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Good afternoon, I am delighted to be able to give you a brief introduction to e-sports law today. We will only be able to cover part of the presentation as time is limited and I am only allowed to speak for 60 minutes.

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There is no need to introduce myself, so we can skip that part. You can download information about me and the presentation documents as a PDF file from the internet. You will find the QR code in the top right-hand corner.

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Today, I will highlight eight aspects with you. First, I will talk about digital transformation, then about the concept and understanding of e-sports, briefly touching on what sport is in the traditional sense and whether e-sports is also a sport. We will then take a brief look at the social and economic significance of e-sports in Germany, Europe and, to some extent, the world as a whole. Fifthly, we will talk about the actual fundamentals of e-sports, as this is still unknown to many people. After that, we will look at the legal basis of e-sports, focusing in particular on the relationships between the individual players in e-sports.

Just as an overview, I have brought along a special problem that we will not be discussing today, but which you can read about in the documents you will receive if you are interested. It concerns the issue of working hours in e-sports under German law, i.e. that players who also play on the computer in their free time may be violating applicable law and that employers may have to prohibit this.

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First, let's take a look at digital transformation. Digitalisation has advanced significantly in recent years. This is not only due to the coronavirus pandemic, but was already well underway in previous years. In labour law in particular, the technological use of computers and the internet has already become established in the so-called Working World 4.0. Among other things, teleworking positions have been created, home offices have been introduced, mobile offices are even being practised, workations are being offered as a work tool, but at the same time, problems of globalisation are arising because, for example, the working hours of employees in a company in different time zones are not synchronised, meaning that employees in New York are 14 hours behind employees in Beijing. Problems with compliance with working time legislation are also becoming increasingly significant, as employees do not always comply with the rules applicable in Germany and the EU regarding maximum daily working hours, breaks and rest periods.

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However, it is not only the digitalisation of working life that is changing throughout the world; sport has also long since ceased to be practised by athletes solely as a healthy and entertaining activity, but has also been commercialised. This means that more and more money is being earned in the professional field of sport. On the one hand, clubs and organisers are earning more and more money, but on the other hand, players are now also earning very high salaries. Take my favourite football club (FC Bayern Munich) as an example. In 2024, the top earners were already earning salaries of €20 million, which is equivalent to around 160 million Chinese yuan per year, and that's not even all. On top of these sums, there are also sponsorship deals and income from advertising contracts.

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Sponsorship is particularly important in football, for example. German football clubs are supported by sponsors every year. In 2023, FC Bayern Munich received €35 million from sponsors and in 2025 as much as €50 million from one company for having the sponsor's

name on their jerseys. Numerous other advertising contracts are added to this. Companies in Europe are very keen to do this because they want to transfer a positive image.

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We can already see that sport is no longer just a hobby, but can be a business sector in its own right. Because of this, we need to distinguish between three different types of athletes or players. Those who only do sport as a hobby (like me, for example), those who already earn money from sport as amateurs but do not yet do it as their main job, and professionals who earn their living from income generated by sport. This distinction is very important for the legal assessment of athletes or players.

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Activities in the world of work can be carried out on different legal bases. For example, it is possible to practise a sport without a legal basis (this is particularly the case for amateur players), and activities can also be performed on the basis of a sovereign relationship (which does not exist in e-sports), on the basis of membership in a club (which is very common) or on the basis of a contract (which is the norm for professionals). We will take a closer look at the contract. A contract can be a service contract in which the obligated party is employed on a self-employed or non-self-employed basis. It is also conceivable that the employment is based on a contract for work. If a player earns money on the basis of their contract, the legal basis for this can determine the framework conditions and, if necessary, certain regulations for the type of contract must be observed.

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Let us first take a look at what is meant by e-sport. At the same time, I would like to take a brief look at what sport is, as there are regulations governing sport for the assessment of the legal situation and it is questionable whether these can be relied upon.

