

IV. Abstracts form 19th IASL worldwide Congress

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International Legitimacy of Sports, Sports Law and
Sports Tourism, and Lex Sportiva

Abstracts

Session Topics and Science

I. Institutional Autonomy of Sport Activities

- Sports Legal Order and Lex Specialist of sport
- International Legitimacy of Sporting Life, Lex Sportiva – Lex Olympica
- International Sports law, Sports and Human Rights in Sports
- International Sports Law and Lex Sportiva

GENERAL PRINCIPLES OF LAW IN INTERNATIONAL SPORTS ACTIVITIES AND LEX SPORTIVA

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First and foremost, the “General principles of Law”, are connected directly to the theoretical basis of law in order to face several problems. Apart from this, they consist a significant interpretation tool in the hands of the law applier aiming to the correctness of the conferment of law as well as the solidity of the decisions.

The presence of such principles of law, in the international field, consists a warranty of uniformity and effective conferment of law, as well as its internal function and its unity.

Throughout the research that in the applicable framework of the Lex sportiva order, it results that there are several categories, apart from those of the general principles that are finding application. A) The general principles of law as undeniable principles around the globe, b) the principles of law that apply on human rights problems, c) the Sports Law principles, in the form of Lex Sportiva, as well as international sports law, such as those of world anti doping code.

In the framework of the international legal order in sport, it is being examined the problem of implication of the general principles of law mentioned above

that it is governed by the special characteristics of Lex Sportiva which is an non national, sui generis, legal order in the international sports field and the nature of the legislation by the implication of those orders to its internal function as well as to the unity of law.

The implication of the principles of law that mentioned above, has a special role in the conferment of law, not only to the correctness and the security of law but also that the formed legislation consists a warranty of all those. However, it is of significant importance to ensure that this principles should not only serve the existence and solidity of the Lex Sportiva system but also the correct allotment of the law in its framework as well as the overthrow of the Lex Sportiva orders whenever it is necessary, having as a result to proof the formative character of the legislation and the general principles of the law as a further category of law source in the field of Lex Sportiva.

LEX SPORTIVA AND THE FAIRNESS PRINCIPLE

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Should the principle of fair play be confined to the playing field or should its reach extend to the courtroom? Regarding the decisions of the CAS it is clear that, in procedural matters, fairness is of fundamental importance (e.g. the right to be heard). The question then arises as to whether this fairness is restricted to procedural matters. In order to provide an answer to this question it is instructive to examine more closely the method by which courts review the decisions of sports organizations. There can be three sources of error which are subject to review: Incorrect findings of fact, incorrect application of the rules and regulations and, last but not least, the unlawful content of the rules and regulations themselves. When one considers the decisions of the CAS, one can appreciate the importance which it attaches to these first two points. Regarding the third point the CAS lays claim to the right to examine the content of the rules and regulations of the sports organizations in order to ascertain whether these infringe on mandatory statutory provisions and legal principles. In practice, however, it very seldom exercises this right. As an independent court of arbitration the CAS should be more courageous in reviewing the content of the rules and regulations of the sports organizations. In particular the guarantee of autonomy for associations leaves room for recognition of the principle of proportionality, which is an essential element of the fairness principle. The litmus test is whether the rules and regulations provide a reasonable balance between the interests of the sports organizations and the athletes.

ON CORRELATION OF LEX SPORTIVA AND SPORTS LAW

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The article is devoted to research of the structure of normative regulation of the public relations in the field of sport, identification of the approaches to definition of the concepts “sports law” and “lex sportiva”. There have been studied the nature and content of lex sportiva. There have been analysed characteristic features and lines of mutual influence of these two systems of normative regulation.

The nature and structure of this “rule dominating in the world of sport” have been studied insufficiently.

The system of normative regulation in the field of sport includes two large and independent segments, complexes:

1) sports law – complex of statutory legal regulation (by the State) in the field of sport;

2) “lex sportiva” – complex of other (apart from legal) normative regulation (other names – self-regulation of the relations in the field of sport by sports subjects, local and corporate regulation in the sports sphere, etc.).

There are various points of view regarding lex sportiva, up to absolute negation of existence of this statutory (but not legal) system.

Sports normative regulation (as the form of regulation other than the legal regulation authorized by the state) has the history incomparable to the history of sports laws, and extends back over millennia because even in the states of the Ancient World we can see examples of sports normative regulation authorized not by the states, but the communities, the organizations, that is ancestor of lex sportiva. Sports laws has begun appearing only quite recently. Even the only respectable history of lex sportiva makes shallow the objections against separation of this system of normative regulation.

The special aspect of lex sportiva structure also consists in the fact that this convergent network consolidation of complexes of non-legal normative regulation in the field of sport topped with the system “superstructure” at the international level, the large independent subsystem complexes of which are rules of the International Olympic Committee and some other international sports organizations.

Lex sportiva has no obligatory legal force, however possess certain standard force and are mandatory for observance or fulfilment by the participants of the sports relations under penalty of adverse effect and application of sanctions with regard to them within the system of public relations settled by lex sportiva, being subject to which is obligatory and reasonable due to obligations undertaken by the specified participants when entering the subject area of lex sportiva regulation.

Detailed research is required regarding the issue of interaction of the sports law and lex sportiva. This interaction has rather complex structure and very ambivalent features.

There are lot of evidence of the fact that there are situations when the state de facto and de jure recognizes the statutory power and value of lex sportiva.

Keyword: normative regulation on sport, sports law, lex sportiva, sport

IS THERE ANY DIFFERENCE BETWEEN SPORTS LAW AND LEX SPORTIVA?

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Abstract: Sports law and Lex Sportiva are very important concept in our research. They are all translated in same Chinese word. Sports law is same as Lex Sportiva, or is different? This paper analysis necessity of distinguish these two concepts, and explore the difference between these two concept, point out sports law and Lex Sportiva are different concept. Sports law should be general concept, wildly refers to all law concept in sports. Lex Sportiva is a part of sports law, it belongs supra-national sports community autonomy law.

ROLE OF HUMAN RIGHTS AND DECENT WORK IN SPORTS

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«Sport and human rights have a set of common values and goals,» - said the UN High Commissioner for Human Rights Navi Pillay on expert discussions of

the UN Council on Human Rights, dedicated to the issues of sport and human rights organized by the February 27, 2012.

In 2005 in the document of the World Summit the Heads of State and Government have fixed a common point of view, according to which: «recognize that sport is a tool for education, development and peace, cooperation, solidarity, tolerance, understanding, social inclusion and health local, national and international levels».

Major international sporting events, such as the Olympic Games or the World Cup Football, have a huge impact on human rights.

The adoption of the International Charter of Physical Education and Sport (UNESCO, 1978) entailed the recognition of a human right to sport. This right has been embedded in later human rights instruments, such as the Convention on the Elimination of Discrimination Against Women, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities.

A major human rights concern from the athlete's is the exploitation. In the globalised sports community, athletes are treated as merchandise and often become victim of human traffickers. With regard to minor athletes, sports can in some cases amount to child labour and might infringe their right to development and other children's rights.

Like any social activities, sports can also be potentially negative side effects. Already ten years ago, the General Assembly has recognized the existence of the following problems associated with sports activities, the danger faced by sportsmen and sportswomen, especially young sportsmen, including child labor, violence, doping, early specialization, over training and commercial operation, as well as deprivation, such as premature rupture of family bonds and the loss of sporting, social and cultural ties.

All existing hazards require the settlement of human rights of a professional athlete and coach, legislative recognition of labor rights and the right to social security, pension rights, the rights to sickness benefits for loss of earning capacity, the right to be treated with dignity, etc.

