

# New Law Will Open Up French Market to eSports Contests

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Provisions of a new French law, adopted on September 28, 2016, will loosen France's rules around videogaming contests in France, and lay down new labor regulations for professional gamers. For now, clients ought to exercise significant caution before arranging French eSports contests or entering into contracts with professional gamers in France. Even after the reforms take effect, careful diligence will be required.

The new eSports provisions are part of a large package of reforms to France's digital service rules (the "Digital Republic Act"), including new rules on online gambling. The Act received its formal sign-off by the French Senate today, September 28, and will be followed by a number of implementing decrees before it is fully in effect.

Until then, eSports contests stand a significant risk of being deemed to be prohibited public lotteries. France very strictly regulates lotteries, which it defines as all operations which:

1. are available to the public;
2. give rise to the hope of a gain;
3. base participants' success (even partially) on chance; and
4. require a financial sacrifice from the participants.

This has led to questions over whether competitive videogame contests risk falling into this definition, particularly if they charge an entry fee. (There have even been questions as to whether a game's upfront purchase price, or Internet connection fees, constitute "financial sacrifice by participants").

Unfortunately, France currently does not operate an eSports "lottery" licensing scheme, making it difficult to lawfully organize eSports contests that risk falling within the "lottery" definition.

Once the Digital Republic Act and its implementing decrees have come into force, they will excuse certain eSports contests from the general prohibition on lotteries *if players are physically present* at the competition.

The government is expected to publish further implementing decrees that set out key details for organizations wishing to use the new exemption, including:

- certain financial thresholds (including maximum player contributions and win pay-outs), and measures designed to ensure that the totality of a prize pool is paid out for competitions of a certain size; and

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- a procedure for notifying the event to French authorities.

Online (rather than in-person) contests will not be exempt, however. Nevertheless, the Act clarifies that the videogame purchase cost and Internet connection fees are not taken to be “financial sacrifices” for gambling law purposes. Even so, questions are bound to arise as to whether in-game payments count as “game purchase costs” or “financial sacrifices”—a key concern for games monetized through micropayments and downloadable content (DLC).

There will also be specific rules for children. On the one hand, the new Act specifies that some aspects of French labor law apply to “remuneration of any kind” paid to school-going children aged 15 or under, when participating in gaming competitions. However, an implementing decree will define the conditions under which minors are allowed to take part in videogaming contests (which may otherwise be prohibited).

Finally, the new Act will set out which French labor laws apply to professional, salaried eSports players. As part of this, it will require the accreditation of organizations wishing to pay players to participate in gaming contests, and will also regulate the contents and duration of player contracts; for instance, the Act states that defined-term eSports employment contracts must last from one to five years (with limited exceptions, for instance for contracts signed part way through a competitive season).

Covington’s European offices are standing by should you have any questions regarding the new Digital Republic Act’s reforms or any other eSports compliance issues in Europe.

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