



STATE AID IN SPORT IN THE EUROPEAN UNION LAW

Magdalena KĘDZIOR

Lecturer, The School of Law and Public Administration in Przemyśl, Poland

Abstract: The professional sport has recently become the subject of interest from the perspective of the EU Competition policy guards. The sign of such tendencies are common actions undertaken by European Commission and UEFA in 2013, newest Commission's decisions as for the financing of sport clubs or recent legislative measures introduced in 2014 in this area.

One of them is the Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, which entered into force on July 17th 2014. This regulation extends the block exemptions from the general ban of state aid to new categories such as the sports infrastructure or the multifunctional recreational infrastructure.

The purpose of this paper is therefore to analyze the relevant legal act and to deliver the answer to the question of the scope and form of the admissible state aid in sport in the EU law. Special attention will be paid to the conditions that must be fulfilled if the EU law in the realm of forbidden state aid shall be applied and to the exceptions from the general ban of state aid in sport.

Key words: European Union Law, State Aid, Sport Infrastructure

BASKETBALL ARBITRAL TRIBUNAL (BAT): A QUICK, EFFICIENT, INNOVATIVE WAY TO SETTLE FINANCIAL DISPUTES

Andreas ZAGKLIS

(LL.M.), Lawyer, Germany, Greece

Abstract: In 2007, the Basketball Arbitral Tribunal ("BAT") started to resolve financial disputes in international basketball. In its first year, two cases were filed with the BAT. Last year, the BAT celebrated the filing of its 500th case and a total of 142 cases received during 2013.

Quick

According to the BAT Rules, the award will be rendered within six weeks after the completion of the arbitral proceedings. The average length of BAT proceedings is in general between four and six months from the time of filing of a Request of Arbitration to the time that the award is rendered.

Technology-based

The BAT proceedings are all conducted via modern technology. Submissions via email are the norm for the BAT. Most of the cases are decided on the basis of written submissions without an oral hearing.

Ex Aequo et Bono

Generally, BAT arbitrators decide a dispute *ex aequo et bono*. Thus, the arbitrators look at general considerations of justice and fairness without reference to any particular national or international law.

Lex Sportiva

BAT publishes all of its awards online, together with a summary. Thus, parties have the ability to review BAT awards and ascertain consistent legal principles therefrom. Parties not only have started citing BAT jurisprudence in their submissions but also have – admittedly – amended their contractual practices in professional basketball in line with BAT jurisprudence.

Enforcement of Awards

While BAT awards are enforceable under the New York Convention, more often, parties seek FIBA intervention if an award is not respected. FIBA can sanction a party for its non-compliance with a BAT award from banning a club from registering new players or participating in an international competition to banning a player from an international transfer.

OLYMPIC TAX LAW

Karolina TETLAK, (Dr.)

Asst. prof., Sports tax lawyer, University of Warsaw, Poland

Abstract: Olympic tax law is part of the emerging supranational *Lex Olympica* (mega-events law) and increasingly influences legal systems of host countries. To protect the interests of the Olympic Movement and its official sponsors, the International Olympic Committee (IOC) requires host countries to introduce special Olympic legislation as a condition for hosting the Games, and to partly suspend the general domestic laws during the Olympics. Full tax immunity for the Olympics is an example of a legal carve-out, whereby the existing general laws do not apply to the Games. Instead, special tax regulations drafted under the dictation of the IOC within the framework imposed by the host city contracts implement the organizations' own fiscal policy, imposed uniformly worldwide, despite differences in legal systems of the hosts. While it is understandable that the existing legal systems of host countries may often be insufficient to provide the necessary regulations for the Olympics, the evolving strategy of creating a favorable legal environment for the Games raises legitimacy concerns. Such event-specific legislation becomes part of a uniform Olympic legal regime designed by the IOC and implemented by hosts worldwide. On the one hand, such practice disintegrates the domestic legal systems of the host countries, which are partly suspended and supplemented for the period of the event. On the other hand, it develops a stable fiscal and legal framework for the games and harmonizes administrative practices of mega-event hosts.