Therefore, it is important to ensure the Human Rights of athletes and coaches adopt the Convention of the UN or the ILO, as well as national legislation.

THE CONCEPT OF SPORTS LAW IN CHINA

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There are various concepts on sports law in international academy, such as international sports law, global sports law, domestic sports law, national sports

law and *lex sportiva*. It is because of different legal culture and sports practice in states. In the context of China, defining the concept of sports law means picking up the denominator from relative elements based on acknowledging the existence of sports law. The definition of sports law can be demarcated as the sum of legal norms to adjust social relationship under the circumstance that people engage in physical movements in order to maintain and promote their health and enjoy competition.

THE COMPLEXITY OF LEGAL RELATIONSHIPS IN THE EMPLOYMENT OF FOREIGN COACHES WITH CHINESE NATIONAL FOOTBALL TEAM

An Analysis on the Chinese Football Association (CFA)'s Early Termination of Camacho's Work Contract

Zhang Shizong

Recently the Chinese Football Association terminated its work contract with Camacho, a foreign head coach of the Chinese National Football Team, which may lead to a financial compensation of 51.5 million RMB(Chinese Dollar) with tax reaching 25 million RMB. The current study aims to explore relevant issues of great importance and provide in-depth analyses in the following aspects:

1. The legal relationships between foreign coaches employed by the CFA and the Sports agents who introduce foreign coaches to the positions
2. The legal relationships between the CFA and sponsors (e.g., Dalian Wanda) who financially support the payment of foreign coaches of the Chinese National Football Team.
3. The legal relationships between Chinese coaches, players and foreign coaches in the Chinese National Football Team.
4. The legal issues in the regulation of employing foreign coaches by members of the CFA.
5. The legal issues in the supervision of employing foreign coaches by the public, such as professionals in the football circle, football fans, new media, and non-profit sport organizations etc.
6. The legal issues in the intervention of Chinese General Administration of Sport and Chinese Football Management Center on the employment of foreign coaches of the CFA.
7. The legal issues in the invention of International Sport Organizations (e.g., FIFA) on the employment of foreign coaches of the CFA.

8. The legal issues in the invention of Sport administrating organizations of the employed foreign coach's mother country on the employment of foreign coaches of the CFA.

Conclusion: Legal issues involved in the employment of foreign coaches by the CFA is rather complicated, which can not be simply interpreted that the CFA has great degree of freedom in determining who to employ, and the time and price to formulate and terminate the work contract. The relevant matters involve legal relationships of various levels and natures as well as major public benefits in social, national and international domains. Therefore, the employment of foreign coaches should be subject to open processing with great degree of transparency and thoughtfulness.

II. Sports law and Economical Aspects of Sports

- Sports Law and Governance of Sport
- Monopolies and Oligopolies in Sports
- Competition law - Sports Betting and Gambling

IMAGE RIGHTS IN SPORTS

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Image Rights in sports embody a field that has flourished with countless opportunities. International and national associations, teams and athletes in several jurisdictions make the most of its benefits while other jurisdictions are scarcely beginning to recognize their own rights. Mexico is one of the later, including image rights within the scope of intellectual property and specifically concerning pictures and images displayed in the media, which unfortunately generate a gray legal framework of uncertainty which is more often than not, used against the athletes. By analyzing and comparing the regulation of the United States of America, we will outline several areas of opportunity which Mexico can implement regarding the protection of his athletes. The proper implementation of the Image Rights must be safeguarded as it offers the athletes the resources for having a qualified sports training, which will benefit the long-term development of their sports career. Moreover, teams and associations will flourish in order to make athletes reach its essential objective—the progress of their sports discipline. Consequently, the regulations in Image Rights finally will promote a fair-minded sports generation of wealth.

FIFA INTEGRITY INITIATIVE - DEFINING A COMMON RESPONSE TO MATCH MANIPULATION

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Sport, and football in particular, is under increasing threat from match manipulation, the effects of which reverberate nationally, regionally and globally. The greatest threat comes from outside the world of football, where organised crime networks are infiltrating the football world in an attempt to corrupt players, referees and officials in order to manipulate matches for betting purposes, either to launder money or to gain massive profits from the betting market on the manipulated matches. FIFA has taken a zero tolerance approach to match manipulation and is committed to protecting the integrity of football by all possible means. The development and coordination of FIFA's action program with regards to match manipulation has been centralised under the FIFA Security Division. To protect the integrity of football, to fight match manipulation, FIFA has introduced the FIFA Integrity Initiative. One of the aims of the initiative, led by the FIFA Security Division, is to strengthen football from within. The focus is on prevention and education, since the problem of corruption and match manipulation has to be tackled in a proactive way in order to achieve long-term results. In order for FIFA and the football community to tackle the problem of match manipulation, it is vital that governments and law enforcement agencies also take the respective necessary measures. Match manipulation is a complex and serious issue which must be addressed as a long-term approach on many levels and in cooperation with all stakeholders. FIFA is firmly committed to protect the integrity of football. The path to success involves finding a common ground.

THE ROLE OF GOVERNANCE IN THE NATIONAL FITNESS

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As a new analysis framework in new public management area, five facts of governance theory, that is, legitimacy, rule of law, accountability, effectiveness, transparency, provide a new logos on analyzing the legal mechanisms for the National Fitness Program in China. Meanwhile, the "post-modernity" of governance theory makes sense to definite its suitability of China.

First, the ‘legitimacy’ factor in the theory of governance is far beyond the meaning of conforming to the laws. There are other criterions of making a clear distinction between right and wrong, such as, moral, religious, personal habits, and practices. It is legal for governments to manage the undertakings of physical culture and sports. It can’t be replaced for any other social organizations. The power source of social organizations bases on the legal authorization, commissioned by the government and the common people.

Secondly, the law is the lowest evaluation standard of social activity, and the final evaluation standard of social relations. Sports law system make it possible that designs the rights of citizens in advance, realization of their interests, protection of their liberties, ask for relief when they are infringed.

Thirdly, the minimum requirement of governance to National Fitness in accountability is that the obligation and responsibility may corresponding to each other.

Fourthly, the government’s effective operation relies on supervision activities, such as inspection and evaluation.

Fifthly, transparency show us a state of honest communication. The government and social organizations which have the the authority to form a sports organization and make decisions to sports items, make sure that the information overall, true and easy to understand.

SPORTS BETTING IN THE UNITED STATES: PAST, PRESENT AND FUTURE

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In November 2011, in an effort to cash in on a portion of the billions of dollars that are gambled illegally on sports games annually across the country, New Jersey voters approved a referendum to amend the state constitution and allow sports betting. Under the proposed new law, betting on sports would be legal in Atlantic City casinos and at the state’s horse racing tracks. The law does, however, prevent any betting on all sporting events involving New Jersey colleges and university teams regardless of where they played, as well as all collegiate sporting events held within New Jersey.

In August 2012, the NCAA, the National Basketball Association, National Football League, National Hockey League and Major League Baseball filed a lawsuit seeking to block the new law from going into effect. In their lawsuit, the NCAA and the professional sports leagues contend that expansion of sports

betting beyond the four states, Nevada, Delaware, Oregon and Montana, which currently allow it threatens the integrity of the games and is a violation of the Professional and Amateur Sports Protection Act.

This presentation sets out to examine the issues involved in the dispute and begin with a brief overview and history of sport betting in the United States. Next, the presentation reviews how the federal government has attempted to regulate sports betting by the states. Particular attention will be given to the Professional and Amateur Sports Protection Act and how it has been used to prevent the expansion of sport betting into other states, most recently Delaware. The presentation will conclude by examining the arguments made by the State of New Jersey in their attempt to expand sport betting into the state, the arguments of the NCAA and professional leagues and the probable outcome of the case.

