaments in Turkey, it is necessary to obtain a license, just like in other sports branches. The process of obtaining an e-sports license from the Ministry of Youth and Sports is not easy and consists of a few step (Ayar, 2018).

E-sports events, as a growing market, constitutes an important attraction also for the tourism sector (see more Dilek, 2019). One of the most popular e-sports competitions in the world are held in Katowice in Poland. Even before the Covid-19 pandemic, the IEM and ESL One e-sports competitions held in Katowice were visited

by a total of 174 000 fans. Along with the growing interest in e-sports, the financial resources provided by sponsors and organizers also grow.

Such an increase in the significance of e-sports cannot be excluded from the interest of authorities of individual local governments in the vast majority of countries in the world.

In the literature, the concept of "e-sports cities" or "e-sports towns" is becoming more and more common (Atali, 2018). One of the first e-sports cities in the world was opened in Hangzhou, China. In this city of about 7 million inhabitants, a lot of money was invested in creating one of the first e-sports towns in the world. The city has become a home to the Allied Esports and LAG Gaming League of Legends Pro League (LPL). Both companies have agreed to undertake activities in order to build a joint e-sports facility and the management team of LAG Gaming moved to the city. Initially, the cost of the project itself amounted to USD 280 million, but in the following years, they planned to add more than USD 1 billion for the implementation of several more e-sports projects, including an e-sports training academy and a hospital focusing on e-sports players. The government of Hangzhou expected that the new *high-tech* city will attract more than 10 000 e-sports professionals and players as well as USD 140 million of estimated additional tax revenues (see more Ren, 2019; Furrer, 2020; Zhao & Lin, 2021). It is worth emphasizing that the city of Hangzhou will also host the Asian Games in September 2022, when these Games will, for the first time, include e-sports competitions held as a medal-awarding event alongside traditional sports. For the Games they have planned 8 medal competitions in e-sports games towns". It is worth emphasizing that this will not be the first time, when e-sports will appear at the Asian Games. Already in 2018 in Indonesia, e-sports competitions were held as demo sports. This means that medals won in the competitions were not added to the overall medal table (classification) of a given country.

The above examples connected with the development of e-sports illustrate its popularity in Asia. It is quite commonly indicated that it was in South Korea that the opportunities for the development of e-sports were first discerned by creating a specialized unit dealing with the issue of electronic sports in the local Ministry of Sports. E-sports is also popular in Japan and other Middle East countries (Viscone & D'Elia, 2019).

The professional literature emphasizes the significance of sports in the development of smart cities (Atali, 2018). However, puzzling as it may seem, there are no broader considerations on the influence and significance of e-sports for the development of smart cities. Currently, the method of creation of Smart City 4.0 is discussed globally. The ongoing pandemic has made us realize how important it is to be able to use digital tools. It turned out that in some extreme situations, traditional world sports can be stopped for several weeks. In March and April 2020 there were weeks, when there were no league games in particular countries, and during weekends, television sports channels did not broadcast any sports competitions live. The competitions played with the use of the Internet, which could quickly move to the Internet (e.g. chess). This issue is interesting, because chess is generally considered sports in the traditional meaning of the word. Nobody has ever questioned the sports nature of online chess. However, e-sports competitions, the nature of which is very similar to online chess, is still controversial, which will be discussed further in the article.

Undoubtedly, the coronavirus pandemic has also accelerated the development of e-sports. The research carried out in Poland has shown that in the next five years, e-sports may become one of the main branches of the digital and electronic economy (Banaszak & Patkowski & Walczak, 2020). This, obviously, makes it necessary to consider the issues of e-sports in the vision of the development of particular cities. One can assume without the risk of a major error that e-sports will become an important part of smart cities of the future (Smart City 4.0).

Summarizing the above fragment of the article, a question should be asked, whether e-sports (sports in the broad sense) can now be considered as sports in the traditional meaning of the word (sports in the strict sense).

