

## TABLE OF CONTENTS

|                    |    |
|--------------------|----|
| PREFECE.....       | 7  |
| ABBREVIATIONS..... | 23 |

### Part I

#### THEORETICAL FOUNDATION OF SPORTS LAW

|   |    |
|---|----|
| I. Initial thoughts.....  | 27 |
| II. Institutional Dimension of Sport.....                           | 29 |
| a. Meaning of “institution”.....                                    | 29 |
| b. The institution of sporting contests for the Ancient Greeks..... | 36 |
| c. Greek Enlightenment.....   | 38 |
| 1. The measure of human (The true nature of things).....            | 41 |
| 2. Virtue: Contest of daring and wisdom.....                        | 43 |
| 3. Victory: Fair victory in the stadium.....                        | 44 |
| d. Contest in the City.....   | 47 |
| 1. Law – Contest, the good and righteous human.....                 | 47 |
| 2. The Sporting Contest as a cause generating rules of law.....     | 54 |
| 3. Modern Sporting Contest-Anti-Agon.....                           | 56 |
| III. Scientific goundation of Sports Law.....                       | 59 |
| a. Methodology of Sports Law.....                                   | 60 |
| b. Sports Law as a specialised field of Law.....                    | 62 |
| c. The distinctive nature of Sports Law.....                        | 67 |
| IV. The Institutional Autonomy in Sports Activities.....            | 71 |
| a. The institutional dimension of sports.....                       | 72 |
| b. Economic activity in sport.....                                  | 74 |
| 1. The fields of development of economic activities in Sports.....  | 77 |
| 2. The freedom to work.....   | 79 |
| c. Restrictions on economic freedom in sport.....                   | 81 |
| d. Interventionism and judicial review.....                         | 84 |

**Part II**  
**SPORTS LAW THEORY**

|   |     |
|---|-----|
| I. The Physical Movement Within the Framework of Law .....                | 91  |
| A. General Remarks .....  | 91  |
| B. Physical and Athletic Movement - Athletic action .....                 | 92  |
| a. The organization principle in the physical and athletic activity ..... | 93  |
| b. The nature of the athletic legal entity.....                           | 94  |
| c. Physical Education and athletic practice .....                         | 97  |
| C. Legal Horizon in the Athletic Activity .....                           | 100 |
| II. Lex Sportiva Theory .....   | 102 |
| A. Legal Aspects of Physical and Sporting Activity .....                  | 102 |
| a. The field of Lex Sportiva .....  | 103 |
| b. The Sports Act from a legal perspective .....                          | 106 |
| B. Law and Non-Law of Sports Regulations.....                             | 107 |
| a. Sports regulations.....  | 109 |
| 1. The principle of material cause in sports .....                        | 110 |
| 2. Technical sports rules and rules of law.....                           | 112 |
| 3. Greek theory - jurisprudence .....                                     | 115 |
| b. Sports rules vs. rules of ordinary law.....                            | 117 |
| 1. Sports regulation – Special rules of law .....                         | 117 |
| 2. The Lex Specialis Derogat Legi Generali principle .....                | 120 |
| C. Sporting Legal Order .....   | 123 |
| a. Sports legal order .....   | 123 |
| 1. The Theory of sports organization and legal order.....                 | 124 |
| 2. Lex Sportiva and Lex Mercatoria .....                                  | 128 |
| b. Current international sports legal order.....                          | 132 |
| 1. International sports rules vs. rules of national law .....             | 134 |
| 2. Cases of Conflict .....  | 137 |
| c. Legal order in national sporting life .....                            | 140 |
| D. Lex Sportiva and Traditional Legal Orders .....                        | 143 |
| a. International Law: Main Features .....                                 | 143 |
| 1. Subjects of International Law .....                                    | 143 |
| 2. International law vs. domestic- national law .....                     | 147 |
| 3. Enforcement of international law .....                                 | 148 |
| b. International or “Transnational” Sports Law? .....                     | 149 |

