



## SPORTS LAW THEORY: LEX SPORTIVA – OLYMPICA

### MOTIVATION FUNCTION OF SPORTS LAW

**Huiying XIANG**

*Professor at the Shanghai University of Political Science and Law, Secretary General of Sports Law Center, China*

**Abstract:** When good governance has become the fundamental goal of sport administration, it is necessary to explore the motivation function of sports law as an important way to achieve good governance. As a function, law can be divided into administration, discipline and motivation. Sports law as a reflection of society's laws and values, its motivation function is bound to exist. Human nature theory, sport management theory, sport psychology theories, as well as sporting spirit are the cornerstone of sports law motivation. In fact, few people have studied the motivation function of sports law. Exploring and developing the motivation of sports law is very important to improve the function of sports law and achieve good governance in sports.

**Key words:** Sport law; motivation function; good governance

### ON THE INTERACTION OF SPORTS FEDERATIONS RULES AND NATIONAL LAW

**Olga SHEVCHENKO**

*Lawyer, Asst. Professor at the Kutafin Moscow State University, Russia*

**Abstract:** Nowadays the question of Sports federations' rules and national law's interaction is absolutely controversial and furthermore, there exists a lack of explanations of these relations in Russian science of Labour law. What is the exact impact of sports federations' rules on national law? The answer is where these elements are disclosed: Are sports federation's rules without concrete specifying in national law obligatory for athletes, sports clubs and coaches? . Where is the limit of Sports Federations' rules and national law interaction and impact to the rights and responsibilities of Sports subjects in Labour relations? . Whether this interaction leads to erasure of the boundaries between labour, civil and administrative law or not? . Up to what extent Sport Federations Rules can be implemented into national law?

**Key words:** sports organizations, self-regulation, athletes, sports federations rules, national law

## THE DISCUSSION ON THE CONSTRUCTION OF THE CONTRACTUAL RELATIONSHIP

**Hongjun MA**

*Professor at the China University of Political Science and Law, China*

**Abstract:** The relationship between coaches and athletes forms in the long term of daily training, competition and the life, which is related to achievements of coaches and athletes. It has much to do with the success of sports undertaking. With Chinese political and economic reform, the sports operation system has to be changed from government-oriented sports system to market-oriented sports system. The relationship between coaches and athletes also changes in the reform from status to contract.

**Keyword:** coaches; athletes; the relationship of status; the relationship of contract between Coaches and Athletes

## EMPLOYMENT RELATIONS IN SPORTS ACTIVITIES AND PROTECTION OF INDIVIDUAL AND ECONOMICS FREEDOMS

A

CORPUS JURIS ATHLETIKI

**Dimitrios P. PANAGIOTOPOULOS**

*Professor at the University of Athens, Attorney-at-Law , Advocate*

*President of International Association of Sports Law, Greece*

**Abstract:**The study of bibliography and also of jurisprudence so much of the civil courts as of the jurisdictional organs of the lex Sportiva circle reveal that in the broader field of Sports Law on a national and international level it is distinguished in: the regulations of lex Sportiva that concern sports law on a national level and also international sports law concerning special regulations originating from international legal entities and international instruments or agreements of governmental entities.

Besides the above what may be focused on is, matters about the protection of athletes and especially contractual relations (see ILO GB.322/INS/2, 2014, Letter of President of IASL Athens, 23rd September, 2013 to Mr. Guy Ryder Director General of ILO) and in general all of those involved by profession with sports concerning personal and financial freedoms even though the general principles of law have been applied. Nevertheless these principles and regulations originate from private institutions such as the international sports Federations (*A numerous of voices are calling on FIFA to publish the report on the allegations of bribery in the award process for the World Cup 2018 in Russia and 2022 in Qatar. International Transparency against FIFA, Sport Kathimerini 2-11-.2014*) and the ILO where a framework of legality is sought out concerning as to how effectively they arrive there and by these regulations commit sui generis those involved, and forcing the resolution of their disputes in an arbitrary and often questionable manner.

