



Universität Augsburg
Juristische Fakultät

Grundlagen des eSport-Rechts - Fundamentals of Esport

date: 29. July 2026, 5 pm (Bejing Time)

location: online via Zoom to Beihang University,
PekingChina) / 北京航空航天大学

duration: about 90 min incl. time for discussion

Prof. Dr. Martin Maties



Introduction



Speaker

Profile:

Name: Prof. Dr Martin Maties

Occupation: Professor in Augsburg



Brief CV: 1996-2000 studied law in Bochum, 2001-2003 Doctorate in labour law, 2002-2004 Legal clerkship in Bochum, until 2011 Senior academic advisor in Bochum, 2011-2012 Deputy Chair, 2012-2012 Professor in Hamburg, since 1 February 2013 Professor in Augsburg

Most important publications in labour law: Commentary on Sections 611, 611a, 612, 613, 614 of the German Civil Code (BGB), textbook on labour law published by C.H. Beck

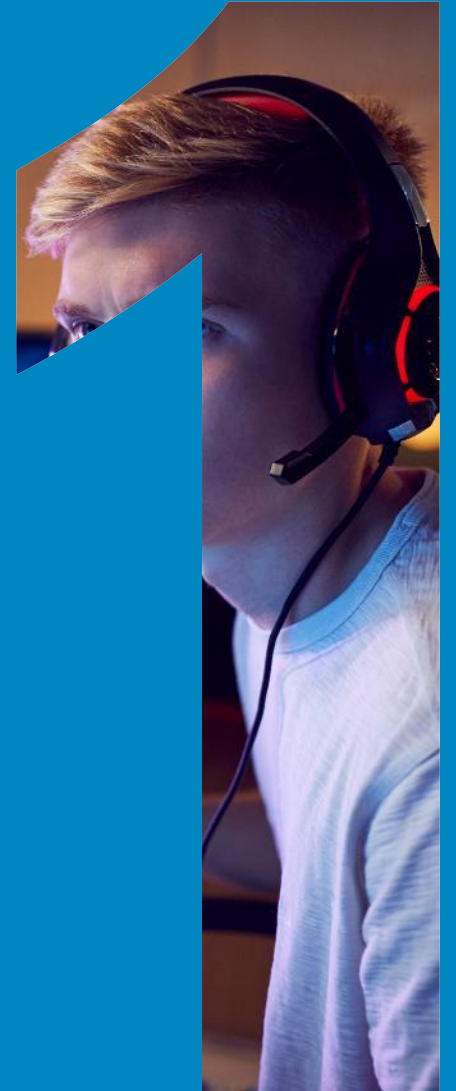
I am happy to answer any questions on the subject immediately or after the lecture, but you can also contact me by email at martin.maties@uni-a.de.



Agenda

- 1 Digital transformation
- 2 Term: eSports & digression on sport
- 3 Social significance
- 4 Economic significance
- 5 Actual foundations
- 6 Legal basis
- 7 Legal issues
- 8 Problem: Working hours in eSports

digital transfor- mation





Digitalisation

In labour law and leisure time

Digitalisation has been boosted (not only) by the coronavirus pandemic.

In labour law, the so-called Working World 4.0 has already established itself.

- Teleworking
- Home office
- Mobile office
- Workation
- Problems of globalisation (no parallel working hours; e.g. NYC -6h, SF -9h; Beijing +8h, Tokyo +9h)
- Problems with the Working Hours Act (maximum daily working hours, breaks, rest periods)



Commercialisation of sport

Using football as an example

At the same time, certain sports are becoming highly commercialised.

FC Bayern's payroll at a glance (*as of 18 September 2024*)

Manuel Neuer – €20 million

Leroy Sané – €20 million

Joshua Kimmich – €20 million

Kingsley Coman – €19 million

Serge Gnabry – €19 million

Leon Goretzka – €17 million

Thomas Müller – €17 million

Minjae Kim – €16 million

Dayot Upamecano – €16 million

Joao Palhinha – €16 million

Michael Olise – €13 million

Alphonso Davies – €11 million

Jamal Musiala – €9 million

Konrad Laimer – €9 million

Josip Stanisic – €8 million

Raphael Guerreiro – €7.5 million

Eric Dier – €7 million

Aleksandar Pavlovic – €7 million

Hiroki Ito – €5.5 million

Matyhs Tel – €4 million

Sacha Boey – €3 million

Sven Ulreich – £1.4 million

Daniel Peretz – €1.4 million

Source: <https://fcbinside.de/2024/09/18/die-neue-gehaltsliste-des-fc-bayern-so-viel-verdienen-kane-musiala-palhinha-co/>