Key words: *Lex sportiva tributaria*, taxation, tax law, sports mega-events

GLOBAL SPORTS LAW AND ITS CHALLENGE TO JURISPRUDENCE

Tang Yong (Dr.Sp.L)

Lecturer of Law, Zhejiang University of Finance and Economics, China

Abstract: This article reviews the conceptions of Global Sports Law and describes the outline of the rules of global sports law. Global sports law is set up by non-governmental organizations to regulate international sports, including the rules made by the International Olympic Committee, the Court of Arbitration for Sport and the international sports federations. This new legal phenomenon challenges traditional jurisprudence in three ways, including legislation by private entities, fuzziness between public law and private law, interaction between domestic regulation and global order.

Key words: Global Sports Law, Jurisprudence, *Lex Sportiva*, *Lex Olympica*

THE SPECTRUM OF QUESTIONABLE BEHAVIOR IN SPORT

Daniel GANDERT

Clinical Assistant Professor of Law, North-western University School of Law, USA

Patrick CALLAGHAN

Associate McDermott Will & Emory, USA

Abstract: While the Olympic Charter requires members of the Olympic Movement to act in the spirit of fair play, this requirement is enforced in an inconsistent manner. There are some cases for which intentionally breaking the rules of a sport or not putting forth one's best effort is accepted while there are other cases for which this type of action is considered a serious offence.

This paper classifies strategic behavior which violates the spirit of fair play into a spectrum. At the start of the spectrum are practices that are always considered acceptable. One of these practices is intentionally fouling in basketball. The use of domestiques, which are cyclists who work to help their teammate win instead of putting forth their best effort toward winning a race also falls into this end of the spectrum. Following this are practices which are considered questionable. This includes not putting one's complete effort into a track and field race. There are many cases, such as in qualifying heats, where it is considered acceptable for track athletes to avoid putting forth their best effort. However, the IAAF has a rule requiring athletes to put forth their best effort and on a rare occasion has attempted to invoke disciplinary proceedings for the violation of this rule. Other questionable practices in the spectrum include soccer players who play to tie instead of playing to win, since this can be a safer option in some instances, and badminton players who purposely lose their game because of the way that the draw is set up for their tournament. At the end of the spectrum are practices that are deemed never acceptable, such as match fixing and doping.

This paper will enhance the understanding of inconsistencies relating to the concept of Fair Play within the Olympic Movement.

Key words: Fair play, doping, match fixing, intentional fouls, losing

LEGISLATIVE ANALYSIS OF THE SPORTS STATUTORY LAW

Hua-rong CHEN

Associate professor, Dept. of Political science and law of Yun-cheng University, China

Abstract: There are more than 70 countries have launched their sports law in the worldwide, we have obtained 45 countries full text of the sports law by the Preliminary studies, at least 25 texts are required under the relevant clues to collect, collate. According to the basic situation has been collected in the national sports law texts, this study attempts to develop methods by comparing structure, content and technical issues of the national sports laws to provide advice and reference for the legislative authority and the research areas.

From a structural point of views, some have sub-sections, and some direct written, but on the whole, or can be divided into the following sections: Name, Title, Preamble, General, text, Annex. The content of each part, tend to have a certain similarity. Name section includes the full name of the statute or law, enacted or approved agencies, draft or promulgation of time, the law number and so on. Preamble describes the origin of major sports legislation, heads of state concern, the relation between sports law and other bills. General Part involves sports management system, sports development principles, civil sports rights and sports responsibilities of public agencies, the legal status of the IOC and national sports federations and so on. The main part of the law generally involve physical education, sports events, sports economy, other relationships, including sports venues and facilities and to ensure funding is necessary. Supplementary part of the statute describes the effective

time of the provisions of the bill, convergence with other laws, foreigners and other sports activities.

