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A 'Loot box' (or a 'mystery box') is a feature in video games that is accessed by players by in-game purchases using in-game currencies, purchased either with real money or earned in the games themselves. Through loot boxes players obtain items, the content of which is unknown before paying. Regulating loot boxes has been subject to discussions by legal and gaming professionals in recent years. Some have called for stricter EU-wide regulation to be imposed due to the potential harmful effects and use of exploitative practices, particularly in relation to minors.



早 EU approach

At the beginning of 2023 the European Parliament (EP) adopted a resolution on online video games ¹. The EP notes that in-game purchase systems should be compliant with existing rules under the Unfair Commercial Practices Directive and its respective guidance. The resolution goes even further to call on the European Commission to:

- take the necessary steps to bring about a European approach to loot boxes;
- assess whether the current consumer law framework is sufficient to address the consumer law issues raised by loot boxes; and, if insufficient
- present a legislative proposal to adapt the current EU consumer law framework for online video games or to present a stand-alone legislative proposal on online video gaming, which could even impose a ban on paid loot boxes to protect minors.

Such measures could lead not only to a special European regulation on video gaming, but also to a restrictive regulation of loot boxes.

Presently, gambling-related issues are under the competence of each EU Member state and are not subject to EU-wide regulation. Nonetheless, loot boxes could be addressed by the EU from a consumer protection angle instead - where the EU's existing purview is far clearer.

In view of the abovementioned resolution and lack of a common European approach on loot boxes, we decided to answer a few questions which should present the current situation around loot boxes across all Kinstellar EU jurisdictions and some of our non-EU locations. While no specific national laws to regulate loot boxes exist, the developments around gambling regulation should be monitored as loot boxes have already been discussed in the context of local rules on gambling in some countries.

¹ See https://www.kinstellar.com/news-and-insights/detail/2063/unpacking-the-european-parliaments-recent-resolution-on-online-video-games.



















Bulgaria



Are loot boxes regulated by specific national laws (e.g. gambling)?

There are no specific regulations governing loot boxes in Bulgaria.

Although no explicit opinion has been issued by the gambling authority, it is likely that loot boxes do not constitute gambling, as they are unlikely to meet the requirements of the Bulgarian Gambling Act (e.g. a cash out requirement). However, it would depend on the type of loot boxes adopted by the particular video game and is therefore recommended to be considered on a case-by-case basis.



 \square \square Is there any guidance from national regulators?

No guidance has yet been issued by the national regulatory authority.



Is there any local court practice regarding loot boxes?

No local court practice regarding loot boxes has been found by the time of publication.



Are there any upcoming national legislative developments regarding loot boxes?

There are no upcoming national legislative developments related to loot boxes at the time of publication.



How are protection rules applied to loot boxes?

The Bulgarian Commission on Consumers Protection has not issued any guidance on the application of consumer protection rules to loot boxes. However, all consumer protection rules (including the prohibition of unfair commercial practices, rules on promotion and advertising) apply to loot boxes as well.

© Croatia



Are loot boxes regulated by specific national laws (e.g. gambling)?



There are no specific regulations regarding loot boxes in Croatia. Loot boxes are not legally defined as gambling under the Croatian Gambling Act.



 \blacksquare Is there any guidance from national regulators?



No guidance has yet been issued by the national regulatory authority.



Is there any local court practice regarding loot boxes?



No local court practice regarding loot boxes has been found by the time of publication.



Are there any upcoming national legislative developments regarding loot boxes?



There are no upcoming national legislative developments related to loot boxes at the time of publication.

According to unofficial information from the Ministry of Economy and Croatian Consumer Protection Association, there are no action plans regarding the implementation of the EP resolution.



How are protection rules applied to loot boxes?



At this time, there is no special protection procedure envisaged regarding loot boxes. General consumer protection rules apply to loot boxes as well.

We are not aware of any consumer protection proceedings regarding loot boxes.

S Czech Republic





There are no specific regulations governing loot boxes in the Czech Republic.

On 13 September 2021, the Czech Government approved the Ministry of Finance's ex post RIA analysis conducted for the purpose of a comprehensive review and evaluation of Czech gambling legislation. Although the analysis mentions loot boxes by briefly explaining their functioning, it does not give an answer or guidance regarding their legal qualification and future legislative developments. Rather, it merely states that it is necessary to assess each individual game concept in terms of whether it meets the individual elements of gambling.