Commercialisation of sport



Using football as an example

Club	Sponsor	Duration	Terms
<u>1. FC Köln</u>	REWE	2021	€7 million/year
<u>1. FSV Mainz 05</u>	Kömmerling	2018	€4.5 million / year
<u>Bayer 04 Leverkusen</u>	Bayer	indefinite	€25.1 million / year
<u>Borussia Dortmund</u>	Evonik Industries	2025	€20 million/year, plus Evonik holds 9.06% of BVB shares
<u>Borussia Mönchengladbach</u>	Flatex,	2024	REUTER: up to €11 million/year (performance-based); until 2026, option for another year;
	from 2024/25 REUTER		Flatex: approx. €8 million/year
			Until 2020 Deutsche Postbank (€6.5-9 million/year, performance-based) ¹
<u>Eintracht Frankfurt</u>	Indeed	2020	€6.7 million/year
<u>FC Augsburg</u>	WWK	2018	€3–4 million/year
<u>FC Bayern Munich</u>	Telekom	2023	€35 million/year
<u>FC Schalke 04</u>	Gazprom	2022	€20–24 million/year, performance-based
<u>Hamburger SV</u>	Emirates	2019	€7.5 million/year ¹
<u>Hannover</u>	Heinz von Heiden	2020	€4–5 million/year (1st division), €2 million/year (2nd division) ² ,
<u>Hertha BSC Berlin</u>	bet at home	2019	€6 million/year
<u>RB Leipzig</u>	Red Bull	N/A	Rough estimate €9 million/year
<u>SC Freiburg</u>	Black Forest Milk	2019	€2.7 million/year
<u>SV Werder Bremen</u>	Wiesenhof	2020	€6.5 million / year
<u>TSG 1899 Hoffenheim</u>	SAP	2020	€5 million/year
<u>VfB Stuttgart</u>	Mercedes-Benz Bank	2019	€8 million / year
<u>VfL Wolfsburg</u>	Volkswagen	Indefinite	Rough estimate €20 million/year

Source: <https://www.sponsoo.de/glossar/hauptsponsor>



Working world 4.0 + commercialised sport = eSports?

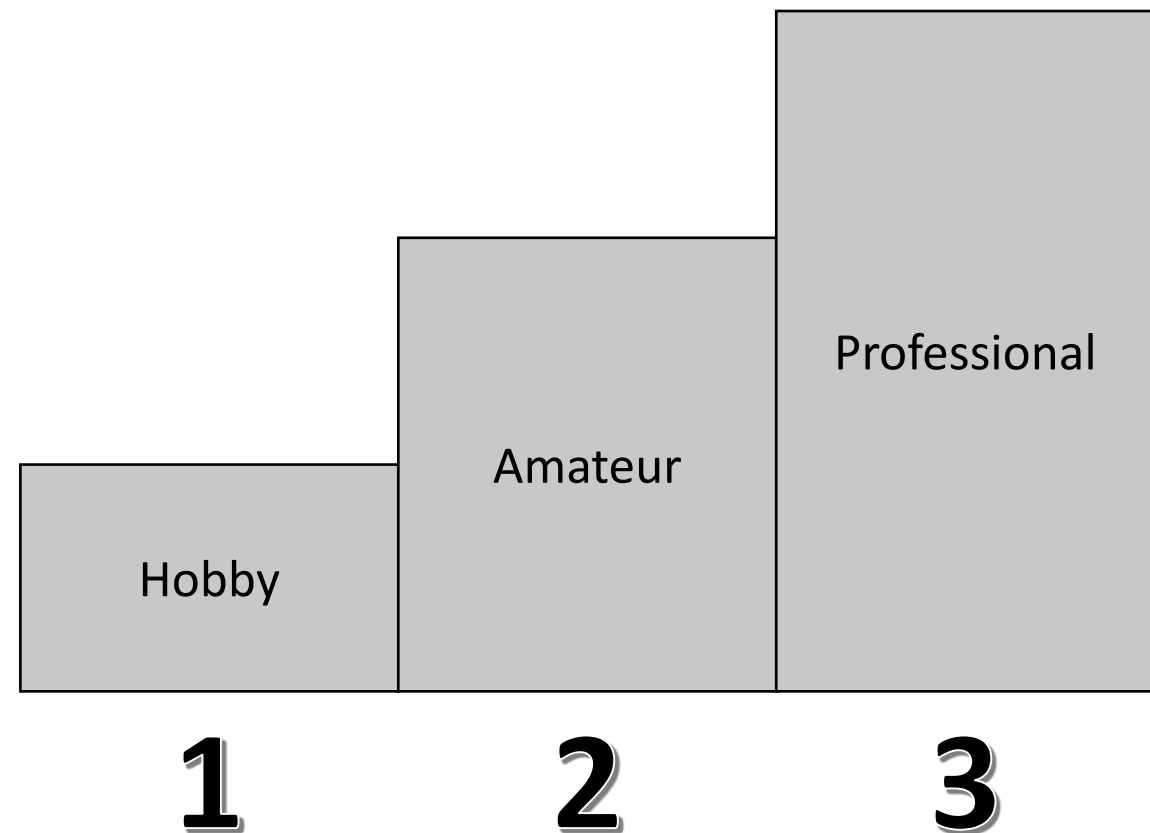
From a leisure hobby to a professional career?