---

|  |     |
|--|-----|
| 1. Features.....   | 149 |
| 2. A new species internationalized of sports law.....  | 151 |
| 3. Lex Sportiva: New demands, higher Expectations.....   | 151 |
| III. European Union and Sport.....   | 153 |
| A. Introductory Remarks.....   | 153 |
| a. The functions of sport.....   | 154 |
| b. Sports associations – federations.....  | 156 |
| c. Professional sporting activity.....   | 158 |
| d. The Constitutional approach.....  | 163 |
| e. ECJ case law on sports activity.....  | 166 |
| B. Lex Sportiva and European Union Law.....  | 167 |
| a. Sports policy in the EU.....  | 167 |
| 1. Voluntary Activity.....   | 168 |
| 2. Social and Educational Function.....  | 169 |
| 3. Fairness and Openness in Sporting Competitions and<br>Protection of the Physical and Moral Integrity of<br>Sportsmen and Sportswomen..... | 169 |
| 4. Cooperation with third countries and the competent<br>international organizations.....  | 171 |
| b. Field of Application of EU Law to Sports Activities.....  | 172 |
| 1. EU Law and Sports.....  | 172 |
| 2. Freedom of work - Contracts in sports activities.....   | 175 |
| 3. Free movement of workers.....   | 177 |
| i. Jurisprudence of the European Court of Justice.....   | 178 |
| ii. Cases law (jurisprudence) of Article 45 TFEU.....  | 181 |
| 4. Principle of equal treatment.....   | 181 |
| 5. European competition rules and sports activities.....   | 183 |
| c. Effects of the application of EU law on international sports<br>activities.....   | 186 |
| d. Suggestions.....  | 191 |
| C. Lex Sportiva Regulations and European Union Law.....  | 192 |
| a. The nature of the regulations, particularly in respect of<br>players’ agent activities.....   | 194 |
| b. Assessment of EU interest.....  | 197 |
| c. Derogation to the provisions of the rules based on Article<br>101(3) TFEU.....  | 199 |
| d. Application of Article 102 TFEU.....  | 200 |

|                                |     |
|--------------------------------|-----|
| e. The Deliege case .....      | 202 |
| D. Specificity of Sport? ..... | 207 |
| E. Future Perspectives .....   | 209 |

### Part III

#### SPECIAL TOPICS OF SPORTS LAW

|  |     |
|--|-----|
| I. Sports Law ETHICS.....  | 213 |
| A. The Sportsmanlike spirit.....   | 213 |
| a. The Greek ethics on Sports competition .....  | 214 |
| b. The meaning of Sportsmanlike spirit .....   | 216 |
| c. Olympia's Moral Horizon .....   | 218 |
| d. Sports Morals .....   | 225 |
| 1. The meaning of ethics in Sport.....   | 225 |
| 2. Sportsmanship .....   | 226 |
| 3. Sportsmanship and sporting attributes.....  | 227 |
| e. The notion of Justice in the sports competition.....  | 229 |
| B. The Legal Protection of Fair Play.....  | 230 |
| a. The nature of the institution of sports and sports<br>competition .....                             | 232 |
| b. Rules of Law and Fair Play.....   | 233 |
| 1. Ethics in Greek sports competition.....   | 233 |
| 2. Athlete and Sports Amateur status .....   | 234 |
| c. The protection of Sports Ethics and of Sports Competition .....                                     | 236 |
| 1. The national legislation .....  | 236 |
| 2. A Sports Ethics Code.....   | 241 |
| C. Ethics Offenders/Violators in Sports Activities.....  | 245 |
| a. Liability and Illegal Actions in Sports according to Sports<br>Law .....                            | 246 |
| b. Criminal Intention and Liability associated with sports<br>events.....                              | 250 |
| c. Nullity of the intentional criminal character of an action<br>taking place in a sports context..... | 250 |
| d. Bribery .....   | 254 |
| e. Violence in a sports environment.....   | 257 |
| f. Pharmaceutical stimulation in Sports-Doping .....   | 261 |
| II. Doping in Sports – Performance - enhancing Drugs.....  | 264 |

