SPORTS JURISDICTION

FREE WILL AND JUSTICE IN PLATO'S REPUBLIC

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Abstract : The topic of the dialogue in Plato's Republic (Greek: Politeia) concerns the nature of justice and injustice -the just man and the unjust man- and to what extent the just or the unjust are happier their lives. In Plato's Republik two opposite and conflicting theories are formulated on the essence of Justice, leading to different perceptions on the culture and education of youth. One theory, which is supported by Plato's brother Glaucon, argues that no human being is just at will or free will, but only when forced to be, since individual interests and greed dominate. The other view, which is that of Socrates, through which Plato is expressing himself, stresses the role and importance of knowledge and the education of humanity. What is the significance of each theory or viewpoint for the education of youth? What mythological and logical arguments are used to support the two theories? In what way should the ideal Republic operate, so that Justice is effectively promoted? Does impunity undermine the meaning of justice, strengthening individual interests? Given that competitive sports are a reflection of a society's value system, which of the above deductions or processes of reasoning apply to modern sport today? According to Socrates, no man consciously turns to injustice, unless he ignores justice, the latter approached through knowledge as are all virtues in general. Finally, those who can control their conscious through self-control and temptations through ethos are wise, rational and frugal. Each individual should look for Justice throughout their entire lives, and not just a specific time or point in their lives.
Key words: Plato's Republic, injustice

THE DECISIONS OF SPORTS PHYSICIANS FROM A LEGAL PERSPECTIVE

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Abstract: Sports physicians operate within a network of relationships that includes *inter alia* associations and federations, clubs and insurance providers, as well as athletes and their advisors. These networks can vary depending on the professional or voluntary function performed by the physicians. Due to the existence of conflicting objectives (e.g. between the short- or long-term use of a medical measure), and the necessity of providing a prognosis in particular, sports physicians may often encounter problems in arriving at a decision. The legal requirements placed on the conduct of sports physicians and the decisions they make can be distinguished from one another depending on the type of contractual relationship in question and whether the physician is acting in a voluntary capacity. In addition, depending on the type of sport concerned, there will be special, specific factors and conditions involved. These can, for their part, play a considerable role with regard to the type and extent of any possible liability to be imposed on the sports physician.
Key words: sports physicians, liability, contractual relationship.

UNION CYCLISTE INTERNATIONALE (UCI) INDEPENDENT COMMISSION

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Abstract: On 8 January 2014, the Union Cycliste Internationale (UCI) announced the creation of the Cycling Independent Reform Commission (CIRC). The members of the CIRC are Dick Marty (Chairman), Ulrich Hass and Peter Nicholson. The CIRC is funded by, but independent from, the UCI and has been given complete access to the UCI's files and electronic data. The scope of the CIRC's work is governed by written Terms of Reference which explicitly state that the CIRC will act autonomously and will not receive instructions from the UCI. The CIRC's mission is to investigate the problems that the sport of cycling has faced in recent years, including allegations that the UCI was involved in wrongdoing in the past. Following its investigation, the CIRC will present a report of its findings and make recommendations for change so that the problems can be addressed. On 1 February 2014, the UCI Management Committee approved ad-hoc UCI regulations that formalise the CIRC's mission and allow it to propose reduced sanctions (or even exemption from sanction) to people who admit to having breached the anti-doping regulations but collaborate with the CIRC to achieve its mission. The CIRC is expected to provide its report to the UCI in January 2015.
Key words: Union Cycliste Internationale; UCI; Cycling Independent Reform Commission; CIRC; Dick Marty; Ulrich Haas; Peter Nicholson; reduced sanctions; investigation; cycling; reform.

HOW A DISPUTE RESOLUTION BODY CAN MAKE A CONTRIBUTION TO THE ENHANCEMENT OF SPORT

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Abstract: The Japan Sports Arbitration Agency (JSAA) was established in 2003 by the Japanese Olympic Committee (JOC), the Japan Sports Association and the Japanese Para-Sports Association. Raising the transparency of sport laws and rules by means of resolving disputes between athletes and sport federations leads to the sound and smooth administration of sport organization.

Furthermore, the Basic Act on Sports has been enforced from 2011 in Japan. The Act prescribes the necessary articles to provide the prompt and appropriate resolution of sports disputes.

