



DEVELOPMENTS IN SPORTS LAW: LEARNING FROM RECENT EXPERIENCE AND PLANNING FOR THE FUTURE

DEVELOPMENT OF THE SPORTS INDUSTRY AND PRODUCT LIABILITY

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Abstract: In this essay, I would like to examine the dangerousness, the range and defect types in sports products, and the problems to apply PL (Product Liability). Due to the explosive increase in the number of sports participation, sport supplies became the product not only for the professional players but have become generalized like necessities. The numbers of supplies that related to sports has increased in homes. Further, the as vicarious satisfaction overflows by watching sports games, the professional sports has become more active and establishments in sports facilities are growing.

As the sports business become revitalized, the business in manufacturing sports product and sports facilities have developed as well. The sports manufacturing industry works by producing and circulating sports supplies, sports food and sports electronics. Also sports products are used in the sports facilities business. These sports products goes through the process of lay out and manufacturer- circulation, they may bring defects and injuries follow.

If a sports player, sports audience or a third party has been injured due to the defects in sports products or facilities, obviously the Product Liability (PL) will be applied. This field is about liability without fault, therefore it does not require manufacturer's fault. Even if the sports products are second good hands or scrapped material, the responsibility of compensation for damages follows. If those users or the third party gets damages in live, health, property by using sports supplies such as for golf or ski, sportswear, movables in sports stadium the PL will be applied. Of course if the sports facility correspond as a real estate, legal principles of structure liability will be applied. The precedents are not found in this area. I hope as the lawsuits increase in this area the precedent theory will establish its view.

Key words : Sports Industry, Sports Products, Products Liability, defective sports supplies, liability without fault, sports facility liability, Gefährdungshaftung

ASPECTS OF MORAL AND LEGAL LEGITIMACY OF THE IDEOLOGY OF SPORT IN CONTEMPORARY SOCIETY

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Abstract: The purpose of this paper is to provide those interested in the legalisation of physical education and sport activities with information regarding the purpose and functions of sport activities in the context of including them in the historical evolution of societal legal order. This information may contribute to the formation of an expert opinion on the role and functions of sport in contemporary society. It is increasingly evident that familiarity with a set of rights and freedoms, obligations provided/imposed on participants in sport activities and other related activities is the first step towards the normality of social life reflected in a new ideology of sport.

Keywords: physical education and sport activities, ethics, law, sports law, legal liability, social responsibility, realization of law, ideology

THE NATIONAL SPORTS POLICIES AND THE SUSTAINABLE
DEVELOPMENT ISSUE IN A GLOBALIZED WORLD: 2007 – 2013, THE
EXPERIENCE OF AN INTERGOVERNMENTAL ORGANIZATION (IGO-WSA)

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Abstract: In 2007, the Intergovernmental Organization, the World Sports Alliance (IGO-WSA), was founded with the support of international civil society and the United Nations. It is entrusted with the mission of educating youth and training the executives of the national sports system to deal with human development issues (education, equity, health, gender, environment) while also contributing to the economic development of its Member States (partnerships, poverty reduction).

In partnership with its 33 Member States, WSA creates synergies between central and local governments, major companies and the business world in order to negotiate and conclude meaningful and productive partnerships. In developing countries, these initiatives are the engines which can provide a population with access to the practice of sports.

A number of lessons can be drawn from this experience about support to national sports policies in a globalized world, more generally about the contribution to national development by and through sport.

We identify seven engines of an integrated approach to a sustainable development of sport in the developing countries.

Key words: Sport, national policy, human development, economic development, developing countries

THE DEVELOPMENT AND EVOLUTION OF TORTS LAW IN NEGLIGENCE
OF SPORTS INJURY - FOCUSING ON CHINESE LEGISLATION, PRACTICE
AND JURISPRUDENCE

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Abstract: The tort law always echoes the social development. Especially in the context of the categorization trend of modern tort law, many countries, inter alia, the common law countries, develops special imputation systems for negligence of sports injury in their legislation and judicial practice, e.g., the standard of Recklessness. On the other hand, the peculiar development of the tort law has brought significant influence in the sports industry, such as the continuing increase and specification of sports technical rules or safety-guarantee clauses in competition rules, and the establishment of sports responsibilities insurance.