---

|   |     |
|---|-----|
| A. International Perspective .....  | 264 |
| a. Introduction .....   | 264 |
| b. International Rules against Doping .....                               | 267 |
| c. The jurisprudence of the TAS/CAS on doping .....                       | 271 |
| B. Greek Perspective .....  | 277 |
| a. Applicable Law on Doping According to the Domestic<br>Sports Law ..... | 277 |
| 1. Doping Definition and Terminology .....                                | 277 |
| 2. ‘Study of Words’ .....   | 279 |
| b. Legal Scope of Doping .....  | 282 |
| 1. Legal doping control .....   | 285 |
| 2. Criminal – disciplinary and moral aspect of Doping .....               | 288 |
| 3. Criminal Aspects of Doping .....                                       | 289 |
| 4. Criminal law provisions .....  | 290 |
| 5. Disciplinary Aspects of doping .....                                   | 293 |
| i. Disciplinary Offences of Doping Provisions .....                       | 295 |
| ii. Disciplinary Sanctions .....  | 296 |
| iii. Imposition of Disciplinary Sanctions .....                           | 298 |
| C. Doping and Nutritional Supplements .....                               | 298 |
| a. Introduction .....   | 298 |
| b. Definition of the Nutritional Supplements .....                        | 299 |
| c. The law on nutritional supplements .....                               | 301 |
| d. Specific provisions .....  | 304 |
| e. Conclusion .....   | 306 |
| III. Choregia – Sponsoring .....  | 306 |
| a. Historical facts .....   | 308 |
| b. Sponsoring in the modern sports world .....                            | 311 |
| 1. Olympic Games (from 1896 to 2004) .....                                | 311 |
| 2. Financial Support of the Sports Activity .....                         | 313 |
| c. Choregia or Sponsoring? .....  | 313 |
| d. Legal Framework .....  | 316 |
| 1. International – European Union legal framework .....                   | 316 |
| 2. Domestic Law .....   | 317 |
| e. Practical applications of Sponsoring .....                             | 319 |
| 1. Field of application .....   | 319 |
| 2. Moral and Ethical restrictions on Sports Sponsoring .....              | 319 |

---

|   |     |
|---|-----|
| 3. Contractual clauses .....  | 322 |
| 4. Ambush marketing.....  | 324 |
| 5. Arising disputes .....   | 326 |
| 6. Mediation for the conclusion of a sponsoring agreement .....   | 330 |
| f. Elements of a standard sponsoring agreement .....  | 332 |
| g. Sponsoring agreements and consequences of the breach of anti-doping rules.....                                     | 333 |
| IV. Broadcasting of Sports Games .....  | 335 |
| A. Sports Events and Games as a Common Good .....   | 336 |
| a. Exclusivity in broadcasting .....  | 336 |
| b. Exclusivity of Broadcasting of Sports events (Broadcasting - Distribution).....                                    | 340 |
| B. Digital Broadcasting of Sports Games.....  | 340 |
| a. Television Rights for the Broadcasting of Sports Games .....   | 341 |
| b. Granting the exclusive right to broadcast Sports Games .....   | 342 |
| C. The Citizens' Right to Sports Information .....  | 344 |
| V. Human Rights of Minor Athletes.....  | 348 |
| a. Protection of Minor Athletes.....  | 349 |
| 1. The minor as subject of right.....   | 349 |
| 2. The personality of the exercising child.....   | 351 |
| b. The rights of the minor athlete in the sports club.....  | 353 |
| 1. Free development of the personality.....   | 353 |
| 2. Transfers of minor athletes .....  | 354 |
| c. Minor athletes and the protection of law .....   | 357 |
| 1. Cases where the personality of the minor athletes is affected.....   | 357 |
| 2. International rules for the protection of the minor.....   | 358 |
| 3. The Greek legislation.....   | 359 |
| VI. Sports Betting: Policy in European Union.....   | 363 |
| a. Regulation of sports betting in the EU .....   | 364 |
| 1. Sports policy in the EU in general.....  | 364 |
| 2. In particular sports betting in the European Union and the Member States.....                                      | 365 |
| b. Specific requirements of the European Community Law on the regulation of sports betting by the Member States ..... | 367 |