The number of cases JSAA has undertaken during the period from 2003 to 2013 amounts to 275, while the number of awards are 51 including 4 doping cases. Among others, there are 11 cases, for which federations had not agree with arbitration procedure despite the athletes' appeal for arbitration.

JSAA takes three measures to cope with this problem. First is JSAA has been working to federation to introduce an automatic acceptance clause. The clause is a provision to the effect that if an athlete who objects to a decision made by a federation file the petition, the federation has to always agree to the requested arbitration. Second is JSAA has been promoting the movement for understanding about JSAA's arbitration. The last is JSAA has been announcing the name of the federations, if the federations refused to enter to an arbitration procedure. At present, the clause has been adopted by 67% of sport federations which affiliating with JOC. However this figure needs to be increased.

Such circumstances suggest that JSAA would find general acceptance of the due arbitration gradually spread out among sport federations in Japan. Tokyo was chosen to host the 2020 Summer Olympic and Paralympic Games. Japan will become one of

the leading countries how the dispute resolution body can make contribution to the enhancement of sports.
Key words: Arbitration, Sport dispute resolution, sport federation, Automatic Acceptance Clause , Tokyo 2020 Olympic and Parolympic Games

A STUDY ON THE APPLICATION OF GENERAL PRINCIPLES OF LAW IN COURT OF ARBITRATION FOR SPORT

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Abstract: General principles of law are basic rules whose content is very general and abstract, broadly applying with their features of fairness and universality. Court of Arbitration for Sport(CAS) is the pinnacle of the worldwide dispute settlement system for sport matters. Like others international courts, general principles of law have always maintained a place of special prominence in deciding cases. But likewise, we have to figure out how to properly apply general principles of law dealing with some particular or technical issues in sports disputes, and how to avoid excessively to apply those legal principles or autonomous rules during arbitration. In the view of these, the article at first analyzes various ways of applying those principles from six typical awards, including the supplement for rules of International Federations or the interpretation of vague words in rules and so on. Then, overemphasis of general principles of law in arbitration, it also reveals distinct obstacles which put off the fair play of competitions, even violates some fundamental rights of athletes. Therefore, authors propose that CAS should keep its significant autonomy from federations or states, be prior to apply autonomous rules, explore other meanings of general principles of law combing with ‘specificity of sport disputes, and promote the rule of law in the process of self-regulating in the sport field to realize that duel justice in both sport and legal realm.
Key words: General principles of law, Court of Arbitration for Sport, fundamental rights of athletes, autonomous rules, self-regulating

CAS AND LEX SPORTIVA: AN EMPIRICAL STUDY

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Abstract: The existence of a *lex sportiva*, "a set of unwritten legal principles … to which national and international sports federations must conform, regardless of the presence of such principles within their own statutes and regulations or within any applicable national law", is one of the most discussed and contested concepts in sports law. The question whether CAS through its case law has created a coherent system of norms remains to be answered. Many scholars have argued that CAS through its case law has clearly begun to form and establish a *lex sportiva*, but that reaching that goal requires time, consistency, and transparency.

The paper will contribute to the understanding of *lex sportiva* by empirically describing the structure and content of CAS's case law. By analyzing a dataset consisting of circa 500 CAS decisions, the nature of the issues discussed in those decisions, and references between them, the paper seeks to identify (i) areas where there is a strong and consistent body of case law, (ii) individual decisions that are strong precedents, and (iii) the individual unwritten legal principles that make up *lex sportiva*.

Key words: Lex sportiva, principles, CAS, case law, precedents

THE VALIDITY OF RESTRICTIONS ON TRAINEE ATHLETES SIGNING THEIR FIRST PROFESSIONAL CONTRACT UNDER GREEK CASE-LAW

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Abstract: Athletic talent and economic revenues are invaluable assets for clubs in nowadays sports. But the question holds: Should young athletes be obligated to sign their first contract as professionals with the club that trained them? In other words, would a compulsory first-option clause be a proportional mean to achieve the goals of talent enhancement and financial prosperity in modern sports industry? These questions, among others, were only recently answered by Greek Supreme Courts. The paper examines the Greek case-law under the light of the Greek Constitution, European Union Law and the European Convention of Human Rights. It also compares the main findings of the Greek rulings with those of the relevant European jurisprudence. In that perspective, it finally tries to draw a conclusion about a legally acceptable transfer system for Greek (and European) trainee athletes.