Based on the above, it would depend on the type of loot boxes adopted by the particular video game and is therefore recommended to be considered on a case-by-case basis.



∃ Is there any guidance from national regulators?

The Czech Ministry of Industry and Trade, the Czech Ministry of Finance, and the Czech Trade Inspection Authority have not yet issued any guidance on applying rules to loot boxes.



Is there any local court practice regarding loot boxes?

No local court practice regarding loot boxes has been found by the time of publication.



Are there any upcoming national legislative developments regarding loot boxes?

According to media reports, the Czech Ministry of Finance is currently preparing an amendment to the Czech Gambling Act which could also address loot boxes and their legal qualification. However, no public information on the current status of the amendment is available.

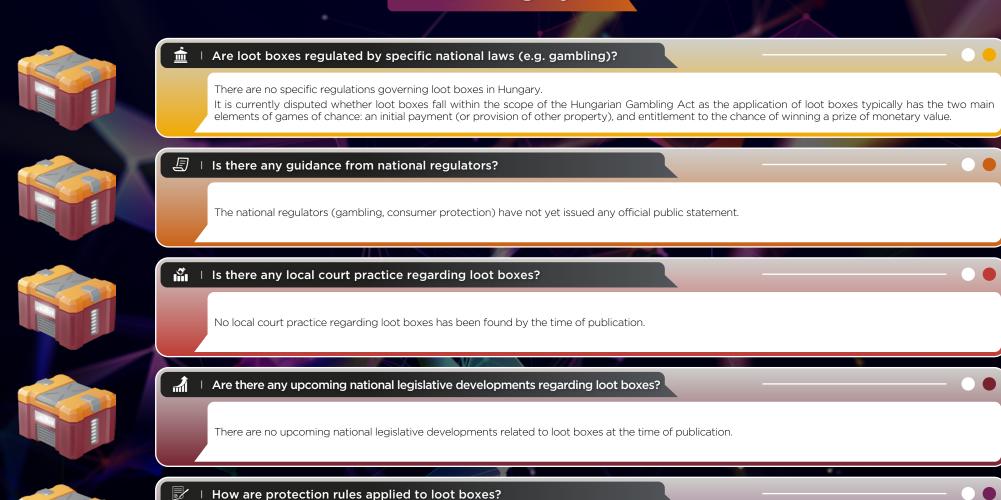


How are protection rules applied to loot boxes?

According to the Czech civil legislation, the merchant must disclose to consumers the functionality of the digital content. It can therefore be assumed that this should also apply to the predictability of the content that loot boxes may contain.

All consumer protection rules (including the prohibition of unfair commercial practices and rules on promotion and advertising) contained in the Czech civil and consumer protection legislation apply to loot boxes as well.

1 Hungary



The Hungarian consumer protection regulators have not issued any guidance on the application of consumer protection rules on loot boxes.

However, all consumer protection rules (including the prohibition on unfair commercial practices, rules on promotion and advertising) apply to loot boxes as

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3 Romania



Are loot boxes regulated by specific national laws (e.g. gambling)?

There are no specific regulations governing loot boxes in Romania.

Although no explicit opinion has been issued by the gambling authority, loot boxes would rather not constitute gambling, as they are unlikely to meet the requirements of the Romanian Gambling Ordinance (e.g. resulting in a material gain, usually cash). Still, it would depend on the type of loot boxes adopted by the particular video game and is therefore recommended to be considered on a case-by-case basis.



No guidance has yet been issued by the national regulatory authority.



Is there any local court practice regarding loot boxes?

No local court practice regarding loot boxes has been found by the time of publication.



Are there any upcoming national legislative developments regarding loot boxes?

There are no upcoming national legislative developments related to loot boxes at the time of publication.



How are protection rules applied to loot boxes?

The Romanian Consumers Protection Authority has not issued any guidance on the application of consumer protection rules to loot boxes.

However, all consumer protection rules (including the prohibition on unfair commercial practices, rules on promotion and advertising) apply to loot boxes as well.





Are loot boxes regulated by specific national laws (e.g. gambling)?



There are no specific provisions governing loot boxes in Serbia. It is unclear if purchasing loot boxes should be considered as a game of chance or a game of leisure under Serbian law. Given that prizes obtained via opening loot boxes could be considered as a specific type of service, the scope of which does not depend on the skills of the player, it could be argued that loot boxes are a game of chance. However, a counter-argument that such service is not materialised outside the game itself could also be raised. Therefore, this issue remains unclear and is recommended to be considered on a case-by-case basis.