PUBLIC POWER SOURCES OF CHINA'S SPORTS ASSOCIATIONS AND ANALYSIS OF RELEVANT PROBLEMS

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Since single sports associations represented by the China Football Association implemented professionalism, a series of problems have appeared and many experts and scholars stated their own points from different angles. In this article, the author tries to start with public power sources of sports associations, analyze the reasons of problems related to sports associations and put forward paths and ways to solve the above problems.

COMPETENCE BUILDING REGARDING TAKING PROFESSIONAL RESPONSIBILITY IN THE MANAGEMENT OF SPORT TOURISM ACTIVITIES IN ROMANIA

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From the point of view of both quality and quantity, the economic aspects of sport is characterized by dynamics. Sports activities may give rise to lucrative

business that can cross economic crises more easily than other companies. This dynamics of sport economics is based on the new trends in contemporary society: the reduction of working hours, the increased amount of spare time, in which people choose to practice or watch sports, in order to create a state of well being, the concern for the physical appearance (the ‘look’), the internationalization of trends in fashion etc. Sports, according to the European Commission White Book on Sport “is a growing social and economic phenomenon which makes an important contribution to the European Union’s strategic objectives of solidarity and prosperity”. Plenty of organizations have assumed sport-tourism as their main activity (which is already included in the Romanian Standard Classification of Economic Activities). Romanian sport economics is favored by the existence of ‘sport professions’, including some related to sport tourism activities. In Romania, sport tourism mainly encompasses forms of recreational sports and national and international tour packages which target attending sporting events.

If the two concepts of the science of management, *efficiency* and *effectiveness*, do not specifically include the necessity of *legality*, it is our duty to distinguish and propose it as a concept of the science of management – as far as we are concerned, an argument in favor of this proposal is the acute necessity of the harmonious inclusion of the activities of sports organisations and the economic activities of sport tourism within the context and demands of civilised conduct, in strict compliance with *legal* and *responsible* norms.

In this context, this paper aims to present the content of a juridical course’s syllabus designed to teach students the competences needed to carry out sport tourism activities in accordance with professional liability in the field. Such a course should be part of the curricula of Romanian higher education programs in tourism as well as physical education and sports.

BETTING IN SPORTS IN IRANIAN RIGHTS

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Regarding the Iranian civil law, a betting is a contract between two parties in which one of the parties corroborates a particular matter while the other one rejects it. Both parties imagine that the one who surmises correctly receives a sum from the mutual party or they may foresee the occurrence of an event and they become committed in a manner that the party who guesses correctly receives a particular sum from the opposite party.

The Iranian civil law, explicitly repeals the distraintment and illegal commitments in chapter 12 of the specific contracts. It states explicitly in article

654 of the Iranian civil law that gambling and betting are null and void and the claims pertinent to them can't be dealt with. Legal-based logic proffers reasons for illegality and invalidation of such activities with its own arguments.

Considering the fact that betting does not have intellectual profit if for instance two persons agree that in a chess game the loser must offer some money to the winner, such an agreement is null and void although the betting inserted in the contract has intellectual profit (financial possession), the matter which is dealt with does not have any intellectual benefit. It goes without saying that in accordance with article 215 of the Iranian civil law it is stated that the case for transaction must have intellectual and canonical profit. Such a dealing is nullified. Since the contract is abrogated, the condition is also prioritizing quashed (even though the condition has profits). Hence, in case of winning or losing, no commitments will be constituted for the opposite party.

Betting is among the apparent cases of aimless use. If any profits are obtained through this means, they should be reverted to the original owner.

The swindling nature of a deal, a swindling transaction is null and void from Islamic point of view. A contract has a swindling nature if the relationships of parties and the destiny of the deal is dependent upon chance and prospects, and is vague too. From the attitude of Iranian jurist consult chance-based contracts are among swindling contracts. The governance of determining a destiny is not imaginable in a betting and such an agreement is null and void.

The lack of contribution of one's will in the contract destiny: if two parties mutually agree upon a fact that whose result is the conveyance of a possession from one person to another one but achievement of the possession shifting is dependent upon the occurrence of a matter out of the contract that makes none of the two parties for or against in contract compilation, it seems that it alters the intent to compile. According to articles 190, 191 and 195 of Iranian civil law such a contract is countermanded due to the lack of intent to compile.

Specificity of barterers in a contract: according to the article 216 of Iranian civil law, consideration and reciprocal entity are among the essential conditions of the accuracy of a deal.

EVALUATION OF THE CREATION OF A GLOBAL SPORTS ANTI-CORRUPTION BODY

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This paper is a literature review of the recent dialogue concerning the creation of such a body. It represents the basis of a funding bid to support related

empirical research to examine and evaluate the case for a 'Global Sports Anti-Corruption Body' being created to engage with the problem of match fixing and wider financial corruption in sport.

Financial corruption in international sport federations including vote rigging and bribery, fraudulent betting including match fixing and spot fixing (manipulation of an event in a sporting event), money laundering and other criminal phenomena have become a dangerous threat to sport. Additionally, competition related corruption involving prohibited drug use and other forms of cheating within sporting competition are prevalent.

The argument supporting the creation of such a Global Sports Anti-Corruption Body is predicated on the belief that it would be able to adopt a more coherent and wide-ranging approach to this problem than has been evident up to this point with a variety of disparate structures within sports bodies. And as with WADA, the body would be able to be part of a multi-agency approach together with law enforcement bodies such as Interpol. There would also be the opportunity to pool resources and allow the type of forensic investigation that is required to unravel the financial complexities inherent in corrupt financial dealings. Such a body if it came to fruition, would clearly be able to adopt the good exemplars, which have been developed within specific sports such as international cricket and tennis to fight corruption and match fixing. As such it would have a harmonising effect across all sport.

However, the efficacy of this approach has been questioned by some: for example elements within the betting industry believe that essentially a self-regulatory approach based on memoranda of understanding between betting companies and sports bodies on sharing of information is an effective way of detecting nefarious activities. In addition it is questioned whether it is realistic that such a body could adequately respond to inherent criminality of money laundering and other activities of criminal gangs connected to match fixing. Additionally, unlike WADA that was very much a creation of the IOC and its then existing anti-doping infrastructure, it is not obvious to see where the specific political impetus will come from for the creation of an equivalent anti-corruption organisation such as the Global Sports Anti-Corruption Body.

Match fixing is a current challenge to 'Sporting Integrity'. This is not only about the need to play a role in engaging with criminality. Sporting integrity is the ethical essence of sport. What is crucial is that good governance is the key test of the anti-corruption framework that evolves in the next few years.

Sports corruption is a complex and multifaceted area to examine. As far as the specific occurrence of match fixing in sport, there have been incidents over many years. The true extent of the problem however remains unknown. Using terminology developed in criminology, there is an unknown 'dark figure' of match fixing based on suspicions, allegations and undetected incidents. There is

some conjecture within football and across other sports whether it is the primary threat compared to other forms of corruption such as anti-doping. There are reasonably few official determinations of match fixing, those that there are come from official investigations by sporting authorities and/or by law enforcement agencies. It has been argued that “there needs to be a much more systematic approach in recording corruption cases” (Transparency International, 2011). However, the identifiable measures of the phenomenon suggest the problem is chronic and critical.

Much of the support for a Global Sports Anti-Corruption Body seems to be intuitive and unsubstantiated. There is a need for a much more rigorous and reflective debate as to whether this form of sporting self-regulation is the appropriate way to proceed in the engagement with the complexities of sporting corrupt.