Key words: trainee athletes; transfer restrictions; transfer regulations; Greek case-law

THE PRINCIPLE OF EXCLUSION IN THE FRAMEWORK OF THE NATIONAL SPORTS LAW
PROCEDURAL ISSUES IN THE ADMINISTRATION OF JUSTICE
(The Case of the Art. 131 2725/1999 Greek Law)

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Abstract: The exclusion of the appeal to the civil courts, for the judicial disputes concerning sports, as much as the provisions of the art. 131 of the Greek law 2725/1999 , have many procedural issues during their application and it gets difficult for the administration of justice to be conducted properly, which has as a result significant and various consequences to come up.
The International Olympic Federation (IOF) , the International Sports Community, the International Sports Federations (ISF) to ensure the validity of their regulations, and the obedience to their Bylaws (Lex Olympica- Lex Sportiva), they impose in their statutes the Principle of the Exclusion ,for people involved in Sports, from appealing to the civil courts. Mostly, the acceptance of this Principle is a condition so as for the National Sports Federations (NSF)to participate in the International Championships. Proportionally to this practice, the Greek national legislator adopted the same Principle (Principle of exclusion), which is applied as a condition to participate in the National Championships. The legislator renders this principle as a mandatory rule of law, ius cogens, as, even if there is not a written indication of the aforementioned exclusion clause in the Statutes of the associations, SA etc, it is considered that it is contained in them automatically.
The application of the art. 131 brings to surface numerous, various and undissolved procedural issues and many justifiable questions. How could this legal provision be combined with the art. 8 of the Constitution of Greece, which concerns the non-unintended deprivation of the person from the natural judge? In which way is the application of the art. 131 interlinked with the art. 263 Code of Civil Procedure (CCP), which prohibits the compulsory arbitration? Finally, is the art. 131 in direct opposition to the art 20 p.1 of the Constitution of Greece , which is about the judicial protection, and the art. 6 of the European Convention on Human Rights (ECHR) which concerns the demand for the conduction of a proper, < fair> trial?
All the above and much more, we are called upon to consider, based on the jurisprudence and the bibliography, so as to reach a conclusion by evaluating the issues that come into view by the application of the Principle of Exclusion, while aiming to ensure the conduction of a “fair trial”, with guarantees of objectivity, which characterize the role of the natural judge.
Key words: Sports judicial disputes, Sports Federations, ius cogens, jurisprudence, judicial protection

EXPEDITED ARBITRATION IN CAS

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Abstract: *Main question*: Article 44.4 of the code of CAS provides a kind of an arbitration as an expedited one which is in contracts to ordinary and appeal and even ad hoc arbitration no specified provisions of subject of this paper has provided yet. Silence of code about provision and procedure of expedited arbitration in CAS as

supreme court for sports-related dispute motivates me that what kinds of rules shall be applied.
Problem that will be addressed:
For whom expedited arbitration shall be applied? what are procedure of expedited arbitration? appointment and challenge of arbitrator?
*Evidence that will be used***:** WIPO regulation in expedited arbitration.
*Significance of paper in sports law***:** As a matter of the fact if we describe sport to pyramid we understand that national and international sport authority place at the top of pyramid and athletes who spend his or her life on sport at the bottom of that, so sports law should protect athletes rights as an vital aim, and although appeal division of CAS due to its nature may fulfill this expectation but take into account that a young runner after strain corporal and mental training and shortly before commencement of world sprint competition sanctioned by IAAF decision .it seems only expedited arbitration like sprint runner can resolve this dispute that like achieving a gold medal.
Key words: Arbitration, expedited, emergency, irreparable harm, partial award, Expedited arbitration in CAS Sprinting for gold medal

THE CAS MASSIVE, EXCLUSIVE AND COMPULSORY JURISDICTION UNDER THE SCRUTINY OF THE EU COMPETITION LAW OR T*HE IMAGINARY CASE COMP/00000 ICC VS CAS*