The problem that arises is that the area of Lex Sportiva as an area of law, must be precisely defined in order to be valid and able to effectively consolidate the inner-competitive and inner-sports relations on the basis of sports law regulations and also on the basis of the general principles of law for the healthy holding of sports games and the valid participation in them. Furthermore it is required that an international framework of law regulations is established, as a Corpus Juris Athletiki on the basis of which the relations of those involved in sports and games will be regulated concerning issues of sports and coaching services as well as to issues related to personal and financial liberties, regulations that can only be established by State or supra-national and not private international sports institutions. This code of sports law could predict the manner and ways of resolving these differences and at the same time the differences of Lex Sportiva.

The multiannual scientific struggle for the distinction and systematization of Sports Law, with safety leads us to the conclusion that an International Corpus Juris Athletiki, an International Founding Chart of Sports that will include all the general principles of law, principles that are applied in Sports Law is a necessity, but also a framework of regulations which will enforce international legality in sports and can justify the distinction of: Sports Law- Lex Sportiva , International Sports Law and other respective validated forms of jurisdiction.

**Key words:** Sports Law, general principles of law, lex Sportiva, regulations, protection ,jurisdiction, personal and financial freedoms.

## SPORTS & LEX UNDER THE AUSPICES OF AN ARBITRARY REX

**Vassiliki Ch. KAPOGIANNI (Dr.)**

*Political Science, International Relations and International Public Law, Sorbonne,  
Paris II, Panthéon – Assas-Paris, Greece*

**Abstract:** The multidimensional field of Lex Sportiva has set the foundations for the emergence of an Arbitrary Rex via the creation of an inward solid legal framework regarding the intercompetitive and intersports relations. It is imperative to distinguish Lex Sportiva and its corpus from the rest pre-existing legal entities by unhanding the primary part to the arbitration and its interpretation.

Consistency in sports legal principles should be ensured because the aim is to create a set of harmonized best practice standards that could be applied uniformly. Therefore, a new sport legal panel should be delimited that could arbitrate over a wide range of sports areas, from doping disputes to the regulation of the intersports relations. The suggestion for creating domestic sports tribunals under the auspices of the CAS could ensure at some level sports ambit but the lack of dominion sports legal principles lead to innumerable misinterpretations and to an inefficient process of finding solutions.

A synthesis in legal substance under a hierarchical jurisdictional scale is required for sports legal theory acquires the necessary legal power and specialized mechanism for to be applied homogeneously throughout the world. Guiding principles under the aspect of values should establish an internationally recognized arbitrary panel which will define the ethical and corrupt side respectively, the competencies required and the professional standards under the auspices of fairness, equity and equal opportunity.

**Key words:** Sports & Law, Dominion of principles of Law, Conflicts, Harmonization of sports legislatures, convergence of hierarchical legal scales & Arbitration, intersports and intercompetitive relations,

## INVESTIGATING CIVIL RESPONSIBILITY OF ARBITRATORS IN SPORTS CONTRACTS

**Armand Yousefi SADEGHLOO (PhD )**

*Limoges University of France, Attorney at Law, Instructor of Law University, Iran*

**Abstract:** Arbitration to resolve disputes between legal and natural entities has a long historical precedence. Selecting an arbiter(s) in sports contracts between disputed parties and relative extensive powers of disputed parties notwithstanding international arbitration centered in Lausanne, Switzerland has prompted other countries to allocate facilities and perquisites to establish such arbitration centers within their borders due to them being important and a great source of revenue. Due to being able to determine governing rules of arbitration in nature and form, arbitration is much more favorable to judicial proceedings in that it is much more flexible. Ease and speed of arbitration relieves the parties such as delays in court proceedings and associated high costs and therefore provides further incentive to use

them. Additionally in arbitration, aside from settlements, the issued verdicts are better received by the parties compared to judicial courts and contrary to judicial verdict in which one side is often the loser and other the winner, due to arbiter having more freedom and no enforced governing law, even the party with more solid documentations may waive parts of their rights and therefore provide more opportunity for voluntary settlement by the parties in dispute. Another advantage of arbitration is ease of enforcement of verdicts and very strong enforcement guarantee due to creditability of arbiter's verdict in judicial court according to relevant laws.