III. Sports law and Sport Tourism

- Sports Law, Tourism and Entertainment of Sport
- Professionalization of International Sports Activities and Physical Exercise
- Legal Problems of the Olympics Games and the Paralympic Games

LEGAL ASPECTS OF SPORTS TOURISM PROTECTION, GREECE AND EUROPEAN UNION

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The interest shown by people around the globe the last years for sports activities, in minor or major degree, has made it a unique and essential economic activity.

The sports economic activity, thus, is being connected not only to the professional sports but also to the amateur sports activities, just like to the sports tourism as well as recreation or even to the suburban sporting activity.

All the above mentioned, may lead us to the statement that freedom in sports activities is connected to economic freedom, getting a special and critical content and interest to sports tourism and recreation in the countryside as well.

From the research of the Greek and the European legal status, effortlessly it arises that an initial institutionalization with emergence of a specific regulatory

framework for sports tourism, leisure and countryside sports is becoming a necessity, in order to be socially beneficial and creative.

Furthermore, it is internationally required the legal basis for these forms of sport to be laid, by identifying the areas of action and the obligations and rights of the persons and the entities involved.

A sports tourist charter may become a guide for the national legislation regulatory on this issue.

ANALYSIS ON CURRENT SITUATION OF COLLEGE SPORTS INSURANCE AND COUNTERMEASURE

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For the Olympics of 2008's successfully held and more and more world games coming. In developed countries insurance is an important part of their industries. The number of the public's insurance is large and the kinds of insurance are various. In the developed countries, the laws that related to sports insurance have been well developed. But in China sports insurance just on the early-stage. It Lack of relevant policies and laws and Lack of specificity coverage on commercial insurance. But it will be the most important part of sports industries. Of course, its development will be a long process. Present in China the sports insurance just make little progress, while the campus sports and the public sports are expecting more attention. So this paper has university physical education in mind, physical educators and students as the main body, to researches the need of the sports insurance in universities and brings forward suggestions about set up university insurance system.

This paper by using these research methods such as: document information method, expert interview method to analyses and investigate.

The conclusion shows that the sports insurance's development will be the most important part of sports industries and the sports insurance will be a best way to solve injury accident in school. Students need to further accelerate the advancement of insurance awareness. But the lagging of the sports law and other related laws in China has been delayed the development of the sports insurance directly. Also, the lacking of exploitation experts in the insurance field is the main reason for its slow development.

**RACISM, NATIONAL AND RELIGIOUS EXTREMISM
FOR THE OLYMPICS AND OTHER SPORTING EVENTS
(history and reality)**

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The article is devoted to criminological analysis of racism, national and religious extremism for the Olympics and other sporting events. These problems are analyzed in the context of the events of history and the modern world. Considerable attention is paid to the tasks for the prevention of extremism in the sporting events in accordance with the requirements of international law. Particular attention is given to national criminal law measures to combat against this negative phenomenon in Russian Federation.

**THE STATUS QUO AS WELL AS THE PREVENTION AND
CONTROL OF TERRORIST INCIDENTS IN
SPORTS FIELD**

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The extreme behavior in the field of sports, such as kidnapping, bomb attacks, terrorist activities, etc. seriously interfere with the normal sports events and the propagation of sports spirit. This paper sorts out the terrorist incidents that have occurred in the sports field, analyses the causes, studies the legal settlement mechanism of other countries, and then provides advice to the sport events operation and security measures in China, hoping to increase some safety guarantee of China's sports.

VIOLENCE IN SPORT

Mehdi Yousefi Sadeghloo (Dr.) Shokri Tahere

Base on Alderman Definition of violence – intentional answer from somebody

with an aim to hurt a person or animal. This definition is not the same as bravery, temerity which does not contain an added intention. As we mentioned violence is an act against people and animals, so an act against a chair is not violence.

In a sport activity an action called violence is a reaction against an athletic intentional movement that ends in damage to another player and referee or judge reacts against the doer, and he gets a sentence as punishment.

Law makers with the help of educational teachers and responsible people in sport are able to forbid hostile acts, immoral behavior, and dangerous activities. But there are many obstacles, like spectators who support such behaviors, coaches who will see more action of players, sports in which violence is a main part of them, like boxing that shows more violence give more points and advantage to the player, and owners of sport clubs who will earn much more money, if spectators are happier.

Violence in sport backs up of:

Political interest is behind of this kind of violence.

Economical interest supports the violence to achieve their goals.

Leisure targets backing them up.

Racists shadow seems take care of such violence.

Politically divided society to various colors, names, teams or groups and introduced their goals to them. Then they use the power of such a group as a pressure tool against their competitor.

“If economy is not the foundation of our society, it is one of basic principles”.

Investors who are after more income try to divide people to consume several of goods which already provided by investors. The groups compete with each other to buy their own color, brand, etc.

This kind of activities used to arrange by governments and its family. Powerful slaves had to fight in for king and its family against each other

Until one kills the other. It was a kind of entertainment.

This kind of violence backs up by police parties and will use people force to win the power camp against its rival. In such violence religious minorities or ethnic minorities will suffer a lot.

Persons or groups whose behavior is irresponsible and their movements are against law in time of sport events special in football called hooliganism.

This kind of violation established its foothold in England and gradually widespread to many countries. They are relentless, rude and caused many casualties, victims and economical losses.

Researches show that most of hooligans are young people at age of 18 – 23 which obey command from leaders who have own interests and back up the violence.

According to a study in England hooligans are usually people with crime records. In England 3000 of them are registered by police and they are banned to travel to

other countries.

A trace of Political, economical and racists aim has been shown.

I think we can ease this kind of violation through a global plan, which contains various kind of information for student in high schools. Useful information which must sends on Radio and TV, hard penalty and high educated police can prevent or ease violation in sport events.

ANALYSIS OF THE PRESENT SITUATION AND COUNTERMEASURES OF THE RULE OF LAW ENVIRONMENT FOR THE DEVELOPMENT OF CHINA'S SPORTS LEISURE INDUSTRY

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Sports leisure industry is a new economic growth point in the process of China's economic and social development, it's healthy and stable development needs a good legal environment. but the development of China's sports leisure industry is still subject to the shortage of rule supply, regardless of the concept of the rule of law, the national legal system, law enforcement and supervision can not fully meet the current needs of sports leisure market development. This is related to China's sports development background, system and operation mechanism, and also related to the lag of construction of rule of law in China, the existing legal system and the rule of law concept of poor implementation of the deviation. This paper re examines the leisure industry market in China from the view of sports legislation, administrative enforcement and supervision, people's legal idea etc, and further clarification of a series problems of sports leisure industry development environment for the rule of law in China, trying to promote the scientific development of sports leisure industry, and puts forward some proposals to promote the development of China's economy and society.

This paper mainly studied from the following aspects

- 一, The current situation of the development of leisure sports legislation
- (一) Management legislation in the national macro level
- (二) Legislation about sports leisure industry in the national level
- (三) Specialized or related legislation of sports leisure industry development in the Provincial level

For the Shan xi Province as an example, the development of sports leisure

industry legislation is lagging behind. “The regulations of Xi'an city sports activities” and “The detailed rules and regulations of Xi'an city sports activities” is more mature, but the sports leisure industry policies and regulations of Shan xi province are still insufficient. It Mainly in the following three aspects: firstly, the legislative lagged to the sports leisure industry development; secondly, System defect of regulations is the bottleneck restricting the development of sports leisure industry; thirdly, The legislation lay particular stress on administrative power, and neglect the importance of policy oriented and Industrial autonomy .