Material & Methods

As far as the possibility of recognizing e-sports as sports in the strict sense is concerned, the issue is controversial in the legal doctrine of the vast majority of countries in the world (see more Papaloukas, 2018; Tolmachevska & Tkalic, 2018; Holden & Edelman & Baker III, 2020). It is not the object of this article to consider this issue in detail. It is only to indicate that the issue has not been regulated in a uniform manner either at the level of European legislation or even of the European Union itself (Abanazir, 2019).

There are legal systems, in which e-sports has basically been treated equally with sports in the traditional meaning of the word. For example, such solutions are found in a lot of Asian countries (such as South Korea, Japan, China) or some European countries (e.g. France).

In other systems, it is believed that electronic sports cannot be considered a form of traditional sports at all. For example: the German Olympics Sports Confederation ("DOSB") refused to admit the esports federation, pointing out that sports requires "self-motoric performance" and practicing e-sports, according to DOSB, does not meet this criterion. This opinion raises a range of legal issues (Leis & Raue & Dreiskämper & Lautenbach, 2021). For example, the recently enacted criminal provisions relating to betting frauds in Germany clearly address sports in the strict sense. Article 265c, par. 5 of the German Criminal Code refers to sports competitions as competitions organized by national or international sports organizations. As e-sports does not have a recognized national or international sports organization and the German Criminal Code does not allow for an

analogy for constitutional reasons, it seems that Art. 265c of the German Criminal Code will not be applicable to e-sports betting fraud (Bogusch, 2017).

There are also systems, which emphasize that the changes introduced in the legislation, which could be considered a step towards the sanctioning of electronic sports by the law, are merely a symbolic opening to the e-sports environment, because mental sport, which belongs to sports in the strict sense, includes such sports such as checkers, chess or sports bridge, but it certainly does not include electronic sports. This position was taken by the Polish Ministry of Sports. Commenting on the amendment to the act on sports extending the definition of sports by "mental sports", the ministry indicated: "The new proposals do not change the legal status of the so-called e-sports and, on the other hand, they include technical and symbolic changes. They are to be reflect appreciation of individual mental sports (there are nearly 600 clubs throughout the country: drafts, sports bridge, chess cubs etc.) as well as a symbolic opening to the environment of the so-called esports. The amendments to the Act on Sports does make traditional sports and the so-called electronic sports equal, giving greater opportunities to promote and implement programs promoting physical activity among people practicing mental sports, including the so-called e-sports". In Poland in 2017, the definition of sports was extended, assuming that "sports is also competition based on intellectual activity aiming at achievements of a sports result" (Article 1, par. 1a of the Act on Sports). According to the majority of representatives of the sports law doctrine in Poland, this change results in the possibility of recognizing e-sports as sports in the traditional meaning of the word. The Polish Ministry of Sport has a different opinion.

The lack of an unambiguous definition of e-sports also creates great difficulties for particular local governments, as there is probably no local government in Europe that would not support sports. There are a lot of regulations in particular legal systems, which allow local governments to support and finance sports directly. However, legal regulations that allow for financing of e-sports are rarely to be found. Incorrect classification of e-sports as a definition of sports in the strict sense may result in liability of those, who provided such support. There is probably no legal system worldwide, in which breaching the rules of financing sport by public entities, including local governments, would not be classified as violating the law resulting in legal liability. Sometimes it is the liability in various legal aspects (for instance, legal liability, disciplinary liability, civil responsibility, administrative responsibility, financial liability). Some of the instances of violating the public finance discipline are, among others: 1) offering or awarding a grant with the violation of rules, the granting or awarding procedure; 2) failing to approve the presented grant settlement within the deadline; 3) failing to determine the amount of the grant to be returned to the budget (Jóźwiak, 2021).