Arbitration is resolving disputes between two claiming parties when the said parties agree to settle their dispute outside court by a natural or legal entity or mutually/previiously agreed upon arbitrator. Iran's law has no clear definition of arbitrator and as Civil Trial Law is one the most documented laws, in chapter seven articles nos. 454 to 501 Code of Civil Procedure there is no clear definition of arbitrator as other legal establishments (constructs) and instead of a comprehensive definition of arbitrations, Article 454 Code of Civil Procedure stipulates the conditions and specifications of the parties of dispute and there is no definition of arbitrator. This has led to various personal interpretations of this law. The word used in Persian for arbitrator is "داور" (Daavar) which means observer, witness, judge, expert in one's opinion and is synonymous with arbitration, mediation.

In law and sports law, arbitration is a replacement of trial procedure with legal competence that according to law individuals attempt arbitration instead of judicial authorities when disputes arise.

Arbitration is a legal establishment (construct) according to which if there is a dispute among individuals, they can mutually agree before or after such occurrence to implement arbitration to guarantee and enforce the results and regulations of a contract as a judicial court would have. In sports, arbitration is a method to settle a dispute. The parties have decided to present their dispute to a tribunal of arbitration consisting of one or several arbitrators, so they would employ their professional experience and expertise to decide about the issue. The verdict of the arbitrator or tribunal replaces that of a judge in a judicial court. This is a method of dispute settlement without government or criminal enforcement factors and is performed with voluntary presentation of both parties to a specialized non-public authority that replaces non-specialized legal and inflexible judicial proceedings.

In economics, arbitration is a decision making process known as the best dispute settlement authority between the parties to avoid issuing conflicting verdicts.

Therefore, in consideration of the aforesaid it can be concluded that arbitration is when parties, of their own accord, present their dispute to a person outside judiciary body so that they may decide by relying upon legal support provided by relevant laws and the judiciary system would be obliged to enforce such decision. Considering within the past decades in sports law most disputes have been settled through international arbitration and the numerous advantages of this method specially when the parties are of different nationality or entity (natural or legal), the parties are more inclined to this procedure and decisions made as arbitration verdict in some cases may have been unfair that incurred financial and intellectual damages to a party. Therefore, we'll try to determine a clear definition of arbitration and differentiate between amateur and non-specialized arbitrator and expert and specialized ones, so that the degree of responsibility for an arbitrator can be assessed and notwithstanding arbitrator's undeniable responsibility when issuing a verdict knowingly in the interest of one party, whether the damages incurred by one party due to unfair/wrong verdict that is issued unknowingly can be reimbursed from the arbitrator or the establishment that introduced such arbitrator. And also whether this responsibility is same for all arbitrators or it shall be applied as the case may be and according to one's discretion?

**Key words:** Arbitrators, responsibility, Sports Law, Sports Contracts, damages

A STRANGE CASE OF CONFLICT: LABOUR LAW VS. FEDERAL NORMS  
ABOUT SPORT

**Maria Francesca SERRA**

*Contract Professor (Sport Law), UNICUSANO Roma, Italy*

**Abstract:** Our paper aims to analyse the particular case of no-professional athlete and the rules and norms in Italian sport organization, in which coexist European, national and federal norms. Federal norms, *ex L. 91/81*, create a separation between professional athletes and amateurs. The obvious consequence is that similar activities receive different treatments and it depends on the fact that Sports National Federations decide to be or not to be professional and also the level of professionalism. In fact, Federal Statutes forbid any form of job for no-professional athletes, who can only subscribe private acts and receive sums of money that cannot be considered job remuneration.

The amateur – and the entire feminine section is considered amateur – joins the Federation and voluntarily accepts this federal rule, but it's a fact that he/she practices sport like an employee, often a full time employee, with duties (and rights), especially when he/she plays in a sport national category.

So, there are many difficulties and it arises a wide discrimination between professional and no-professional (and women) athletes. European and national jurisprudence consider activities of no-professional athletes as an employment, a real job. At the same time, federal statutes namely forbid the employment for these categories of athletes.

There's a law gap in this situation and a protection vacancy. In reason of the fact that in the Italian law system special laws cannot be analogically applied, it's impossible to resolve the question with the L. 91/81. Otherwise, if we try to resolve the question applying European rules a conflict could arise because the sport organization is free and independent inside and the athletes must strictly respect its rules and pay a penalty for their violation: in particular, they lose the status of athlete and cannot participate to competitions.

**Key words:** Conflict of norms, Labour law and sport law, Job and no-professional sport, Discrimination, Gender discrimination, Protection vacancy