There are three distinct stages:

Hobby = only pursues leisure interests

Amateur = already earns money with eSports

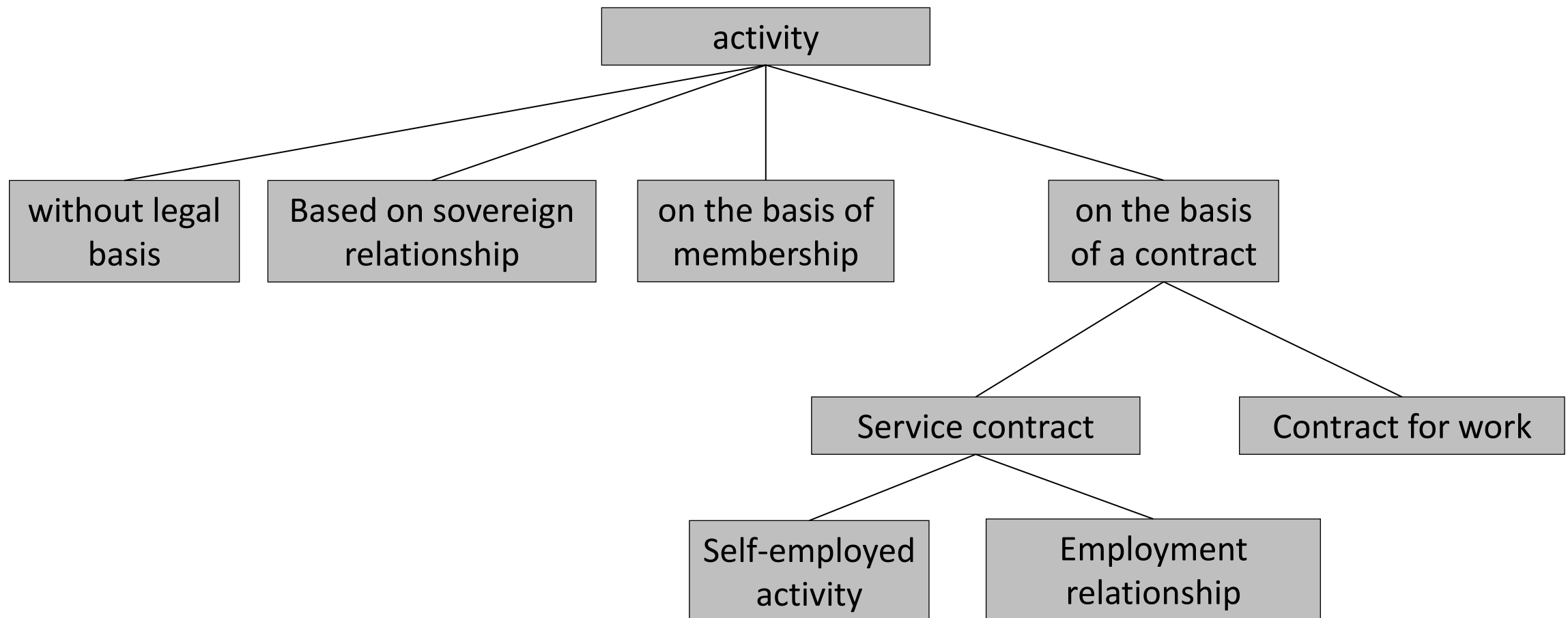
Professional = earns money with eSports (priority to make a living) and is at a higher level