Based on the common law practice in the countries such as the US, England and Australia, this article initially investigates the agreements and divergence among the various countries' legislature and judiciary regarding the peculiarities concerning the

imputation in negligence of sports injury. Then, the article turns to the Chinese legislation, practice and jurisprudence, and analyzes the application and development trend of the tort law in the field of negligence of sports injury. As a whole, the Chinese tort law develops relatively slowly in terms of negligence of sports injury, which is in relation to the development of Chinese tort law per se, and is also determined by the special approach adopted by Chinese sports industry. But wholly speaking, the special imputation in negligence of sports injury is becoming an issue calling for special attention.

There is hardly any special regulation regarding negligence of sports injury in the relevant Chinese legislation. The China's 2007 Tort law, the relevant judicial interpretations and State Department Regulation such as *2013 Management Measures for the Management of High Risk Sports Licensing*, merely indirectly touches upon this issue. In Chinese judicial practice, for lack of special insurance system for the negligence of sports injury, recourse to courts for remedies in negligence of sports injury is not rare. Due to the non-existence of explicit legal support, the judiciary of Mainland China holds different views towards the imputation in negligence of sports injury. In Tai Wan Island's judicial practice, large divergence also exists in this issue. So far as theoretical research is concerned, both civil and sports law scholars from Mainland China and Tai Wan Island have made contributions in the research of negligence of sports injury.

Key words: Torts Law; Negligence; Sports injury; Chinese Torts Law

CHINA SPORTS REFORM TO A NEW STAGE: PROMOTING THE RULE OF LAW AS THE CORE OF MODERN GOVERNANCE

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Abstract: The present China is conducting comprehensively deepen reform, and promoting the modernization of national governance and the rule of law China construction, which creates a good environment and motivation for China sports reform and development in the orbit of the rule of law. Under the modern management dominated by the rule of law, Chinese sports will more clearly construct the rule of law, and exert governmental function in accordance with the law. Besides, the social organization would become the main force to promote the development of sports in order to make sports market more active. Nevertheless, international sports cooperation and exchanges would also be encouraged in the future.

Key Words: China Sports, Sports Reformation, Sports Governance, the Rule of Sports Law, the Modernization of Sports

RESPONSIBILITY OF ATHLETE FOR USE OF A PROHIBITED SUBSTANCE OR METHOD

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Abstract: In recent years the problem of sport cleanness became very important because the win at major international competitions not only brings the popularity for the sportsman, his club, federation, country, but as a rule encourages significant financial benefits. Under such conditions the sportsmen and their colleagues often run for win at all costs and knowingly violate the established rules. IOC is making significant efforts to prevent fraud. Since 2009 in Russia there was actively discussed the necessity of introduction of not a criminal, but administrative responsibility for taking banned products not only by sportsmen but coaches and doctors in sports medicine. In 2011 the Article 6.18 "Violation of requirements for prevention of

doping taking in sport and protection from it” was added to the Code of Administrative Violation of the Russian Federation. In my article I consider the responsibility of the athlete for use doping by the Ukrainian legislation, the Olympic Charter, Anti-Doping Rules and how these legislation acts relate to each other.

Key words: Sport law, athlete, responsibility, doping, a Prohibited substance or Method, Ukraine, WADA, IOC, legislation.

THE CONVENTION ON MANIPULATION OF SPORTS COMPETITION: A FIRST COMMENT

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Abstract : The long way of COE legislative policies countering sports fraud has been finished on July 9th 2014 with the adoption of the Convention on Manipulation of Sports Competitions.

This is a long way that has been developed more intensively in the last twenty years: a way, originated from the acknowledgement of the educational role of sport, that “plays a fundamental role in the realization of the aim of the Council of Europe by reinforcing the bonds between peoples and developing awareness of a European cultural identity” (pt. 6, Rec. n. R (92) 13 REV on the Revised European Sports Charter)

A way along which it has been strengthened the awareness that it was necessary to keep unchanged the values of sport, so that it could fulfill its educational function: from here several political and legislative actions, aimed at preserving the integrity of sport.