Basic results

In order to make a unequivocal decision, whether e-sport can be classified as sports in the traditional sense requires very deep analyses. The limited volume of this article makes it impossible to resolve this issue. Moreover, it is undisputable that appropriate considerations should be carried out on the grounds of regulations in force in particular countries. It is obvious to state that conclusions drawn from these studies may be different for different legal systems. At this point, it should only be indicated that it seems desirable to appeal to individual national legislators to create separate regulations devoted to e-sports so that the issues connected with the status of national e-sports associations, players, competitions, and the rules of practicing electronic sports could be regulated in a separate legal act, and, in particular, in the one that regulates matters of sports in the traditional sense. This postulate also concerns the introduction of separate regulations connected with negative phenomena accompanying e-sports (e.g. doping, corruption, fraud, gambling).

The research commissioned by the European Commission in all countries of the European Union reveals that local authorities are one of the main sport financing institutions - in terms of both amateur (grassroots sports) and professional sports. The five basic sources of financing sport in the EU include: household expenditures, public subsidy (i.e. all levels of public sport financing) sponsoring, income from national lotteries and hazard games as well as income from broadcasting rights. From time to time, other sources are also mentioned (the so-called direct contribution), namely voluntary work and gratuitous or 'at cost' (below the market price) using facilities made available by authorities - national or local, and sometimes private entities. It occurs that after household spendings (purchasing tickets, souvenirs, personal training fees, sports equipment or sports outfit etc.), in terms of size, local authorities are the second source of funding for contemporary sport. Interestingly, in the EU countries the local government spendings on the widely understood sport (i.e. grassroots and professional sports) are higher than such expenditures of national administration (Markowska-Bzducha, 2013; Jóźwiak, 2021).

In this context, a question arises about the principles and legal possibilities of supporting e-sports clubs by local governments. Contrary to sports in the strict sense, it can be assumed that currently the vast majority of funds related to e-sports do not come from public funds (state or local government funds). This status quo probably results from doubts related to the possibility of qualifying e-sports to the traditional definition of sports. Certainly, the problem varies from country to country.

Regardless of the above-mentioned doubts raised, there are currently a lot of alternative legal instruments that can be used by local government authorities to support the development of e-sports in a given region, regardless of whether e-sports is considered sports in the traditional sense or not.

First of all, one should point out to the level related to education. It is undisputable that in the vast majority of European countries, it is the local government that is responsible for education, and it is certainly responsible for creating subjects and profiles for individual classes in specific schools. As in the case of sports classes in traditional sports, in recent years, schools with e-sports classes are springing up "like mushrooms". Most often, the classes combine advantages of IT classes with the broadly understood development in the fields of games and electronic sports. It is worth emphasizing that in such classes, students gain their experience and skills in the field of computer science, programming, technical skills and knowledge in all disciplines of e-sports. Thus, young people have classes, among others, in the field of local operating systems, databases, websites, applications and computer game development. However, it is obvious that the e-sports industry is not only players (members of an e-sports team), but also a number of other professions of the future connected with the broadly understood e-sports sector. The forecasts presented in the reports on professions of the future indicate that approx. 70% of people born after 2007 will work in professions, which have not yet been created. The professions that will undoubtedly be related to e-sports include, among others: a player (competitor), e-sports trainer, a monetization specialist (account manager), a specialist for PR (e-sports SM), League Ops, streamer, e-sports event marketing or employer branding. It seems that learning in such classes should be combined with learning Chinese, not only because of the development of e-sports in this country (Walkowski & Kempieńska, 2020), but also due to the fact that this language seems to be the language of the future which is increasingly taught in schools as a second or foreign language (e.g., Gong, Lai & Gao, 2020).

One of the main tasks of local government is also promotion of the city. It is a truism to state that this type of promotion can also be carried out through sports. Without going into details, it should be pointed out that I mean a contract concluded between the city and a sports club, under which the sports club will be obliged to promote the city in various forms (e.g. on T-shirts, advertising banners or by participating in promotional campaigns of the city), and the city (commune) will undertake to pay a certain amount of money under the advertising (promotion) agreement (Jóźwiak, 2021).