Firstly, it should be noted that the spelling of the term e-sports varies. While players often use the spelling eSport, the official spelling in Germany is E-Sport.

The term e-sport suggests that it is a special form of sport, namely electronic sport.

In order to assess whether e-sports is a sport, one must understand the concept of sport.

The term "sport" is not defined in German law. Only one ruling by the Federal Fiscal Court has dealt with the term "sport". The Federal Finance Court has stated that sport serves the purpose of physical exercise and requires physical activity that exceeds the usual level, characterised by externally observable effort or by artistic movement attributable to personal skill.

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Due to the low level of physical activity and the question of exercise, it is highly controversial in Germany whether e-sports are a sport. However, the distinction between sport and non-s is important, as various consequential problems are linked to this question. The classification of e-sports as a sport and thus as a non-profit activity means that clubs enjoy tax privileges and a so-called trainer allowance can be paid tax-free. Sports betting is legal in Germany (unlike other types of betting), and young people are allowed to work in the sports sector even at late hours and on weekends. Athletes have easier access to the country, state subsidies for sport are more readily available, sports venues can be made accessible to minors for longer and later opening hours, and the assessment of the question of broadcasting a sporting event on television, radio or the internet is also assessed differently in sport.

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There is much debate in politics and academia as to whether e-sports is a sport. In the field of sports science, Prof. Ingo Froböse in particular says that e-sports should be classified as a

sport due to the physical exertion and precision of movement involved, while Professor Carmen Borggreffe rejects this due to the lack of movement. In jurisprudence, I in particular argue that it is a sport, while Professor Peter Fischer takes a different view.

The sports associations have not yet reached a consensus. However, it can already be said that the IOC has approved the hosting of the 2027 Olympic Games in e-sports, which will take place in Saudi Arabia. The German Olympic Sports Confederation (DOSB) has been critical so far, but has developed a positive attitude towards e-sports after my consultation.

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The political debate in Germany is still ongoing. In 2019, when I spoke to all the political parties in the Sports Committee, it became clear that there is both support and opposition. In the penultimate coalition government, a declaration of intent to recognise e-sports as a sport was planned but not implemented. The last government also made the same declarations of intent, but nothing happened. The current government has again declared in its coalition agreement that it wants to declare e-sports a non-profit activity. Although this has not yet happened, a draft bill for the recognition of e-sports as a non-profit activity has been in place since last week.

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As you can see, the terms "sport" and "e-sports" are important for the legal assessment of the activities of a player who participates in e-sports. To do this, however, one must first know what e-sports is. E-sports is not automatically any form of computer game. Simply playing on a computer is called gaming. This is the umbrella term.

E-sports, on the other hand, is competition between people using a computer game to compare unproductive, cognitive or physical performance.

E-sports can take place as simultaneous competitions, but also as delayed competitions (one after the other). Gaming, on the other hand, is possible in various forms without being e-sports. For example, you can gamble, play alone, play against artificial intelligence, play without a winner, or people can play with each other without competing against each other.

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The social significance of e-sports has also grown massively in recent years. As can be seen in the graph, awareness of e-sports has risen sharply in recent years. While only 55% of those surveyed were familiar with e-sports in 2017, this figure had risen to 77% by 2023.

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The graph also shows that e-sports viewers are not only younger people, but also middle-aged and older people who have already watched e-sports events.

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By 2025, approximately 640 million viewers are expected to watch e-sports events.

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The economic significance is now so great that it is possible to earn a lot of money in this field. For example, very large sums of prize money have been awarded at e-sports tournaments. The highest prize money for a single tournament in 2021 was for the event "The International 2021" in the computer game Dota 2 (Defense of the Ancients 2).

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Looking at individual players, a Danish player has already earned prize money worth \$7.18 million. However, it is not only prize money that makes up an e-sports player's income, but also advertising contracts and sponsorship. In 2018, for example, the player Taylor Blevis (known as Ninja) earned \$10 million in one year, according to his own statements.