A way that followed a consolidate process, which has seen, therefore, previously the adoption of a Recommendation on the matter, finally followed by a Convention, that is the first international legal text, having vis cogens for those states that will sign it. In this contribution I want to examine the text of the Convention, highlighting its strong points as well as its weak points, especially in the perspective of its enforcement in the legal systems of those states that will sign it.

Key words: Manipulation of Sports Competition, Council of Europe, Legal Theory

POLITICS, SPORTS MEDICINE AND THE SPREAD OF NEW DOPING TECHNOLOGIES IN PROFESSIONAL SPORTS

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Abstract: The article examines the influence of politics, pharmaceutical companies on the distribution of doping in professional sports. The author assesses the role of totalitarian regimes, as well as countries with different political systems during the Cold War in distributing of doping in the context of historical events. In Nazi Germany, for example, doping called «pervitin» was the part of the official "battle ration» of saboteurs, pilots and tankers, as well as to some reports used by German athletes in the Olympic Games in 1936. The author notes that some politicians are not far removed from Nazi ideologies on the Olympic victory as a "military victory in time of peace," “a tool of political prestige”, and often contributed to the spread doping in professional sports. Currently, the advanced economies are actively using modern technologies of sports medicine for the victory of their athletes. These technologies are often similar to the concept of "doping" in accordance with the criteria of the World Anti-Doping Code. However, such opportunities are deprived athletes “poor” countries, and this undermines the principles of the "spirit of sport",

"equal opportunity" and "fair play". The article also conceptualized the prospects of combating doping in the context of continuous improvement of doping and anti-doping technology, and possible legalization of using some types of prohibited substances and methods in the future. The author invites all professionals to join their forces to determine the order, where the real border between modern technologies of sports medicine and prohibited substances and methods, as well as to ban clinical trials of new drugs to professional athletes. Besides the international sports organizations should define the system of measures for equalizing rights and opportunities for athletes "rich" and "poor" countries, in particular, the availability of advanced sports medicine technology for all athletes.

Keywords: biomedical research, clinical drug trials, gene doping, new doping techniques, RUSADA - Russian Anti-Doping Agency, pressure chamber, prohibited method and substance, sports medicine, WADA- World Anti-Doping Agency

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THE ALTERED STATUS OF THE HUNGARIAN OLYMPIC COMMITTEE

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Abstract: The Hungarian Olympic Committee(HOC) is the public body with the exclusive legal status of Olympic committee in Hungary which is managed and operated autonomously and which was founded on 19 December 1895 as the sixth Olympic committee out of the current 204 member countries.

According to the Act CLXXII of 2011 there was a wide change in the Hungarian sport administration. The main goal was to reduce the number of the public bodies in the Sport: (earlier it was five, now there is only one.)

It was probably the increased prestige of sports politics that led to the definition of the principles of "universal Hungarian sport" by the consolidated statutes (constitution) of the Hungarian Olympic Committee (HOC) which was adopted on 26 February 2012. (The newly adopted statutes have been submitted to the Metropolitan Court for registration and to the International Olympic Committee for approval.)

In this presentation I would like to make some suggestions about refining these charter. First of all about the "Preamble." There is a new phenomenon in the new chart of HOC: beginning with the Principles of Sport.

Key words: Altered status in the sport administration, HOC, principles of Hungarian sport, mission, positive critics,

CAN SPORTS LAW CONTRIBUTE TO REGULATING GENDER INEQUALITIES IN SPORT?

