

INTERNATIONAL ASSOCIATION OF SPORTS LAW (I.A.S.L)

6th INTERNATIONAL CONGRESS ON SPORTS LAW

TEHRAN, 6-8 MAY 1999

IRAN

SUBJECT: The Responsibility in Sports Activities

FINDINGS*

A. The 6th International Congress of I.A.S.L, according to the belief of all participants, was totally successful and it has fulfilled the objectives it had set:

a. The Congress had an international character, as its participants were from several countries all over the world and its organization in every section was excellent. Every detail has been taken care of for its successful outcome and for its presentation at the media through IRNA. The National Olympic Committee of Iran has contributed greatly to the realization of this objective, as the spine of the Organizing Committee of the 6th Congress on Sports Law. The Administrative board of IASL feels for the above reason obliged to express its profound gratefulness.

b. The rich and profound scientific discussion over the studies with the subject: "The Responsibility in Sports Activities", which has been examined from many angles and

c. The development of the IASL and Sports Law in Asian Countries, so that sports law was set to systematic discussion also by scientists of these countries.

B. From the elaboration of the special subjects at the Congress, but also from the whole discussion that followed during the conferences, it has been made apparent that:

1. Sports and the participation in it are beyond and above every ideological and religious belief. In the framework of this discussion, it has been made known by the special theorists of Islamic Law, that this Law is not opposed to sports action, although it considers competitive sports to be contrary to man's

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health, as the tough competition in Sports is breaking the human limits. An example to this is the sport of boxing, during which serious physical injuries may occur at various parts of the body. Moreover, for the Islamic Law, the question whether the international rules of justice for international sports can be fully applicable in states with this law, is raised.

2. The main issue of the Congress that was the search for liability in sports activities was put with clarity and exactness through the following questions: Which are the type, the nature and the extent of liability in sports activities? The issue regarding the form of liability was put by the question: which can be the area of application of the law in sports activities? From the discussion, the scientific conviction was formed that:

- a. In sports activities, besides sports law, other branches of law are applicable, which should be adjusted when applied.
- b. In sports, injustices take place, of either legal or illegal character, or in a combination of the forms of liability, which are distinguished as sports injustices and unjust actions in sports according to common law.
- c. In sports activities, the liability that is being searched may have the character of contractual-private law, a penal character from injustices, a moral and fair-play related character, violation of the rules of the conduct of sports events and competitions by natural persons and legal entities of the sports action, bad management and administration of sports affairs and international character in sports activities and fighting, but also out of the games. Another aspect of this problem is the liability in race discriminations and the boycotting of games.

3. a. The nature of the liability in sports activities, is the issue that defines or at least should define the applicable law, as well as the type and the extend of the penalty, or damages for the compensation of sports affairs. The penalty, according to the character of the liability can be of a sports nature with disciplinary-administrative dimension; with a moral dimension that regards the sporting spirit and sports behavior; with a dimension of private law – contractual responsibility and with penal dimension – penal liability.

b. During the search, the liability is distinguished in subjective liability, that can be attributed to the subject and in objective liability or liability without offence.

c. According to the facts of the research that have been presented by Greek scientists of the University of Athens:

i. The awareness of sports legislation is highly related to the reaction of the athlete that is punished according to it. The athletes, toward the infliction of punishment consider that it is an application of the law and that the infliction of the punishment does not constitute a social degradation or a moral insult for them, but a financial loss, as for the rest they consider their punishment obvious when they are acting against the law. Furthermore, they consider that the rules of justice develop sports activities to a world of relations with moral and social content and that they force fair competition in sports game and they secure fair play.

ii. Sports justice in the conscience of athletes is at an average level, but they consider to a great percentage that sports penalty is necessary and not imperative. The doping problem in the athletes' conscience is and constitutes an anti-athletic behavior and should be met accordingly and not as an action of antisocial behavior. The penalty of the big fighting exclusion for the cases of doping and not the penalty of imprisonment is considered to be necessary and imperative, exactly because it regards an unjust action according to sports, with anti-athletic behavior and secondarily antisocial.

iii. The non-application of the rules of fair play in the field nurtures the phenomenon of violence, which entails negative consequences for the fighting athletes and there is a vicious cycle between anti-athletic behavior and violence.

4. In sports activities, the culpable or the non-culpable behavior, is also characterizing the unjust character of an action in sports, as there are special reasons contributing to that:

a. The poetic cause as a cause, for the shake and on the basis of which the sports event takes place, contributes to the removal of the unjust character of the sports action and it remains unpunished. This is applicable to fighting through the principle of appropriate reason.

b. The consent of the bearer to a physical damage constitutes a customary reason for the removal of the unjust character of a sports action provided that this is not a serious physical injury, dangerous or lethal and it is not

contrary to the moral standards and sports ethics. This principle is applicable to all sports that entail physical danger.

c. In sports, the principle of the “socially acceptable” action, examined under the conditions and the circumstances under which it manifested itself, constitutes a reason for the removal of the unjust character of the action. The criterion of the application of this principle is whether the general principles and the regulations of each sport have been respected by the fighting athletes, even with a small deviation that is justifiable according to the nature of each sport.

5. The Arbitration Court for sports, as it became apparent from the elaboration of the subjects by the discussants and the discussion that followed, can search for the liability and resolve the disputes of contractual nature that occur in sports activities, but also the disputes that entail disciplinary and sports liability on the basis of the procedure of constructing a mutually binding contract and the agreement of the opponents in before it that they will accept the ruling whichever may it be. This court can not examine injustices of penal character in sports nor can it take such decisions.

C. In sports activities, common law is not directly and totally applicable, but only proportionately and on the basis of special laws for sports activities, bearing in mind the special conditions under which sports events are being conducted as well as the particularity of the sports institution and the purpose it serves.

The legal bond and the culpable behavior among sports action, sports event and the natural persons and legal entities of sports action as well as third parties, are applied in a different way, due to the special conditions and the various reasons for the manifestation of human behavior in the sports world, sports actions and sports events.

During the performance of their duties, the natural persons and legal entities in sports, are under responsibility of sports nature with administrative – disciplinary character, a moral and penal character and the responsibility on the basis of the rules of common law, or the law for the special sports offences. In injustices in sports activities the liability is being searched in negligence or intention, for the protection of sports ideals, fighting morals and

sports in general and this exactly because sports constitute a common good, a good that serves a public purpose.

During the search for liability in sports activities, we primarily examine the circumstances, the conditions and the reasons for the removal of the unjust character of the action, while in contractual disputes there can be liability of independent offence and reason for compensation and restitution of sports affairs.