#### Part IV

### LEX OLYMPICA: LAW OF THE OLYMPIC GAMES

|   |     |
|---|-----|
| A Olympic Games in Encient Greece.....  | 375 |
| a. The Olympic Games and the Classical Greek Law .....  | 375 |
| b. The Olympic truce as a Legal Institution within the Framework<br>of Interstate Relations in Ancient Greece ..... | 383 |
| B. Participation in the Olympic Games.....  | 392 |
| a. Participation under the Olympic Charter.....   | 393 |
| b. The case of Yugoslavia .....   | 396 |
| C. The Olympic Charter Rules - National and International Law .....   | 398 |
| a. Applicable Law- International situation .....  | 401 |
| D. Olympic Recognition.....   | 405 |
| a. Terms and Criteria of Recognition.....   | 407 |
| b. The Effects of Recognition.....  | 410 |
| E. Olympism and Physical Education.....   | 412 |
| a. The Mission of the Institutions Higher Educational.....  | 412 |
| b. Fundamentals of Olympism .....   | 413 |
| c. Research and Teaching in Relation to Olympism .....  | 415 |
| F. Institutional Dimension of the Olympic Games .....   | 418 |
| a. The Institution of the Olympic Games in Greece and in the<br>modern World .....                                  | 419 |
| b. Comparative study.....   | 425 |
| G. Participation of Athletes in the Olympic Games .....   | 428 |
| a. Olympic Acknowledgement.....   | 428 |
| b. Criteria and Conditions for the participation in the Olympic<br>Games .....                                      | 430 |
| 1. Athlete declaration.....   | 430 |
| 2. Nationality of the Athlete.....  | 432 |
| 3. Olympic Athlete's rights and obligations .....   | 433 |
| 4. Olympic Games, Domestic Legislation and Applicable Law .....   | 436 |
| c. Applicable law.....  | 439 |

#### Part V

### SPORTING JURISDICTIONAL ORDER

|                               |     |
|-------------------------------|-----|
| I. Sporting jurisdiction..... | 445 |
| a. Concept.....               | 445 |

|  |     |
|--|-----|
| b. Definition .....  | 447 |
| c. Competence of the sport arbitral organs to rule on the<br>constitutionality of the law..... | 449 |
| II. Interim judicial protection.....   | 453 |
| III. Arbitral jurisdiction .....   | 456 |
| a. Arbitration in Greece .....   | 456 |
| b. International arbitration.....  | 461 |
| IV. Arbitration in sport .....   | 464 |
| a. The International Sporting Jurisdictional System.....                                       | 464 |
| b. The principle of excluding recourse to the national courts.....                             | 468 |
| c. Arbitration clauses – accession agreements in Greece .....                                  | 472 |
| d. Arbitration of financial disputes in Greece.....  | 474 |
| e. Arbitration of disciplinary disputes in Greece.....   | 476 |
| f. Mandatory arbitration .....   | 478 |
| V. FAIR TRIAL.....   | 481 |
| a. Tribunal Arbitral du Sport (TAS) – Court of Arbitration for<br>Sport (CAS) .....            | 483 |
| b. The “reason” for the exclusion of National Courts .....                                     | 486 |
| c. The CAS and applicable law .....  | 489 |
| d. The principle of a fair trial .....   | 492 |
| e. The Greek Case – The threat of F.I.F.A. to suspend the H.F.F. ....                          | 495 |
| 1. History of the case .....   | 495 |
| 2. National legislator v. FIFA .....   | 498 |
| 3. Lex Sportiva - national legislator.....   | 500 |
| VI. ENFORCEMENT OF DECISIONS THE BLIAMOU CASE .....  | 502 |
| a. Background.....   | 503 |
| b. Supreme Sports Disputes Resolution Tribunal Decision No.<br>53/2002 .....                   | 505 |
| c. Conclusions .....   | 511 |
| VII. WHO IS THE RIGHT JUDGE FOR SPORT? .....   | 513 |
| a. The concept of natural judge .....  | 514 |
| b. The presence of active judges .....   | 516 |
| c. Sport Court .....   | 520 |
| d. Conclusion.....   | 523 |