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Abstract: Today's sport literature examines questions concerning gender equity issues in sports, mainly, through ethical theoretical perspectives. Gender inequalities in sport are initially perceived as ethical issues, even though such approaches in competitive sport are ineffective and insufficient. The continuous rationalization and

commodification of sport action and sport communication has been leading to transformations in sport along with the marginalization or exclusion of ethical interpretations in competitive sports. Today's postmodernist sport reality has been witnessing a relentless disappearance of ethics as a regulatory factor in sport relations: relations formed within sports as well as those between sport and other social environments (economy and politics, etc.). Sports Law comes in here, as a regulatory agent, to take the place of ethics. Gender inequalities in sport require that legislations be respected and enforced, and this is where Sports Law could play a vital role, without however undermining the interventionist role of Law or the legal system. Accordingly, this presentation explores the following questions: What is (or could be) the role or contribution of Sports Law in Greece with regard to gender equality in sports? How could Sports Law intervene and on what sport level? Could Sports Law intercede or play a role in eliminating the under-representation of women in sport governing bodies, decision-making positions: sport federations, IOC etc.

Key words: Gender equity, gender equality, women, sports law

APPROACHING SPORT SPACE AND TIME THROUGH A SPORT
SOCIOLOGICAL PERSPECTIVE: MEANINGS AND USAGE IN THE
IMPLEMENTATION OF LEGISLATION IN SPORT

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Abstract: Questions on *time and space* in sports are of crucial significance to understand current sport reality on all levels: competitive sport, sports for all, school sports, etc. Sport, in general, appears as a differential and relatively autonomous system of social actions and communication practices because it succeeds in liberating itself from the complex social environment in relation to *time and space*. This autonomy is achieved through particular sport regulation structures on the basis of which sport processes are developed. Sport events cannot exist beyond these regulatory structures. In this perspective, sport *time and space* are the pillars on which the particular meaning and character of sport reality exists. They play a decisive role in the dissemination of any social meaning through athletic action and sport communication practices. They also play an influential role on determining the social usage and functions (political, cultural, economic, etc.) of these sport actions and communication practices. What this means in practice is that when our viewpoints or perspectives change with regard to sport *space and time*, then sport semantics are transformed as well. Specifically, what is being transformed here is the social usage of the sport meaning. Consequently, in formulating a coherent image on *space and time* with regard to sport, we are provided with the tools to explain how sport social reality is constituted, transformed and reconstructed. This sport sociological perspective goes beyond its descriptive dimension so as to decisively contribute to the understanding of issues related to different sport events (eg. sport violence, doping). Sport space is a social space where power structures and identities are formulated or transformed. It is also an arena for social events, cultural conflicts, the promotion of a consumer culture, among other things. Additionally, sport space provides the *topos* for the apotheosis of the human body, the cultivation of ethical perspectives, empowerment and simultaneously the dissolution of social cohesion. In approaching sport activity and sport communication practices with such a methodological perspective, we can contribute decisively to the clarification of today's confusing and conflicting views with regard to sport institutional competence, jurisdiction, responsibilities and duties. This presentation will discuss the following questions: Do Sports Law theorists or scientists take into consideration the *space and time* specificities and the different meanings of sport action-

communication that could help them find the limits or boundaries between the juridical and ethical responsibility in sport? Something which is necessary due to the plethora of sports modes that appear in social space today. Could an act, a fact or an action, which takes place beyond or outside of sport *space and time*, be characterized as a sport action or fact?

Key words: sport *space and time*, sport reality, differentiation of sport, sport sociology, sport law.

THE BUNG IN SPORTS

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Abstract: The “bung” became part of public parlance in 1990s. these payments not declare for tax purposes and made to facilitate or sweeten particular transactions, have been common in sport. They have been very much the tradition of doing business in sport. It is football, the most commercialized of British sports that has the most infamous history as far as questionable financial payments are concerned.

There are historical examples that date back to the early days of the professional game. Call them what you will, bungs. Sweeteners or plainly illegal payments, they have been made to ensure deals are concluded. The illegality derives from the fact that they are secretive and not disclosed for tax purposes.

A major question is whether they are illegal just as far as the internal rules of football or whether they are also illegal as far as the law.

Key words: bung, illegal, tax, sports.

DOPING IN CHESS: A CALL FOR MORE STUDIES AND ADAPTED ANTI DOPING SYSTEM

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Abstract: The presentation aims to cover certain questions arising from the factual inconsistency between the anti-doping system and mind sports, namely chess.