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Even German e-sports professionals have now earned over €5 million in prize money (Kuro Takhasomi, for example).

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Looking at the e-sports industry in a small country like Germany, the industry's turnover is already €171 million and has been on an upward trend for years, so we can expect to see continued growth.

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The economic significance is also underlined by the fact that even the youngest players can earn a lot of money as e-sports players. For example, a 17-year-old Austrian has already earned €3 million as a minor by winning the Fortnite world championship in 2019.

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An eight-year-old boy in the USA received \$33,000 for signing his professional contract.

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And in the e-sports industry, billions of dollars are earned from the sale of so-called loot boxes. However, whether these can be sold legally is highly controversial, as it could constitute illegal gambling.

It is clear that the economic significance is immense.

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The main sources of income in e-sports are sponsorship, advertising, ticket sales, merchandising and so-called premium content or paid content.

For game publishers, the sale of games is no longer important; instead, the focus is on earnings from so-called microtransactions (in-game purchases) as well as media rights and advertising space. With microtransactions alone, the publisher EA Sports earned billions of US dollars annually, and the same applies to the company Blizzard Microsoft.

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Let's take a look at the actual basics. There are numerous e-sports titles.

These can be divided into genres. There are numerous sports simulations, real-time strategy games, first-person shooters, multiplayer online battle arenas, online collectible card games, simulations and fighting games. Examples of these are listed in the overview.

In e-sports, two different skills must be distinguished.

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There is what is known as micro and macro. With micro, it is important to click the keyboard or mouse as quickly and precisely as possible. With macro, on the other hand, it is about strategy, which is particularly important for longer games, which you have to devise and adapt quickly again and again. It is therefore a question of both physical performance and mental agility and responsiveness. As a result, e-sports players are popular employees in many companies because of their ability to solve complex problems quickly.

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However, there are also numerous problems in e-sports that are caused by the internet. For example, the anonymity that the internet provides leads many players to behave inappropriately. The freedom that comes with not being identifiable leads to unpleasant behaviour. Furthermore, in competition, it is not always possible to know how strong the opponent is, as some players use letter sequences as names that do not allow any conclusions to be drawn about who the opponent is. The most common case is the so-called barcode. However, there are not only disadvantages, but also advantages, as prejudices are avoided because the origin of the players is unknown due to their lack of identity. However, a major disadvantage is that many players engage in so-called "toxic behaviour", i.e. insulting other players, simply leaving the game or even making threats. In addition, the

possibility of "cheating" is greatly increased. Players are particularly at risk in so-called in-game chats, especially minors.

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However, e-sports also offer significant advantages, which are particularly relevant in terms of discrimination law and equal treatment law. For example, a player's gender is irrelevant, as physical strength is not a factor. Sexual orientation is also irrelevant, as it cannot be identified due to the nature of online activity. Physical disabilities are generally irrelevant in e-sports, provided they do not affect the hands. If physical disadvantages exist, these can be overcome with special equipment if necessary. Ethnic origin and race are irrelevant in e-sports, as they are insignificant due to the anonymity of the internet. Age, on the other hand, only plays an indirect role, as all generations can participate equally in the competition, even if older people will usually achieve poorer results due to their reduced reaction speed.

Religion and worldview also play no role in e-sports, as these are not recognisable in the game.

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Now let's take a closer look at the actual fundamentals and see who is involved in e-sports. First, there are the e-sports players, then the clans and clubs, publishers and developers, competition organisers, media providers and sponsors.

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Most professional e-sports players focus on one computer game, as it is virtually impossible to compete at the highest level in several computer games. An e-sports player regularly competes against other players, and their victory depends primarily on their skills and not on luck.