The technical questions about sports legislation, first of all, on terms to definition of key words, a large number of countries sports laws defining the concept of the bill, such as the concept of sports, athletes, sports events, sports organizations. Secondly, with regard to the provisions of detail circumstances, can be seen from the provisions of the provisions of law on a particular issue, some sports law are extremely detailed, as set out in detail the rights of athletes, sports specific provisions of abandoned conditions, procedures and reconstruction, some sports law only provides for the principle. On legal convergence issues, and some sports law expressly provided in the Supplementary section fails the old law, the new law to take effect, some clear sports law relationship with other laws, some provisions take effect in different times and in different regions of different provisions take effect, some provisions of the quasi with the terms. As to the division of authority, including central and local sports legislative scope, administration authority of the central and local governments, autonomy areas such as sports organizations. On the form of legislation, some in the form of a comprehensive law, sports law covers a variety of sports relations; single law adopted some form of regulations only amateur sports, high-level sports teams, sporting events, sports governing bodies, sports Association, and France is specially , it launched codification of the "Sports Code" in 2006.

In summary, for comparative analysis of national sports law in favor of a comprehensive understanding of the world of Sports legislation, a clear legal status of sports, provide a reference to China's sports legislation; favor of the right to clear sports participants, government and public institutions to determine the development of sports responsibility; conducive to promoting China's sports foreign exchanges, participation in international sports competition.

Key words: legislative; sports law; statutory law; comparative analysis; worldwide;

THE FIFA REGULATIONS ON WORKING WITH INTERMEDIARIES: IMPLEMENTATION, DIFFERENCES WITH THE CURRENT SYSTEM AND CHALLENGES

Alkis PAPANTONIOU

Lawyer, (LLM) University of Athens, Greece

Abstract: Fédération Internationale de Football Association (FIFA) has been trying to regulate the activity of football players' agents since 1991. In 2009, FIFA announced that only 25-30% of the international transfers are concluded through the implementation of its regulation for licensed players' agents and took the decision of an in-depth reform of the agents system through a new approach based on the concept of intermediaries.

Following an extensive and continuous consultation process involving member associations, confederations, clubs, FIFpro and professional football leagues, on 21st of March 2014 FIFA Executive Committee approved the new Regulations on Working with Intermediaries, which will come into force on the 1st of April 2015.

The scope of the new Regulations concerns services of intermediaries provided to players and clubs to conclude transfer contract or transfer agreement. Players and clubs must act with due diligence when selecting an intermediary. A registration system shall be put in place at member association level, whereby intermediaries shall be registered for every individual transaction that are involved in. The relevant representation agreement shall be deposited with the association when the intermediary is being registered. In an attempt for an overall rationalizations of fees paid to intermediaries, the new Regulations set a limit of 3% of the agreed player's basic gross income or of the transfer compensation and prohibit any payments to intermediaries when the player is a minor.

The implementation of the new regulation, along with the abandonment of the current system lead to the need of a further analysis of the new provisions and the challenges that the shareholders of football will have to face.

Key words: Agent, Intermediary, Football, FIFA

THE TRAINING COMPENSATION FOOTBALL IN THE FOOTBALL WORLD

Alkis PAPANTONIOU

Lawyer, (LLM) University of Athens, Greece

Abstract: The Fédération Internationale de Football Association (FIFA) has created a detailed system for the payment of “training compensation” that encourages the training of young players by awarding financial compensation to clubs that have invested in training young players.

FIFA Regulations on the Status and Transfer of Players provide that between the ages of 12 and 23, a player is in his sporting training and education. Training compensation is payable in international transfers, when a player is registered for the first time as a professional or when a professional player is transferred between clubs of two different Associations, before the end of the season of his 23rd birthday.

The amount is payable within 30 days of the registration of the player and is calculated on a pro rata basis according to the period of training that the player spent with the training club/s. In order to calculate the compensation due for training and education costs, Football Associations divided their clubs into a maximum of four categories in accordance with the clubs’ financial investment in training players.

Special provisions apply to transfers within the EU/EEA, as a result of the understanding reached between FIFA and UEFA on the one hand and the EY on the other in March 2001.

The Dispute Resolution Chamber (DRC) of FIFA may review disputes concerning the amount of Training Compensation and have discretion to adjust this amount if it is clearly disproportionate to the case under review.

An analysis of the training compensation system and of the relevant jurisprudence of the FIFA DRC and of the Court Arbitration for Sports will enable the participants of the Congress to better understand the importance and the impact of this regulation to the sports’ world.