The first question is related to the Prohibited List. Actually, chess players are subject to the same general Prohibited List as other sportsmen. Such “equality” sounds rather weird, since mind sports require different skills comparing to those of physical sports. Studies show that chess players might try to enhance their performance by taking drugs that improve their alertness. According to the Dutch report carried out in 2000, such substances might cover inter alia beta-blockers, EPO and some stimulants. The other study carried out in Germany in 2013 has shown that the difference between the real doping and placebo was small. Thus, it is an ongoing need to conduct more researches on the certain substances that are prone to improve performance in chess and subsequently the specific (naturally, much narrower) Prohibited List is to be drawn up.

The second question relates to the practical testing and whereabouts of the chess players. Up to now, few chess players were tested and a very few were punished. Such a situation hardly can be associated with the clean sport – it is more probable that the inherent incompatibility of the whole anti-doping system is witnessed. In other words, the system was created not for mind sports and as a result it is not fully applied. For instance, top players are theoretically subjected to showing their whereabouts, yet practically they just have to be available for testing (by providing their emails) and they do not fill out the ADAMS. Therefore, chess players can be considered somewhat “privileged” comparing to physical athletes and such a privilege hardly could be attributed to positive discrimination – again it is more likely

to be another indicator of potential inconsistency between anti-doping system and chess.

Key words: chess, doping, performance enhancement

FINANCIAL FAIR PLAY REGULATIONS AND THE FUTURE OF EUROPEAN FOOTBALL

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Abstract: Fair play is undoubtedly what everybody hopes for in sports. Being an important part of current sports world, finance is also to be kept clean in order to secure fair-play in all aspects. However, when a lot of money comes in a field such as soccer, it becomes hard to monitor where money comes from and goes, and speculations begin.

Being the chief body of European soccer, UEFA, accepted Financial Fair-Play Regulations to establish a more transparent and fair competition between the clubs and to bring a balance into European soccer. Regulations set forth gradual applications and sanctions for those who fail at complying therewith. At this point it is important to understand the purpose of the Regulations as well as the terms introduced such as overdue payables, going-concern and break-even. Thus, we shall first explain the requirements of the Regulations, and then study the sanctions with case-examples.

UEFA already imposed sanctions on certain clubs, but the sword of Damocles is still hanging over some other. We will see how many clubs will drown while others manage to keep their heads above water.

Key words: Overdue payables, compliance, UEFA, financial fair play, break-even, going-concern

LIFTING THE BAN ON HIJAB: IS IT REALLY A PROGRESSIVE MOVEMENT?

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Abstract: There is a debate which has been long around on whether athletes that wish to be attired in a way said to be requisite of their faith should be allowed to do so. The focus point of this debate is Muslim sportswomen, as headscarf/hijab is mainly a request coming therefrom; however Sikh and Jewish men or others from different religious backgrounds we are not yet aware of may also be the subject matter.

Athletes requiring to be allowed to wear hijabs argued that the ban was discriminatory and therefore in conflict with sporting spirit and human rights. Sporting organizations that favored the ban justified their stance mostly by safety and neutrality reasons. Therefore, in this study, considering the various policies such as FIFA's and FIBA's, we shall examine arguments of both parties to see whether no-ban on religious wear really means non-discrimination or the religious wear itself constitutes politization of the sporting world and results in separation rather than unity. Analyzing human rights infringement claims, we shall also refer various court decisions, as ECHR's, ruling the ban on hijab was not a violation of human rights.

Although, the discussion and the decision -whatever it may be- concerns mostly female athletes, few seem to have an approach from the women's rights perspective. While women rights' activists claim respect for personal choices, they ignore the sad fact this is not always a personal choice, but rather an imposition by the governments and by "respecting" Muslim female athletes, international sporting

organizations may really be leaving them at their governments' or social surroundings' mercy now that they do not have any excuse not to wear hijab.

As seen above, the debate is a very sensitive and multi-layered one. Thus its bringing to a peaceful a closure is beneficial for protection of the sporting spirit.

Key words: religious wear, safety, discrimination, polarization, neutrality, women's rights, sporting spirit