二、The development status of administrative law enforcement and administrative supervision in the sports leisure industry

Firstly, The personnel consciousness in the Provincial level administrative law enforcement is stronger, the enforcement of law is more normalize, and the administrative law enforcement and supervision in the prefecture and city level is more concrete, the enforcement of law is proper implementation, the effect of law enforcement is obvious.

Secondly, the basis of administrative law enforcement is less, both the scope of law enforcement and supervision is narrow.

Thirdly, both the standardization of the administrative law enforcement procedures and enforcement staff's quality need to be strengthened.

三、 legal consciousness present situation of related main body in the sports leisure industry development

Phenomenon of Legislative subjects caring about interests of department, local, and individual exists. Concept of rule of law remains to be strengthened. Good law order has not yet formed.

四、 the perfect suggestions of the rule of law environment of the sports leisure industry development

All of sports administrative departments and other related administrative departments should further strengthen power of the law enforcement and supervision, and the grasp of the policies and regulations. The implementation of the sports industry policies needs to implement related laws and regulations. Legislation system should to be designed scientific and reasonable, and accurate positioning. Law enforcement should emphasis on people-oriented, respect the fundamental interests of the market main body; pay attention to cultivate people's basic legal literacy.

IV. Sports Law, Globalization and Media – Broadcasting – doping-violence

NATIONALITY ISSUES IN SPORTS

James Ar Nafziger

Prof. Willamette University, USA

Sports tourism is a growth industry, particularly in attractive locations where sports development is progressing steadily such as Indonesia. National identity with athletes and teams is, of course, an essential basis for the enthusiasm of fans. Thus, a common nationality will likely inspire fans as sports tourists to follow particular athletes and teams to international competition abroad. Related legal issues are significant. One complex issue is country swapping by athletes, often involving quickie citizenships by talent-poor countries in a particular sport or sports to acquire foreign athletic talent. Other nationality issues range from statelessness and visa eligibility to such issues in football/soccer and other professional sports as foreign nationality quotas for teams. The eligibility of athletes to compete consecutively on different national teams can also be an issue. My presentation will address such nationality issues, particularly country swapping and quickie citizenships, in the contexts of both Olympic and other sports competition. I will conclude with observations about the extent or not that the issues matter.

A TENTATIVE ANALYSIS ON THE BROADCASTING RIGHT OF THE OLYMPIC GAMES

Ma Hongjun

*Prof. Research Center of Sports law of China University of
Political Science and Law*

The Olympic Games is the largest sports event in the world, the history of the Olympic Games is also the history of the Olympic Games broadcast. Olympics enriched people's lives, while the various forms of Olympic Games broadcasting have really integrated the Olympic Games into people's lives. This article firstly defined the concepts of television broadcast and sports event broadcasting right, determined the meaning of broadcasting right; and secondly introduced the development history of the Olympic Games broadcasting right, analyzed Olympic Games broadcasting right in three stages, and thirdly illustrated the nature of

Olympic Games broadcasting right in the aspects of live broadcast and literal broadcast, and then elaborated on China's Olympic broadcasting right; finally pointed out the other issues involved in Olympics broadcasting right, mainly discussed in the following two perspectives of Olympics new media broadcasting right and the balance of interests between Olympics broadcasting right and public information right.

THE CONSIDERATION ON REVISION OF
CHINESE SPORTS LAW
A TENTATIVE ANALYSIS ON PROPOSALS TO
LEGISLATION OF PROFESSIONAL SPORT

Wang Xiaoping

Prof. China University of Political Science and Law

Abstract: The revision of sports law has great significance for further regulating sports economy activities and operation of professional sports. The context compares and analysis the current system of China professional sports ,foreign countries 'operational system, so as to propose the legislation on China professional sports, and look forward to supplying references to legislators.

INEQUALITY IN PICTURES OF MEN AND
WOMEN IN SPORTS IN MEDIA

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This article deals with the media coverage of women in sports and the manner to display them. Considering the fact that IX Law has been approved to equalize the gaming time of women, regarding this law, the financial sources and facilities of professional and university sports must be at women's disposal more than ever, nonetheless, after elapsing of 30 years since the aforementioned law was approved, sexual attractions about women are noted instead of recognizing their sports achievements.

Mass media regard the body of sportswomen as an attractive piece of commodity sportsmen are limned in large mass medias due to their bodily

structure, physique, virility and superiority whereas sportswomen and their accomplishments are underestimated.

It is indispensable to conduct further researches until the time is ripe for the concentration to shift from focusing on sexuality of sportspersons to focusing on their athletic aptitudes and the slides of sportswomen and female champions are not misused.

WHAT DID THE LANCE ARMSTRONG CASE TEACH TO THE WORLD'S DOPING CONTROLLERS?

András Nemes

*Prof. Semmelweis University Faculty of Physical Education and Sport Sciences
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Renowned sport managers and doctors argue about the question if it is possible from a physiological aspect to reach such an outstanding result as Lance Armstrong who won the Tour de France seven times in a row.

At a race such as the Tour de France, where the bikers have to ride 3470 km at a lively clip raises the question whether it is even possible to win 7 times without doping.

If it is possible, then why is it so unique? If it is not, then why didn't he fail any doping tests even though he was tested more than 500 times? Why did he confess all the doping in a TV show to Oprah Winfrey?

In my study I'm looking for the answers for these questions.

Techniques

I compared the Code Compliance, the WADA Anti-doping Code, the USADA documents, and the relevant documents which can be found on the internet. I used the interview with Travis Tygart in 60 minutes sports (01.09.2013) and of course the well-known Armstrong interview in Oprah show. I used 3 relevant books. Armstrong's book (It's not about the bike) and Hamilton's and Coyle's, and David Walsh's book. My technique was mostly about primer document analyzing and in a smaller part secondary document analyzing. I compared the WADA practice with all the information which was available in the media. I consulted with doping specialists, doctors and veterinarian.

Results

Analyzing the documents drew my attention to some facts from which the UCI and the whole doping controlling team could learn. First of all, the tech-

nologies of the banned substances are developing a lot faster than the controlling technology. My presentation summarizes the lessons.

THE 2013 WORLD ANTI-DOPING CODE REVISIONS: GREATER INCENTIVES AND DISCRETION OR INCREASED DISPROPORTIONALITY

Daniel Gandert

Northwestern University School of Law Chicago, IL USA

There are plans for the World Anti-Doping Code (WADC) to be amended in November at the World Conference on Doping in Sport. Among the major changes being proposed is doubling the penalty for a first doping offence from two years to four years. While this change will please many members of the Olympic movement and other stakeholders, it will bring about concerns regarding whether the new WADC adheres to the principle of proportionality. The Court of Arbitration for Sport (CAS), which serves as the final arbiter for issues relating to doping rules, has included the principle of proportionality in its decisions since the early tribunal's early days, dating prior to the creation of the WADC. CAS decisions that are determined to go against the principle could be attacked since CAS is seated in Switzerland and proportionality is one of the primary Swiss private administrative law principles. In the near future, it is likely that athletes will believe that doping rules are not proportionate as applied to their case and that CAS will need to address the proportionality of the revised WADC.

The increase in length for a first suspension follows failed attempts to bring about doping rules stricter than the current WADC. In 2008, the IOC passed the "Osaka Rule," which prohibited athletes with suspensions of at least six months from competing in the next Olympic Games, even for cases where their suspensions were completed by the time of the next Olympics. This brought about disproportionality as applied to some cases, including that of LaShawn Merritt, whose suspension was reduced to 21 months under *No Significant Fault or Negligence* but was prohibited by the Osaka Rule from competing in the 2012 Summer Olympic Games. CAS determined that the rule constituted a change from the WADC. It also determined that the IOC was bound by the WADC and that the rule was invalid. This made arguments related to the proportionality of the rule moot, however, it allowed members of the Olympic movement to make the rule valid by amending the WADC to allow for it.