Working world 4.0 + commercialised sport = eSports?

Activity ≠ work



Term:
eSport
&

Digression on sport





Language and spelling

electronic sports

The spelling is inconsistent. The spelling eSport is common in the community (here and below).

The Duden dictionary recommends E-Sport.

The meaning suggests that eSport is a subcategory of sport (this is str.).

(P): The term "sport" has not been conclusively clarified from a legal perspective.

Essentially, it is based on decisions of the Federal Fiscal Court (BFH) regarding Section 52 (2) sentence 1 no. 21 of the German Fiscal Code (AO):

"The term 'sport' within the meaning of Section 52 (2) sentence 1 no. 21 AO only refers to activities that fulfil the general definition of sport and serve the purpose of physical exercise. This therefore requires physical activity that goes beyond the usual level and is characterised by externally observable exertion or by artistic movement attributable to personal skill. The fact that a game is played in the form of competitions and under a special organisation does not in itself make it a sport within the meaning of Section 52(2) sentence 1 no. 21 AO."



Digression: eSports = sport?

Political and legal discussion I

Whether eSports is a sport is highly controversial!

Relevance?

Examples:

- Non-profit status → Privileges for clubs with regard to trainer allowances
- Sports betting is legally available to the public (other types of betting are not)
- Privileges for youth work (late hours and weekends)
- Easier entry (VISA) for non-EU foreigners
- Federal and state subsidies are more easily accessible
- Significance for event venues (e.g. opening hours and access for minors)
- Significance for broadcasting (broadcasting rights)



Digression: eSports = sport?

Political and legal discussion II

Opinions from sports science

Pro sport: *Prof. Ingo Froboese* et al.

Against sport: *Prof. Carmen Borggrefe* et al.

Legal opinions

Pro sport: *Prof. Martin Maties* et al.

Against sport: *Prof. Peter Fischer* et al.

Sports associations

IOC: Olympic Esports Games, 2027 in Riyadh (Saudi Arabia) **(canceled)**, for more information

<https://www.olympics.com/ioc/olympic-esports-games>

DOSB: previously extremely critical, now consulting in working groups, outcome was open, now pro sport



Digression: eSports = sport?

Political and legal discussion III

Opinion in the Bundestag and the Federal Government

Sports Committee 2019 → divided

Exchange between the FeSR and the parliamentary groups → divided (purely pro FDP)

Federal governments:

Grand coalition: Declarations of intent Pro recognition in the coalition agreement (2018, p. 48, line 2167) → Implementation (-)

Traffic light coalition: Declarations of intent in favour of recognition of non-profit status in the coalition agreement (2021, p. 97) → Implementation (-)

Black-red: Declarations of intent in favour of non-profit status in the coalition agreement (2025, p. 118, No. 3765) → Implementation to date (-)

§ 52(2), first sentence, No. 21 of the German Fiscal Code (AO)



Digression: eSports = sport?

Political and legal discussion IV

Since 1.1.2026: Section 52 of the German Fiscal Code (AO): Charitable purposes

....

(2) ¹Subject to the conditions set out in paragraph 1, the following shall be recognised as serving the public interest: ...

Nr. 21 'the promotion of sport (chess and esports are considered sports)'

However, this does not really resolve the legal issue of whether esports is a sport.

In German, the word 'gelten' (consider) suggests that it is not a sport, but is treated as one. (Fiction)

The follow-up question is whether this legal fiction applies only to tax law or also to all other areas of law (e.g. employment law).