E-sports can also be a great element of promotion of the city and region by showing the city as a modern, mobile and highly developed city. This is evidenced by the already mentioned case of Katowice, which, owing to the consistency in organization of e-sports tournaments, has already been recognized permanently by e-sports fans around the world. The advertising equivalent of communications related to Katowice in the context of the tournament is counted in tens of millions of euros, and in the first quarter of 2019 alone, the advertising equivalent amounted to over PLN 19 million. All this certainly contributes to the so-called business tourism (Dilek, 2019). For example, according to a report prepared for the administration in Katowice, in 2017 the city was visited by over 800 000.00 participants of various events, of which the Intel Extreme Masters e-sports tournament alone attracted over 173 000.00 thousand people.

The literature also indicates that one of the forms of financing e-sports organizations and events may be the so-called civic (participatory) budget. It is a significant case, because this type of public consultation is quite commonly treated as an element of a *smart city*. As part of implementation of such a budget, the residents who decide, most often every year, on a specific part of expenditure from the communal budget. The tasks that were selected as part of the participatory budget, i.e. those that received the highest number of votes from residents, are considered in the budget resolution for the next year. There are no formal obstacles for representatives of e-sports organizations to submit e-sports projects to civic budgets. If such a project is given adequate support from the residents, it will have to be financed in the next year from funds provided by the local government. Undoubtedly, such initiatives fit into the concept of smart cities perfectly.

An interesting solution may also assume the possibility of using Special Economic Zones (SEZ) for the purposes of e-sports. The zones are found within boundaries of particular countries and aim at increasing the trade balance, employment, investment, creating new jobs and efficient administration. In order to encourage companies to invest in the zone, a special financial policy is introduced in a given area (e.g. Ciżkowicz & Ciżkowicz-Pękała & Pękała, & Rzońca, 2015; A Zeng, 2021). Most often this is done by implementing various types of financial benefits for a certain period of time, including, in particular, tax reliefs for entities starting their activities in a given zone. The definition of an SEZ is determined individually by each country. According to the World Bank in 2008, the modern-day special economic zone typically includes a „geographically limited area, usually physically secured (fenced-in); single management or administration; eligibility for benefits based upon physical location within the zone; separate customs area (duty-free benefits) and streamlined procedures” (see Special, 2008; Dorożyński & Świerkocki & Dobrowolska, 2021). Proper use of economic zones could allow to create conditions favouring development, following the example (obviously considering all proportions) of what has already been done in the Chinese city of Hangzhou.

Discussion

The growing interest in e-sports and its increased mass character also gives rise to a whole range of negative phenomena accompanying electronic sports. The literature indicates the following problems that have occurred recently: doping, gambling, corruption and other frauds (see more Holden & Rodenberg & Kaburakis, 2017). Some of these phenomena are very similar to those found in traditional sports. For example, when it comes to e-doping, both pharmacological doping and technological doping are at stake, however, with the

reservation that the latter is even more notorious in e-sports. When it comes to gambling and other scams, it can be said in a simplified way that the legal problems arising are similar to those encountered in traditional sports, obviously considering the specificity of e-sports.

However, there is no doubt, that electronic sports raises new problems that are not known to traditional sports, including those of online attacks or the so-called *skin gambling*.

All of these problems are widely covered in legal doctrine and, generally, are not problems that will have to be solved by a local government directly. However, the greatest controversies relate to the issue of addiction to electronic games. While it is difficult to consider the addiction to traditional sports a negative phenomenon, it is different with addiction to computer games.

The very phrase "addiction" has rather negative associations and pejorative meaning. The situation changes dramatically when we add the concept of sports to this term. For example, the Polish police very often carry out campaigns promoting sports activities under the slogan: "I am addicted to sports only" and the literature very often emphasizes that sports and "addiction to sports" can be an excellent antidote to other addictions that are undoubtedly negative (e.g. alcohol, drugs, power ups etc.). In this case, we mean "addiction to sports", which gives rise to fairly positive thoughts, although it is not always the case. Of course, there should be no doubts that sports, like any hobbies, can have negative effects, especially when a passion becomes an obsession. You can become addicted to sports just like to any other activity. An addicted person puts exercise above family or professional obligations and inactivity lowers his/her well-being, leads to neurosis or depression.