While initial plans were for the “Osaka Rule” to be included in the WADC, the more recent proposal has been for the revised code to instead include a four year suspension for an athlete’s first standard doping offence, instead of the two years prescribed by the current rules. In many instances, this would not bring about the same level of proportionality as the “Osaka Rule.” Since this would merely apply to an athlete’s first standard offence, it means that it would not also apply to athletes whose suspension was reduced because of *No Significant Fault or Negligence*, or other reasons. This would also make the effect of the rule, as related to the Olympics, more uniform. With the current two year suspension, athletes who commit their offence close to the Olympics are denied the opportunity to compete in the next games, while athletes who commit a doping offense three years prior to the Olympics maintain the ability to compete. However, there are many cases for which this rule will be disproportionate as applied to an athlete’s case. This will also increase the amount of years for which athletes who receive reduced suspensions will need to sit out in some circumstances which may also bring about disproportionality.

DOPING AND SPORTS FRAUDULENT, ELIGIBILITY OF
ATHLETES AND DISCRIMINATION AGAINST THEM,
ATHLETE TRANSFERS, TAXATION OF ATHLETES,
SPECTATOR VIOLENCE

Anna Mariyama
Khodijah Risa Kharisma
M. Reza Pratama
Muhammad Evan Agustian
Ronggul Sitompul

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Sriwijaya Indonesia*

Sport is any activity that systematically for encourage, nurture, and develop the potential for physical, spiritual and social. Sport aims to maintain, improve health and fitness, achievement, human qualities, inculcate moral values and noble character, sportsmanship, discipline, strengthen and nurture national unity, strengthen national security, as well as raise the dignity, dignity and honor. Football became the most popular sport in the world should be a good example for other sports. Unfortunately, during this era of globalization where the efficiency of a barometer of success someone has made the sportsman or related parties

such as coach, manager, and so do the frauds in order to make the sport to be the best club. Such as the use of drugs (doping) and match-fixing has been the most popular topic. It is done by the management of this very large impact to the athlete who dreamed that sport just as a supplier of hobby and pleasure opinion, has now become a business field for the players. Value - the value of sportsmanship has been changed and abolished so that it does not get more attention for sports people so that only the physically strong financially and who will survive and the weak will disappear. On the other hand, it is seen by the management as a gold mine money maker that can be scooped easily. Value - the value of sportsmanship that there is no mention of this has hurt a lot of people not to mention the supporters, players crackdown will field whipped up their spirits and make them more willing to do things - it is not fair to players and clubs to defend their beloved field from the stands. Based of the example above we feel that it is worth the lift to let the world know the dark football as an example for other sports in the sportsmen, management, supporters and all those involved in sport open their eyes to mistakes which they did superbly athletes and supporters as actors and sports enthusiasts.

THE STUDY ON LEGAL STATUS OF CHINA BASKETBALL ASSOCIATION (CBA) PARTICIPANTS

Jia Haixiang

China University of Political Science and Law

Studying on CBA participant's legal status may promote the CBA Games to operate smoothly. The objective knowledge on CBA Games participant's legal status comes from a systemic analysis about their rights and obligations. However, there is almost blank in this research area. According to this paper, the CBA Games participants are the athletes, whose legal rights can be divided into basic rights and common ones. Responding to the legal rights, their legal obligations can also be divided into basic obligations and common ones. On one hand, the athletes enjoy rights of equality, liberty, entering competition with no discrimination, and so on. On the other hand, they are subjective to observe the CBA rules and other related regulations, obey rules of contest and sports disciplines, and carry out the obligation of endorsement of light hurt.

THE STUDY ON LEGAL STATUS OF CHINA BASKETBALL ASSOCIATION (CBA) PARTICIPANTS

Wang Linlin

Beijing Information Technology College, China

Studying on CBA participant's legal status may promote the CBA Games to operate smoothly. The objective knowledge on CBA Games participant's legal status comes from a systemic analysis about their rights and obligations. However, there is almost blank in this research area. According to this paper, the CBA Games participants are the athletes, whose legal rights can be divided into basic rights and common ones. Responding to the legal rights, their legal obligations can also be divided into basic obligations and common ones. On one hand, the athletes enjoy rights of equality, liberty, entering competition with no discrimination, and so on. On the other hand, they are subjective to observe the CBA rules and other related regulations, obey rules of contest and sports disciplines, and carry out the obligation of endorsement of light hurt.

STUDY ON THE CONVICTING OF RUNNING DOPING IN CHINA

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A In competitive sports, running doping caused great harm to both the sports-related mental and relative athletes. However, in existing legal system, the judiciary can not act a crime of such behavior, which not only led to confusion in judicial practice, but also make people doubt the credibility of the judicial. On the other hand, since the punishment is so severe, the behavior which will be convicted should be taken enough caution. The behavior of running doping has serious social harm, practices often, while the existing laws can not adjust effectively. So at this stage, putting such acts as crimes has a substantial rationality.

STUDY ON THE ISSUES OF THE LOCAL YOUTH FOOTBALL IN CHINA

Taking Weifang city (a local city) as an example

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There are many problems in Chinese professional football, but the development of China's youth football is exciting. China's local youth football has evident characteristics with the development of fast, and relying on the professional football school(Luneng football school) extended impact, and greater efforts to support parents, and the youth participation enthusiasm high, and relying on their participation in various competitions to exercise their own players, and high mobility, and etc. On the development of youth football is concerned, there are many problems such as no football field, a serious shortage of funds, members scattered, Imperfect competition system and organization, a serious shortage of time training activities, and the local government and the schools especially school do not support and other issues. Deal with the problems. In view of these problems, first of all, the state should support the youth football from the perspective of law, a strong system of subsidies and tax incentives; open football fields gradually in order to solve the most pressing problems in the development of the youth football; standardize various event organization and operation, providing the recommendation for systemic and scientific training plans; do publicity in order to guarantee the quantity and quality of youth football team and , ensure the sustainable development of the football team; perfect all kinds of match system, building better competition order; encourage the youth team to participate in various competitions to enhance the overall strength of their own, and discover the potential talent in the course of the game, so that they can get more opportunities to the football developed countries to study and exchange, and expand the impact of the youth football in the region, national and worldwide; seek funding support, and youth clubs should seek actively funding support to solve the insufficiency of the development of the club. In a word, the development of youth football has the significant significance to promote the healthy growth of minors, and guide young people interested in football, to improve the young people soccer movement level, to find and improve the national football training football reserve talents. Youth is the future of football, to improve the overall level of Chinese football, the development of the youth football should first pay attention and supporting, because the culture of football and personnel is a long-term process, and the entire resources of the state and society are needed to mobilize.

TOWARD A EUROPEAN REGULATION ON SPORTS FRAUD? LEGAL CRITICALITIES

Anna Di Giandomenico

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Sports news of recent years tell us more and more often about sports fraud episodes, that darken other sports feats. Attempts to distort the course of competitions, reaching or not the wanted outcome, don't seem to have borders of sports specialties or nationalities.

It's concretized a sort of democratic equality, because of involving various protagonists of sports competitions: a sort of democratic equality, perhaps never reached in any other field of sport.