**Part VI**  
**THE GREEK SPORTS LAW**

|  |     |
|--|-----|
| I. Amateur and Professional Sport.....   | 527 |
| A. Intervention of the Central Administration in the Athletic Activity.....    | 531 |
| a. Direct State intervention.....  | 532 |
| b. Indirect State intervention.....  | 533 |
| c. Not interventionist system.....   | 534 |
| II. Greek Constitution on Sports.....  | 537 |
| A. Institutional Guarantee of Sport.....                                       | 536 |
| a. Constitutional distinction: Physical Education - Sport.....                 | 537 |
| 1. Physical Education.....   | 538 |
| 2. The international rules on Physical Education.....                          | 539 |
| 3. Physical Education according to Article 16 par. 2 of the Constitution.....  | 540 |
| b. Physical Education in the Educational context.....                          | 543 |
| 1. The aim of Physical Education in Education.....                             | 546 |
| c. Article 16, par. 9 of the Constitution.....                                 | 548 |
| 1. Sports supervision and protection.....                                      | 549 |
| 2. Protection of Sport.....  | 550 |
| 3. Supervision in Sport.....   | 554 |
| B. Controlling Mechanisms.....   | 555 |
| a. Sports Controlling Council (S.C.C.).....                                    | 556 |
| b. Professional Sport Committee (P.S.C.).....                                  | 558 |
| C. Participation in the Sports Action.....                                     | 562 |
| a. The personality of people practicing sports.....                            | 564 |
| D. The Freedom principle in sports activity.....                               | 566 |
| a. The Personal freedom principle and the Freedom of assembly in Sport.....    | 567 |
| b. The Freedom of the Athlete to chose the sports club that he shall join..... | 568 |
| III. Sports Federation.....  | 572 |
| A. Institutional Autonomy and Administrative Control.....                      | 570 |
| B. The nature of the Sports Federation.....                                    | 574 |
| a. Constitution and Composition.....   | 582 |
| b. Powers.....   | 587 |

|  |     |
|--|-----|
| c. Regulating power .....  | 592 |
| IV. Sports Criminal Law - Penalty .....                                    | 595 |
| A. Liability in Sports and Sporting Action.....                            | 595 |
| a. Forms of Liability .....  | 595 |
| 1. Tort and Liability Distinctions.....                                    | 596 |
| 2. Tort in Sports – Sports Liability .....                                 | 598 |
| 3. Cases of tort in sports action.....                                     | 602 |
| b. Athletically unlawful acts .....  | 604 |
| c. Unlawful acts in sports according to the common law.....                | 610 |
| d. Disencumbering the unlawful character of sport acts issue .....         | 613 |
| B. Violence in Sports .....  | 616 |
| a. Legal regulations on the fight against violence.....                    | 620 |
| b. Modern Regulations.....   | 628 |
| V. Providing and Offering Sports Services.....                             | 631 |
| A. Athletes’ Status and the Provision of Services .....                    | 631 |
| a. Sport –Sports categories.....   | 632 |
| b. Sports capacity .....   | 634 |
| 1. Sports capacity as a legal fiction .....                                | 636 |
| 2. Sports capacity obtained by right .....                                 | 638 |
| c. The provision of Sports services .....                                  | 641 |
| 1. Concealed agreement for the remuneration of an<br>amateur athlete ..... | 643 |
| d. Amateur athletes’ rights .....  | 648 |
| B. Athletes’ Agreements/Contracts .....                                    | 651 |
| a. Professional athletes.....  | 651 |
| b. Provision of sports services.....                                       | 654 |
| 1. Sport services agreement .....  | 656 |
| 2. Nature of this agreement.....   | 656 |
| c. Remunerated and professional athlete’s agreement .....                  | 658 |
| 1. The agreement’s content.....  | 658 |
| 2. Form – Terms on the agreement’s validity .....                          | 659 |
| 3. Agreement’s duration – renewal.....                                     | 660 |
| 4. Agreement’s suspension or extension .....                               | 663 |
| d. Agreement termination .....   | 665 |
| e. Remuneration - bonuses distributed to the athletes.....                 | 667 |
| f. Contractual provisions - Sanctions .....                                | 670 |

---

|   |     |
|---|-----|
| g. Relegation and the Athletes' remuneration.....   | 671 |
| C. Athletes' Insurance Cover .....  | 672 |
| a. Consequences of the European Law on the status of<br>professional-remunerated athletes ..... | 674 |
| VI. The Greek Law on Football Agents.....   | 679 |
| A. Professional Football – historical facts.....  | 680 |
| a. Management and football agent .....  | 681 |
| b. Legal Act number 2725/99, article 90, par. 5 .....   | 682 |
| B. Football Agent's Regulation.....   | 682 |
| a. Definition .....   | 683 |
| b. Conditions for the award of the license to practice the<br>agent's profession.....           | 684 |
| c. Award – Renewal and revocation of the agent's license.....                                   | 685 |
| d. gent's Registry and Deontology Code .....  | 687 |
| <b>BIBLIOGRAPHY</b> .....   | 691 |
| <b>TABLES</b> .....   | 733 |
| <b>INDEX</b> .....  | 735 |