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Abstract: What if a renowned arbitral institution such as the ICC International Court of Arbitration planned to launch a special department totally devoted to the adjudication of sports related disputes? Would be it possible, vis profitable, given that the vast majority of such disputes are reserved by the CAS due to clauses integrated (not so voluntarily) in the statutes of the most international and national sport federation? Through a moot case before the EU Commission COMP/00000 "ICC vs CAS", the present paper intends to examine whether the massive and exclusive referral of sports related disputes to the CAS deprives other potential arbitral institutions of their share in the sports market and, specially, in the provision of arbitral legal services, in a way that violates european competition law. To this end, and before attempting to reach a final "ruling" on behalf of the Commission, we will first depict the current situation in the area the adjudication of sports related disputes and, after having a brief overview of the european competition law, we will attempt to give answers to some essential questions such as: a) Are sports federations possessing a(n abusive) dominant position in the european sports market? b) Could the massive, compulsory insertion of CAS arbitral clauses be considered as "concerted practice"? c) Do arbitration legal services by institutions constitute a market and, after all, d) is EU really interested in sports?
Key words: CAS, arbitral institutions, sports market, legal services, arbitration, european union, european competition law.

RESPONSIBILITY OF SUBJECTS IN SPORTS AREA FOR DISTRIBUTION AND USE OF PROHIBITED PREPARATIONS, METHODS AND SUBSTANCES AS DOPING IN ACCORDANCE WITH LEGISLATION OF RUSSIAN FEDERATION

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Abstract: Problem of doping in sports is actual nowadays. Society is concerned about sportsmen's health and life safety. Anti-doping sports rules and laws are in process of improvement at international and national levels. They improve both scientific methods of doping control procedures and legal basis with mechanisms of its implementation.

The problem gains actuality also in connection with appearance of powerful business industry of sports pharmaceutical preparations distribution and formation of negative public opinion regarding doping in sports. This is why actions against doping at legislative level are affected by strong influence and pressure from the side of economically interested persons. In this context it is interesting to clarify particularly personal responsibility of subjects of legal interrelations in this selected area of social relations.

In the present work on the basis of analysis of Russian actual legislation and opinion of prominent Russian scientists in this area there is given classification of responsibility types provided in Russia for distribution and use of prohibited preparations, methods and substances as doping. Among them there are:

sports and disciplinary, disciplinary, civil, administrative; criminal responsibility.

For each type of responsibility there are considered sources, possible sanctions, given estimation of degree of their correspondence to modern realias in this area of social relations.

Conclusion is that at the moment in doping control in Russia sports and disciplinary sanctions are dominating other types of legal responsibility. There is an opinion about probability to legalize and introduce some substances and methods now considered to be doping into legal area of scientifically proven use by sportsmen. Such a position is expressed by little amount of specialists and is not supported officially. Mostly there are spread ideas of anti-doping legislation criminalization and establishment of integral system of doping circulation penal prohibition. It is connected with the fact that to affect activity of subjects implicated in doping violations in a fair and effective way by measures, for example, of administrative, civil or sports laws is either impossible, or ineffective.

Key words : Doping, anti-doping legislation, types of responsibility, legalization, criminalization

DEALING WITH SPORTS DISPUTES IN THE OLYMPICS: FROM PREVIOUS CASES TO THE FUTURE PROSPEC*T*

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Abstract: Despite the efforts of the International Olympic Committee(IOC) and each International Federation(IF) to curb, sports disputes which violate the regulations occasionally arise during the Olympics. Such cases include wrong or biased judgments, match fixing conflicts, anti-doping issues, acts of political propaganda or violations of the marketing-related regulations of international sports organization.

Particularly, recent controversies over referee judging that made waves on a global scale in and outside of Korea were the case of Shin A Lam in Women's épée of

fencing in the 2012 London Olympics and that of Kim Yuna in Women's Figure Skating of the 2014 Sochi Olympics

In this respect, this paper seeks to examine the issue of sports disputes that took place in the Olympics in which Korean athletes are involved, as well as the methods that were used to deal with the problem at the time when such cases happened. Of those cases, several disputes have been submitted to the Ad Hoc Division or to the Appeals Arbitration Division of the Court of Arbitration for Sport (CAS). Therefore, it is meaningful to analyze such previous cases so that each NF and NOC can take appropriate action to prevent similar issues from occurring and to deal with any future sports disputes that may arise during the Olympics.