The awareness of the spread of this phenomenon provoked and still provokes alarm, not only at level of sports governance, but even at state level and/or international one: so the actions aimed at countering the diffusion of this phenomenon ended up to retrace the steps of what's already experienced about the fight against doping, which is, moreover, a specific form of sports fraud, that acquired autonomous consistency, because of its spread.

Nevertheless, it's interesting to point how, contrary of what's occurred in the case of doping, beyond a general and shared reprehension, in sports legal system it isn't reached any uniformity for evaluation and regulation of the case, whose typification and relative sanctions show an extremely differentiated panorama.

Once again, the onus of guiding the steps towards effective contrasting actions and, more importantly, uniform, is taken in an extra-sports area, particularly by the Council of Europe.

In fact, the Council of Europe is dealt with sport many times, acknowledging it a special role, because of its specific pedagogical function. From here a special focus on a legislative policy in sport field, which has led to the issue of several recommendations and convention on sport; a special attention, that in the last years focused on sports fraud, which is the object of the *Recommendation on promotion of the integrity of sport against manipulation of results, notably match-fixing* (CM/Rec(2011)10), constituting the prelude to a next Convention on the matter.

In this contribution I shall consider interesting points and problematic knots of such regulative approach, highlighting how it's undoubtedly a fundamental starting point, but not sufficient, if not supported by the awareness by sports organizations of the need to face the matter in a coordinated and, as far as possible, uniform manner, similarly to what already experienced for doping. So, when a World Anti-Sports Fraud Agency? When a World Anti-Sports Fraud Code?

DISCRIMINATION BAN IN SPORT IN EU LAW

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Wroclaw, University of Technology, Polish University Sports Association (Azs)
District Bar Association, Disciplinary Judge (Polish Basketball Federation),
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The cornerstone of the this presentation are famous words by Nelson Mandela: Sport has the power to change the world, to inspire to unite people in a way that little else can. Sport can create hope where there was once despair. It breaks down racial barriers. It laughs in the face of discrimination. Sport speaks to people in a language they can understand. What is more, the very foundation of sports and the ideology of Olympism state, which has been emphasized in this presentation, says that it has to be free from any form of discrimination.

The presentation on anti-discrimination in sport in the European Union legislation is an element of all-European, even a worldwide, debate on the shape of relations between sport and European law and generally between sport and law. This is an area where different concepts on the EU influence on sport sphere are clashing. This results in an attempt to find a compromise in terms of sports legal regulations by general law as well as legislation set up within the autonomy of sports organisations.

Non-discrimination rule is seen as a basis of the EU legislation. It allows for elimination of barriers, which could limit execution of rights resulting from the EU legislation. Moreover, in the light of the treaties, no diversification within the confines of an internal market are legally justified.

There is no doubt that the EU legislation has had a significant impact on sport not only in an European scale but also on a global one. EU anti-discrimination regulations (especially article 18 and article 19 of the Treaty on the functioning of the European Union (TFEU), which *expressis verbis* forbid, among other, gender discrimination) are very important here.

The Court of Justice of the European Union (CJEU) has commented on this subject repeatedly since 1974. In the disputes, which were examined by CJEU since that time, the CJEU proved that there are such issues in sport which may, and in fact, should be protected by the EU legislation. The verdict in Koch's case (1974) moved the matter of sport out of the internal federation's structures. However, a verdict in Bosman's case issued in 1993 had the most significant impact, it changed completely the face of the European sport and introduced it to a new era of relations between the EU and trade union regulations. Anti-discrimination nature of cases is also a consequence of trans-border character of contemporary sport.

Sport development dynamics and its ever growing economic and social importance make the EU face old problems but in a new shape. Legal disputes, which are currently faced by the CJEU, show that non-discrimination issues in sport are topical and still create many problems of a legal nature and evoke numerous uncertainties. A fundamental issue is the question about the general character of the non-discrimination EU regulations and their validity when it comes to sports issues. In other words, what is the range of non-discrimination ban in sport. Every time when this issue is considered, one should remember its complex and specific character.

That is why the aim of the presentation was to characterise regulations pertaining to discrimination ban in sport (understood in different plains, including gender discrimination), and to try and answer the question whether the general character of discrimination and pertaining legal regulations may be directly applied to sport. The presentation is an attempt at a partial approach to discrimination ban in sport and the EU legislation.

VI. Session Jurisdiction

Dispute resolution - Sports Law Jurisprudence: CAS and Court of Justice of the European Union

ADR TECHNIQUES FOR SETTLEMENT OF DISPUTES IN SPORTS

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Increasing growth and development of sports, complexity and expansion of sport organizations, institutions and activities, ever complicating mechanisms of laws and their function in sports, on-going fundamental changes in sports facts and phenomena, media impacts and their analytic and international influence

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²- Yaghoub kadkhodaei, private law student M.A,islamic azad university central Tehran branch

which goes far beyond the geographical borders of countries, even farther beyond the continents, have caused to be raised enormous differences and disputes in the area of sports which this necessitates efficient resolutions on such disputes.

On the other hand, there are some obstacles and limitations existing in the matter of referral of sports disputes to the specialized international institutions such as Court of Arbitration for Sports (CAS) due to different legal systems of the countries, question of conflict of laws, the international conventions granting right to the persons to raise their claim in the national and international courts, also some requirements which should be observed as a matter of binding regulations in the statutes and regulations of the sports institutions and those relating to sports dispute resolution authorities, sometimes the compulsory jurisdiction of national courts of the countries as a matter of requirements of their constitutions as well as the other rules and regulations; thus, the existing situation gives rise to recourse to and application of the methods of Alternative Dispute Resolutions [hereafter "ADR"] by a third party and/or third parties who are mutually elected and appointed by the parties to the dispute in compliance with the rules of proceedings again mutually agreed upon by the parties. This is sometimes also referred to as "Private Justice". This could well avoid from being involved in contradictory rules and regulations and will prevent from emergence of political biasing in decisions.

ADR methods are based on mutual agreement and consent of the parties to the dispute; with some particular features of such processes, ADR resolves the dispute in a specialized and expertise procedure with reliance on just and equitable guidelines, especially with regard to its features of amicable nature, flexibility, expedited processing, deploying specialized experts, variation of its methods, cost effectiveness, maintaining confidentiality, incrementing the contentedness of the parties to dispute, selectivity of third party, mutual consent of the parties in determining the proceeding rules, avoidance from conflict of laws, equitability of decisions, safe keeping good relations, non-intervention by the governments in the application of such methods, execution of decisions with mutual consent of the parties to dispute, etc.

From among these methods mention could be made of negotiation, mediation, conciliation, non-binding arbitration, neutral evaluation, mediation-arbitration (Med-AR), mini trial, fact-finding processes, mediation-arbitration based on the best proposal, etc.

It should be mentioned that ADR methods are not limited only to the processes named above, and the parties may have recourse to various methods of dispute resolutions with due regard to their mutual will, intention and consent, and the nature of their difference. It should be noted that lacking of uniform rules in different sports areas among the countries of the world has caused these countries to legislate some rules and regulations corresponding to the sovereignty

of each country respectively; these rules sometimes give rise to contractual and non-contractual disputes in the sports areas which may differ and vary country by country, and as a result, in such a way the rights of the athletes will not be protected on an appropriate uniform basis. This is so while the sports are regarded as one of the ideals of human society which is enshrined, accepted and confirmed in international instruments and resolutions as a matter of tool and instrument for promotion of education, health and development, as is specially emphasized in paragraph 7 of Resolution 85/5 of General Assembly of the United Nations approved on 3rd November 2003. Therefore, it is required that the ground be paved for human exaltation by establishing uniform rules in all fields relating to the sports including the manner of uniform and efficient method of dispute resolution.