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A clan is usually a group of players who play the game together. This is particularly important because many games can only be played effectively as a team. The players are often connected with each other both inside and outside the game, as they spend a lot of time together and not only train together, but also live together in so-called gaming houses. Such associations can exist on the basis of a contract, club membership or even without any legal obligation. Depending on the circumstances, this results in different legal obligations between the parties. In games where you can only play as a team, it is always necessary to form a clan.

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How the clans organise themselves legally and what obligations exist among the members is governed by the club's statutes. There are pure e-sports clubs or sports clubs that have set up an e-sports department. In Germany, the second constellation leads to disputes in tax law.

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The game manufacturer (developer and publisher) is the one who has an e-sports title programmed and then offers and operates it via the internet.

It is therefore the party that creates the game and, as a result, also owns the rights to the game (intellectual property rights). It is the contractual partner of the e-sports players and, at the same time, the party that decides whether players receive a licence to use the game. As a result, it is also the party that can specify the legal framework for the game through its general terms and conditions (end user licence agreement).

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The competition organiser is the one who makes it possible for players to compete against each other in tournaments or normal competitions. Since competition is a prerequisite for the definition of e-sports, the competition organiser also plays an important role. When it comes to professional e-sports, a lot of money is made in this area, but it is also very important in the hobby sector. Competition is necessary because it is not only for entertainment, but also for the training of professionals.

Competition organisers usually organise so-called e-sports leagues and tournaments, which are held with high prize money. At the same time, competition organisers regularly have a legal relationship with publishers and also with e-sports players or clubs, whereby publishers can also act as competition organisers themselves.

The prize money provided by the competition organiser often comes from sponsorship, ticket sales and also from so-called cross-financing, whereby revenue from microtransactions is used to pay prize money. This also means that the content of microtransactions becomes interesting for spectators and players.

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Furthermore, it is also important to mention the media providers who earn money directly or indirectly from broadcasting games, tournaments and leagues.

Tournaments are often broadcast via the Twitch.tv and YouTube platforms. Recently, television stations have also started broadcasting e-sports around the clock. Streaming by individual players (content creators) can also play a role. Tournament organisers can also become active as broadcasters. However, most media providers finance themselves through advertising or sponsorship.

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Sponsors in e-sports should be assessed in the same way as in all other sports. For sponsors, the payment of funds is often nothing more than a large advertising contract.

A sponsor regularly hopes that sponsorship will result in a positive image transfer. For this reason, the ethics and behaviour of the players also play a major role. Rules of conduct are laid down in the sponsorship contract. Ethics are so important that some sponsors have stopped sponsoring teams if they participate in games related to violence or war. For example, Telekom stopped supporting the SK Gaming team as a sponsor because it was active and successful in the game Counterstrike.

At the same time, sponsors often achieve the goal of binding clubs and individual e-sports players to their products in this way.

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E-sports law is a legal matter that affects not just one area, but combines many different areas of law.

Among other things, it affects tax law, association law, broadcasting law, contract law, youth protection law, intellectual property law and labour law.

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In e-sports law, it is important to be aware of who is in what legal relationship with whom. Let's start with the e-sports player. Here, a distinction can be made between teammates and opponents. Teammates typically play together in a clan or club. However, they have no contractual relationship with each other. An e-sports player also has no contractual relationship with his opponent. If the e-sports player and his opponent compete against each other in a tournament or league, a legal relationship may arise from the fact that both have a contract with the organiser of the tournament or league.

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The most important person in e-sports is the publisher. The publisher is the owner of the intellectual property and can therefore freely decide with whom to enter into a contract and thus grant a licence. It has not yet been conclusively examined whether, based on the relationships between the individual players and the publisher, there may also be a contract with protective effect in favour of the players. The prevailing opinion currently rejects this, but it is still open to consideration.

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Another person in e-sports law is the club where the individual e-sports players are active. If it is a genuine club, it is conceivable that the players are active on the basis of a membership relationship, but it is also possible that the players (as in professional football) are employed by the club. In this case, German law depends on whether the employees are personally dependent. They are considered to be so if they can be given specifications regarding content, implementation, time and place.