Key words: Olympics, Referee Decisions, CAS, Disputes, Anti-doping, IOC

RESEARCH ON THE SPORTING JUST CAUSE OF TERMINATION OF A PROFESSIONAL EMPLOYMENT CONTRACT

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Abstract: International professional football players have right to terminate the employment contract with their clubs unilaterally according to sporting just cause. Although it is beneficial to protect the legitimate rights and interests of football players to a certain extent, but in practice, the international players did not take good use of this justification to protect their legitimate rights and interests. On one hand, FIFA acknowledged sporting just cause in order to protect the rights of players. On the other hand, FIFA made a very strict interpretation of this provision, making players hard to fulfil unilateral termination of the contract in order to protect their interests. Therefore, this paper holds the viewpoint that FIFA has to justify for a broader interpretation of the rules to let the sports players more widely use sporting just cause to gain their right and interest.

Key words: FIFA; Professional players; Termination of contract; Sporting just cause

PREVENTING EFFORTS AGAINST CONSUMING DOPING OF PSYCHOTROPIC DRUGS WITHIN FOOTBALL PLAYERS AT FOOTBALL ORGANIZATION AND NATIONAL NARCOTIC BUREAU OF BALI PROVINCE

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Abstract: Man is known as a social living being due to their living within the community. In their living within the community, man distribution take place in their interaction with others. The interaction are then coming into some social problems that need law approach to solve the problems. Law is as a social norm may not be separated from the communities value and even it may be stated as a reflection and realization of the values within the community.

Sport is a place where men are interacting and having ethical values which may be seen, evaluated and learned from one each other. The structural values of sport is not only taken place for body or intellectual aspect but the whole aspects of mankind as well.

There are some values may be seen in sport field such as; fair play, team work, sportive attitude, and elsewhere. One who has a strong need for strong performance is tend to have a success and strong willing to solve challenge instead of gaining high social status but merely for doing good deed. A competitive sport teach us about hard working value, sacrifice, and well preparation to achieve goal. But being a winner as an athlete may give him responsibility that may cause a fatal effect.

The athletes are then start using any ilegal ways to survive and achieve their goal in a competition, one of them is now using illegal doping. Last time there was any restriction for athlete to consume any illegal drugs, but now consuming doping is absolutely illegal either for IOC, NCAA, professional league, and other formal organization from every nation. In Indonesia this illegal action has been stated in national law or regulation no. 3 in 2005 article 85 about regulation of sport system.

There are many kinds of doping may be taken for instance, some of them are strictly illegal used for athletes. For instance is sabu-sabu which is used for medical purpose, but then in sport field for athletes it is used for giving a strong impact to increase their adrenalin, so that they may feel having strong performance during the competition. In distribution, sabu-sabu is seriously controlled by one of the government institution in this case National Narcotic Bureau (BNN).

Football is one of popular sport activities in the community. In Indonesia there is one of organization to manage the football activities called PSSI, in which this organization plays important rules in supervising, directing and even giving some sanctions for players and other components taking place in the event of competition. Doping is strictly forbidden either by sport regulation or PSSI by stating in Discipline Code PSSI article 6 number 1 about sanction for illegal doping for players.

Based on the background above, therefore can be found out scope of problems as the following:

1. What factors that cause the football players consuming psychotropic for doping?
2. What effort has been made by BNN and PSSI in solving the psychotropic drugs for doping within the football players?

This writing is as an empirical research. Empiric means this research is analyzed from the aspect of law. In this case is the correlation between roles and the facts . the approach used is yuridic sociology. That is approach of analysis the prevention by PSSI and BNN regarding to the illegal consumption of psycotropical within the football players in Bali Province and try to analysis the aspects of law within the community. This approach is applied to see the regulation number 5 1997 regarding psycotropical, regulation number 35 concerning narcotic, regulation number 3 2005 about national system rule, president regulation number 23 in 2010 about BNN and PSSI.

Key words: Doping, Foot Ball Players, Regulation, Bali Province