Key words: Training, Training compensation, Football, Transfer, FIFA

RESOLUTION OF SPORT DISPUTES ARISING OUT OF SPORT COMPETITIONS

Sergey YURLOV

Lawyer, Russian Federation, Russia

Abstract: Sport is a complex system, basically comprised of trains and competitions. Sport competitions are conducted by special subjects – sport federations (national or international) or legal entities (in some cases). Sportsmen train in order to do their best in sport competitions, to show their athletic performance. In its turn, a sport competition is a system of interrelated proceedings. Thus, a sport competition consists of the following procedures: filing an application for a certain competition; conducting of a mandate committee; competition; compiling of a summary of the results. It is to be noted that a sport dispute may emerge at every stage of the sport competition. Therefore, it is very important to address sport disputes arising out of sport competitions. Each sport federation should enact a statutory act introducing a mechanism of sport dispute resolution. Such sport disputes should be considered professionally and in a short run because sport is a dynamic system governed by a special timeframe (for example, an Olympic Cycle). This article deals with the sport dispute resolution procedure relating to the sport competitions, considers legal

problems relating to the sport disputes arising out of sport competitions. The author bases on theoretical provisions, statutory acts and court practice. This article will be useful for sport lawyers, sportsmen, coaches and other sport subjects and may be used in advising procedure.

Key words: Sport; sport dispute; sport competition; court practice; procedure; statutory act

DISCIPLINARY PENALTIES TO PERSONS INVOLVED WITH ACTIVITIES IN THE FIELD OF PROFESSIONAL TEAM SPORTS

Dimitrios PANAGIOTOPOULOS

Professor, University of Athens, Attorney –at-Law , Greece

Angelos PATRONIS

Lawyer, Post-Graduate Student, Candidate Doctor, Greece

(Present: Angelos Patronis)

Abstract: Disciplinary nature cases are always significant to the field of sports jurisdiction. In order to approach those cases, provisions of sports federations disciplinary law and the general principles of sportsmanship are applied.

At this specific legal framework, is common to face rules which prohibit recourse to national courts and impose “compulsory arbitration”, which prima facie is doubtful according to the Greek Constitution, as those rules might infringe the freedom of choice between the parties.

In particular, disciplinary bodies of Greek professional sports federations are private-law entities, and can't be reproached as “Courts”, despite the fact that are composed of national judges. On the other hand, Ethics Commission is structured as an administrative collegiate body of the Greek National Olympic Committee (NOC), governed by public law. Therefore, Ethics Commission's “decisions” might cause enforceable administrative acts according to the articles of Administrative Proceedings Code, but can't set -at any case- a precedent as judicial decisions do. It's also open to question if the same treatment of professional and non-professional sports cases by the Ethics Commission contributes to the principle of legal certainty.

On the basis of the above mentioned, the issue before us is the possible conceptual distinction of sportsmanship and disciplinary nature cases in the specific field of professional team sports, in which business leaders are involved. It's also notable that sports public limited companies are “special-purpose legal entities”, in which the meaning of “sports fan” for those persons who develop financial activity in sports is based on “legal fiction” where the implementation of sports law and sportsmanship has to be set under different parameters as the enforceability of decisions-acts made by professional sports bodies is of dubious legitimacy.

Key words: Disciplinary nature cases, sports jurisdiction, sports federations, sportsmanship, compulsory arbitration, , Ethics Commission, professional team sports, business leaders, sports public limited companies.

THE NECESSITY FOR REGULATION OR/AND RE-REGULATION OF SPORTS LABOR RELATIONSHIPS, ESPECIALLY OF “AMATEUR ATHLETES”

Magdalini BELLOU

*Lawyer – Ms Degree on Employment Law – Student/candidate for a Dr Degree,
Greece*

Abstract: The term of dependent employment and its distinguishing characteristics. – The unique nature of athletes' services offer and the need for protection of the weakest party as a general legal principle at the field of Sports Law. – The challenge of the more and more compelling demand for flexibility of employment relationships, the danger for their deregulation and the proposition for their re-

regulation. – The recognition and protection of sports labor rights as a necessary mean of promoting and fulfilling the athletic – cultural goals and needs of the State.

Key words: Dependent labor – offer of athletes' services – flexibility, or deregulation of employment relationships.