AN ANALYSIS OF THE EXPANSION OF CAS ARBITRATIVE JURISDICTION

Li Baoqing

The arbitration agreement or the contract between parties is the precondition of the arbitration. Arbitration by Court of Arbitration for Sport (hereafter CAS) is not an exception. However, the jurisdiction of CAS arbitration, in fact, goes much far beyond that of the ordinary arbitration agreement, based on the different understanding of the arbitration agreements and the rules. This kind of expansion can be observed both in the Ordinary Arbitration Division and in the Appeals Arbitration Division. The aim of this research on the CAS jurisdiction expansion is to help people to apply the rules positively and to avoid passive application in the settlements of sports-related disputes.

THE PREDOMINANCE OF LAW AND SPORTS JUSTICE IN THE COURT OF ARBITRATION FOR SPORTS

Amir Hossein Shokri

Member of Iranian Scientific Association of Sports Law & Student of University in Law, Iran

The sports society has witnesses an extraordinary growth in the number and augmentation of sports discrepancies among sports individuals and organizations

during the past two decades. The most number of sports and international discrepancies are relevant to umpireship which are propounded in the court of arbitration for sports which were established by international Olympic committee in 1984 and its laws match the Swiss regulations.

The published statistics of the court of arbitration for sports is a sample of growth of the amount of disputes or incongruities submitted in court of arbitration for sports which demonstrates that it has had merely 50 files during 11 years between the years 1984 and 1995 which have been resolved.

But the amount of work has considerably doubled from 1996 to 2006. Now considering the tremendous bulk of files propounded in the court of arbitration for sports, some endeavors are made in this article to express the manner to settle disputes in the aforesaid court. The point which one should bear in mind is that ultimately whether the governance of law and justice in the way the court of arbitration for sports deals with discrepancies is accessible in all the cases propounded or not.

SPORT IN THE JURISPRUDENCE OF THE COURT OF JUSTICE OF THE EUROPEAN UNION

Dagmara Kornobis-Romanowska

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The confrontation with the relationship of sports and law in the European Union (EU) raises many particular problems and deserves recognition, examination and deep judicial reflection. The Court of Justice of the *European Union (CJEU)* is the only judicial institution in the EU empowered to provide a coherent response to contemporary challenges in sport. *The purpose of this paper is to present the development of the case law of the CJEU of the in order to show the evolution and to draw the directions and the challenges in the future of sports law in the EU.*

Under the Treaty of Lisbon, the EU has the competence to carry out actions to support, coordinate or supplement the actions of the member states in the area of sport (Article 6, point e of the TFEU). The actions of the EU in this regard are targeted primarily to the development of the European dimension in sport (Article 165 para.2 TFEU). Moreover, the EU has an obligation to foster cooperation with third countries and the competent international organizations in the field of sport, in particular the Council of Europe (Article 165 para. 3 of the TFEU).

With few and the limited references of the Treaties establishing European

Union (Treaty on the European Union - TEU, Treaty on the functioning the European Union - TFEU), the recognition of the legal nature of sport belongs to the CJEU. The latter is the only institution upon which the treaty confers the power to ensure that in the interpretation and application of the treaties the law is observed (Article 19 TEU). This provision empowers the CJEU to examine the specificity of sport in the activities of the member states and sports entities. There are many particular legal consequences as far as sport activity falls within the scope of the EU treaties. It means as far as it has an economic dimension and concerns the freedoms of the internal market (the rights to provide services, the right to establishment, the free movement of goods) and the competition law. But the of sport cannot be exhaustively recognized by the single market laws because of its specificity. It also covers such the areas as public health, education, training, youth, culture or media and touches such problems like broadcasting issues, autonomy of sport organizations, nationality and antidoping rules, and many others.

Consequently, sport is the subject to European Union law when its constitutes an economic activity (C-36/74 Walrave & Koch, para. 4; C-13/76 Donà, para. 12; C-415/93 Bosman, para. 73; C-519/04 Meca-Medina, para. 22; C-325/08 Bernard, para. 27). This is the main principle established in the case law of the CJEU and reiterated under the consecutive revisions of the treaties that has been guided the EU sports policy for decades. But it must be noted that the CJEU has also the strong impact on the national legal systems of the member states (including national sports organizations), especially through the references for the preliminary rulings addressed to it from the national judiciaries and by the principles of supremacy and the legal effect of EU law (C-26/62 Van Gend en Loos; C-6/64 Costa v ENEL). Taking it into consideration, the final conclusion of this presentation is that the jurisdiction of the CJEU shapes not only the EU law, but it also lays out the obligations for the member states to provide remedies sufficient to ensure effective legal protection. From this point of view, the jurisprudence of the CJEU in sports cases has the impact in law practice not only in Europe but also may have the effect on sports law worldwide.

MATCH FIXING IN INTERNATIONAL SPORTS: RECENT ISSUES AND TAS/CAS CASES

Lucio Colantuoni

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Integrity in sport is perhaps one of the most valuable commodities. Fans must believe that what they see on the field of play represents a true test of the

competitors' skills. If they cannot, there is a real risk that they will ignore sport and take sponsors and broadcasters with them.

There are many occasions where results have been affected by outside influences, but there are now some big new developments that make tackling match-fixing urgent and very important.

For instance, internet betting may not be an activity we are very familiar with, but it now accounts for many billions of dollars. That amount of money attracts the attention of criminals and indeed much of it is connected directly to money laundering and fraud.

Match-fixing is not new, but it is an increasing problem for sport globally.

This paper shall look at a brief history, review some notorious international cases and observe their effect on the sports concerned. The focus will be also on the South Asia region.

The recent jurisprudence of TAS/CAS Lausanne (CH) will be thoroughly examined.

Furthermore, since a range of prevention, education, communication and detection measures have been developed in recent years, the paper shall analyze such actions to prevent match-fixing as well as the best practices to safeguard sports integrity.

No sports organization is immune to a match-fixing scandal. A full-blown crisis can destroy reputations and careers but, with some advanced planning, the worst consequences can be avoided.

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ECENT JURISPRUDENCE ON SPORTS LAW SWITZERLAND AND TURKEY (Ordinary and arbitration courts)

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1. *Switzerland*, the country of advanced scientific research on sports law, the seat of several international sports organizations, has always provided us precious solutions to use in our daily activities in field of sports law. This is mainly due to sentences pronounced by Swiss courts and settlements by arbitration published

from the TAS (CAS) in Lausanne.

2. *Turkey*, a fully developing country in the field of sports activities, is also the source of interesting decisions for the sports law. However, this expansion is mainly observed with regard to the Turkish professional football and especially in terms of the fight against match fixing and violence during sports events. This kind of decisions is essentially pronounced by Turkish criminal courts and the Arbitration court of the Turkish Football Federation (TFF).

During our congress in Moscow, I had, in part, handled the same subject. The development of events in Turkey since then confirmed my expectations: The severity and anti-constitutionality of the quite recent Turkish law have been corrected, the role and the influence of UEFA have been determinant in the exclusion of the Turkish teams from the championship, the Turkish Football Federation has suffered and will continue to suffer a blow from which it could not recover easily.

3. The impact of match fixing, especially related to sport betting, continued to acquire a greater and more important dimension in the world, sometimes nearing organized crime.

In my paper of this year, I will therefore handle the state of the case law situation in Turkey in the field of the fight against match fixing and a few other interesting issues. I will conclude my paper by highlighting the recent important decisions pronounced by Swiss courts and the TAS on different branches of sports, either related to a case in Switzerland or at the international level.