While doping, gambling or corruption in e-sports are not phenomena that affect local governments directly, the issues related to addiction to computer games have a direct impact upon local communities. There is no doubt that this problem most often affects children and young people. The big problem is evidenced by the fact that in China very restrictive restrictions have been introduced recently and those under the age of 18 can spend only one hour a day on online games - on Fridays, weekends and holidays (between 8 a 21). Similar restrictions have also been introduced in Japan and other countries. Companies that offer online entertainment have to comply with these regulations and verify players (see more Xiao, 2021).

Addiction to e-sports is a phenomenon that local authorities will have to deal with in the near future. In this article, a hypothesis was adopted that in the near future e-sports will become an important element in the structure of Smart City 4.0, the same like informations and communication technologies (ICT) are the best manifestation of the Type 4.0 Industrial Revolution (see more Walkowski & Kempńska, 2020).

In addition to the many obvious positive consequences associated with e-sports, the development of e-sports will also be accompanied by a number of negative phenomena.

The issue of the role and importance of local governments in the process of mental health protection is undoubtedly a very important issue, which, especially recently, has become the subject of wider interest, for example, considering the effects of the coronavirus pandemic (depression, suicide, school phobias, etc.), which are still felt today.

This issue varies from one legal system to another. Usually the range of tasks imposed in this respect by the legislator on a province is undoubtedly different than that imposed on a district or commune. In the vast majority of countries, local government has the right to fight two extremely dangerous phenomena, which are alcoholism and drug addiction (see more Józwiak, 2020). Sometimes counteracting both of these phenomena has been assigned by the legislator to communes (e.g. in Poland). The powers of local government to combat other addictions such as addiction to computer games, are rarely mentioned. Therefore, it is important that the discussion on the importance of e-sports for the development of smart cities should also be accompanied by deliberations on negative phenomena that may accompany this issue.

Conclusions

This study only points out to the problems that may be faced by local governments of particular countries in connection with the very rapid development of e-sports. Electronic sports will soon become an important element in the structure of Smart City 4.0. However, it is important that the introduction of specific solutions in particular cities is also accompanied by appropriate legal regulations enabling the development of e-sports. The bounds between e-sports and local government not only include digitization or development of new technologies, but also promotion of the city. The development of e-sports is an opportunity for the local economy, business, labour market and education. It is also a chance for new professions to emerge and, interestingly, often professions that have not yet been created. It is satisfying to note that this is yet another article published in „Journal of Physical Education and Sport” devoted to e-sports problem, which shows the openness of the journal to a variety of topics (e.g. Viscone & D’Elia 2019; Yamanaka & Campos & Roble & Mazzei, 2021). However, what is worth emphasizing, these articles are attended by representatives of various scientific disciplines coming from different countries. This shows how important relationships and cooperation between the science and the legislative (state and local) authorities are. As pointed out by A. Podgórecki, an outstanding Polish sociologist of law, it is important for science: to inform the legislator (both state and local government), to what extent the law suggested by the legislator will be respected, to what extent this law will be supported in the social legal sense and what discrepancies could there be between the law enacted by the legislator and the legal sense. It is not the role of the science to issue decisions reserved for the legislator,

however, the science is obliged to provide the legislator with such data so that he would not act guided by his intuition, guessing, sudden revelations or barely controlled conjectures. From this point of view, the so-called profit and loss calculation also referred to as the balance of profit and loss connected with functioning of particular solutions and regulations is particularly important for public authorities. The main items in the preliminary balance include the degree of the achieved legislative goal, intended effects, which usually condition or only contribute to the achieved goal as well as side, undesirable and unfavourable effects, inherent in profits, which often result from the still accepted old legal sense (Podgórecki, 1962). It is therefore gratifying that the magazine is also open to articles on sports law (e.g. Dróżdż, 2020; Dróżdż, 2021; Potulski & Szatkowski, 2021)

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