 \blacksquare \Box Is there any guidance from national regulators?



Competent Serbian authorities, primarily the Games of Chance Administration, have not yet established their view about this practice.



Is there any local court practice regarding loot boxes?



No local court practice regarding loot boxes has been found by the time of publication.



Are there any upcoming national legislative developments regarding loot boxes?



There are no upcoming legislative developments related to loot boxes at the time of publication.



How are protection rules applied to loot boxes?



There is no specific Serbian regulation on protecting consumers in respect of purchasing loot boxes. General consumer protection rules should be applicable, although their implementation could be questionable for any loot box sellers outside Serbia.

Slovakia



Are loot boxes regulated by specific national laws (e.g. gambling)?

There are no specific regulations governing loot boxes in Slovakia.

Although loot boxes are not explicitly covered within the Act No 30/2019 Coll. on Gambling, they would often meet the definition of 'unnamed' gambling games according to the Act.



No guidance or non-binding opinion regarding loot boxes has yet been published by the national regulatory authority.



is there any local court practice regarding loot boxes?

No local court practice regarding loot boxes has been found by the time of publication.

The Gambling Regulatory Authority has conducted surveillance on a number of sites providing loot boxes. It identified the provision of a prohibited offer (operation of a gambling game on the territory of the Slovak Republic without a licence) via electronic communication on all of them. All sites were sent a notice to cease the prohibited offer and they all complied with the notice in full.



Are there any upcoming national legislative developments regarding loot boxes?

There are no upcoming national legislative developments on loot boxes at the time of publication.



How are protection rules applied to loot boxes?

The Slovak Trade Inspection has not issued any guidance on the application of consumer protection rules to loot boxes.

There are no consumer protection proceedings involving loot boxes at the time of publication.

Turkey



Are loot boxes regulated by specific national laws (e.g. gambling)?

There are no specific regulations governing loot boxes in Turkey.

According to the Turkish law, in order for an act to be considered as gambling: (i) it must be performed with profit-making purpose; and (ii) such profit or loss must depend on luck. It would depend on the type of loot boxes adopted by the particular video game and is therefore recommended to be considered on a case-by-case basis.



 \blacksquare Is there any guidance from national regulators?

No guidance has yet been issued by national regulatory authorities.



Is there any local court practice regarding loot boxes?

No local court practice regarding loot boxes has been found by the time of publication.



Are there any upcoming national legislative developments regarding loot boxes?

There are no upcoming national legislative developments related to loot boxes at the time of publication.



How are protection rules applied to loot boxes?

There is no guidance on the application of consumer protection rules to loot boxes.

However, all consumer protection rules (including the prohibition on unfair commercial practices, rules on consumer product advertising) apply to loot boxes as well.

3 Ukraine





Ukrainian legislation does not regulate the concept of loot boxes.

Under Ukrainian Gambling Law a game could only be regarded as gambling if it includes placing a bet, the possibility of receipt or non-receipt of a winning (prize) and the probability of winning (prize), the amount of which depends entirely or partially on chance. As under Ukrainian Gambling Law a bet poses a condition for participation in a gambling game and its amount is used to determine the amount of a winning (prize), loot boxes are unlikely to fall under the category of gambling.

Based on a complex interpretation of Ukrainian Lotteries Law, arguably, loot boxes might be recognised as lotteries. In Ukraine lottery is a mass game providing for the drawing of a prize (winning) fund among participants. Victory is random, regardless of the method of accepting money for participation in the game. Nevertheless, this assumption has not been confirmed neither by the Commission for Regulation of Gambling and Lotteries, nor by existing court practice.



☐ Is there any guidance from national regulators?

No guidance has yet been issued by the national regulatory authority.



iii Is there any local court practice regarding loot boxes?

No existing local court practice regarding loot boxes has been found by the time of publication.



Are there any upcoming national legislative developments regarding loot boxes?

There are no upcoming national legislative developments or similar initiatives on loot boxes at the time of publication.



How are protection rules applied to loot boxes?

In Ukraine there are no specific protection rules established for loot boxes.

The general requirements of consumer protection, advertising and unfair competition legislation shall apply to loot boxes as well.



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