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Another legal relationship is that between the publisher and the organiser of a tournament or league. The publisher must grant the organiser a licence so that the latter can hold its event. The organiser then concludes a participation agreement with the club or individual players. It is important to note that all agreements can be structured differently.

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Another party involved is the streaming provider (e.g. [Twitch.tv](https://www.twitch.tv) or YouTube). In order for the streaming provider to have the right to broadcast the copyright-protected game, it must acquire a licence from the publisher. This raises further issues, namely whether a streaming provider is allowed to display advertising in the game or make changes to the appearance of the game, thereby affecting the organiser's copyright.

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Another very important stakeholder in e-sports is the sponsor. As in traditional commercial sports, there are sponsors. Sponsors hope to benefit from an image transfer, whereby they profit from the positive image of the player or club. For this reason, sponsors regularly conclude sponsorship agreements with clubs or players, but also with tournament organisers. These are usually exclusive agreements, which means that other sponsors are excluded.

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Looking at the contractual relationships as a whole, it appears that the publisher grants a licence agreement to the tournament organiser or league operator, who in turn has a participation agreement with the club, which in turn has an employment contract with the player, who typically also has to have a contract with the publisher for use of the game.

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Finally, a few problems should be raised, but not solved:

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This raises the question of which legal system applies if, for example, the publisher is based in the United States, a player is from Sweden, the club is based in London, the event takes place in Poland and the tournament organiser is based in Germany. This is particularly problematic because the applicable legal system must be examined separately for each legal relationship.

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In civil law, one of the questions that arises is whether an e-sports player should be classified as an employee or a self-employed person. This has important consequences for the applicability of occupational health and safety law with regard to health protection and

working time law. In particular, there may be time limits that must be observed for young employees. However, simple civil law claims for damages based on so-called "toxic behaviour" also play a very important role. The exclusion of players (banning) is also very important.

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Further problems arise in the following areas: cheating, exploiting, doping, the possibility of players being dismissed by the clan if they are banned by the publisher, claims for damages in the event of breaches of duty within a team, and also the right to fair competition.

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The most difficult problem in e-sports is that the publisher has the licence rights to the game device. This means that only the publisher can decide what happens to the computer game. In Germany, this copyright is extensively protected.

Not only is the computer game itself protected, but creative elements and video sequences are also protected.

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The organiser of a tournament exploits the game by showing it to spectators in the arena on screens. At the same time, they may broadcast the entire event on television or as video-on-demand. In terms of licensing law, all these steps must be considered in isolation.

Whether and to what extent players are allowed to broadcast the games they play as videos free of charge is questionable. Recent investigations have shown that this is only permissible with the publisher's consent.

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It is currently disputed whether players who play tactically complex games create their own work and are therefore themselves the authors of the recorded video and thus have a right of transmission.

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In Germany, there is considerable debate as to whether e-sports constitute a sport. This is not merely a theoretical dispute, but has significant practical implications. If e-sports are considered a sport, e-athletes can obtain visas more easily and receive funding from the Federal Republic of Germany. Furthermore, tax privileges are provided so that clubs can pay their employees' wages more easily.

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However, problems also arise in public law. For example, it may be questionable whether computer games are generally accessible due to youth protection laws, whether broadcasting and media rights exist, and whether a licence is required to broadcast e-sports competitions.

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Even the question of whether young people are allowed to attend events where computer games are shown that can only be played from a certain age has not yet been clarified. In tax law, the question arises as to which country the tax is payable in; in social law, the question arises as to whether employees are involved and, if so, whether social security contributions must be paid; and in gambling law, the question arises as to whether e-sports are a sport, as only sports betting is permitted in Germany, but not other types of betting.

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In criminal law, e-sports raise issues of bribery, betting fraud, money laundering and doping.