

18th World IASL Congress
October 10-11, 2012, Beijing, China

**“Sports Law Structures, Sports Law Practice, Sports Law Justice and Sports
Science and Studies”**

Abstracts

Session Topics:

Lex Sportiva - Sports Law and International Sports Law

The Structure of International Sports Law

*Olympic Games: Olympic Movement, Relations, Conventions
and Participation*

*Truce Olympic Centre, Governmental Agencies - NGO and
World Peace*

Regulation and Re-regulation in the World of Sports

*Legislature of International Sports Federations and Lex
Sportiva*

Lex Sportiva, Lex Olympica and International Sports law

By:

Dimitrios P. Panagiotopoulos

This paper is a continuation of the opinion-thesis of the special nature of Lex Sportiva. It examines the nature of Lex Sportiva and Lex Olympica and the quality of the rules of law, with their special features. In the context of international law, it is indicated that International Sports Law is a species of International Law, a different species of law, regarding Lex Sportiva and Lex Olympica.

In the theory of international law, it is common that: “Law is a coercive order. It creates socially organized sanctions and can be clearly distinguished from a religious order on the one hand and a merely moral order on the other hand. As a coercive order, the law is that specific social technique which consists in the attempt to bring about the desired social conduct of men through the threat of a measure of coercion which is to be taken in case of legally wrong conduct”. Kelsen in the same work (*The Principles of International Law*, Rinehart 1952, pp 45-50) affirms the nature of international law as true law. However, until the present moment, the lack of enforcement of international law remains the main difference of international law, which makes it a different species of law, different from domestic laws, also having in mind Lex Sportiva and Lex Olympica. Lex Sportiva and Lex Olympica are new species of law, a synthesis of features of international law (subjects, jurisdiction and content of regulations) and features of domestic national law (effective enforcement mechanism, vertical effect of its laws, and immediate incorporation in the national law systems and compulsory and exclusive jurisdiction of its judicial organs).

This new species of international law necessarily puts long accepted practices and organizational structures established under another light that reveals the inadequacy of international law practices in a legal system, which is another kind of international law. It has an impressive feature of coercion, similar with this of domestic jurisdictions. However, fundamental changes in its organization should be done, in accordance with the principle of legality, in order to create an international field of legitimacy in sports, like in that area that may be considered as an international sports law and on international conventions, on the international sports acts and in WADA Code.

The Nationality Issue In International Sports Law

By:

James A.R. Nafziger

.....

Current Aspects of International and European Sports Policy and European Sports Law

By:

Karl-Heinz Schneider

The presentation looks at the main tasks of European and international sports policy as well as European sports law from the point of view of the German Federal Ministry of the Interior.

The preparatory work undertaken to include sport in Community law, i.e. the incorporation of sport in the Lisbon Treaty, is specifically highlighted. The tasks and competences of the European Union are explained in detail.

Furthermore, sports policy cooperation with international organizations – in addition to supranational cooperation with the EU – is illustrated. In this context, the focus is on the Council of Europe and UNESCO. With regard to UNESCO, the Conference of Ministers and Senior Officials Responsible for Physical Education and Sport (MINEPS V) to be hosted in Berlin in May 2013 by Germany is mentioned and the conference's topics are presented (e.g. match fixing).

The third part of the presentation deals with the question of what sports law actually is. The answer focuses on both the national (i.e. Germany's) and the European perspective. The presentation also provides research results concerning the EU Member States with specific sports law. Furthermore the UNESCO Member States – such as the P.R. China – which have their own sports law – are also mentioned.

This is followed by the thesis that national and European sports law should develop into international sports law to ensure the necessary equality of all athletes before the law. A question to consider in future is whether unhindered access to sport (equally for women, girls and men) should be recognized as a human right.

Given increasing globalization and closer international cooperation, it is certainly necessary to create international sports law.

Sports Law after the entry into force of the Lisbon Treaty: what's changed?

By:

Anna Di Giandomenico

For scholars is well-known how sport has been essentially indifferent for European Law, since it is ascribable to the private sphere of citizens where public legal systems ordinarily don't interfere, if not to settle emerging conflicts or to guarantee interests, that have a general nature.

In the European Union this indifference is further stressed by its purely economic genesis: an approach that seems to be confirmed by various European judgments, whose arguments tended to identify the specificity of sport, specificity that receded when sport intersected spheres and spaces that are typically economic and, therefore, pertaining to the EU (especially for that regards the free movement of goods and workers). The long process of EU reform, that ended with the entry into force of the Treaty of Lisbon, reverses this trend: in fact the sport entered within the EU competences, although in a subsidiary perspective, inducing a series of changes, both at the institutional and at the regulatory level.

I wonder about the real extent of such changes: if from a legal theoretical point of view seems to have changed much, I wonder what is the real status of sport and *lex sportiva* in the EU as redesigned by the Lisbon Treaty. A lot of fuss about nothing? Or something has really changed?

The case of FC Sion. The relation between sports clubs and national and international sports associations.

By:

Peter Coenen

In 2008 FC Sion, a club playing in the highest Swiss Football League signed Essam El Hadary. The problem was that El Hadary was still under contract with Egyptian club Al Ahly when he was signed by FC Sion. This led to a transfer ban imposed on FC Sion by FIFA. FC Sion vehemently fought this transfer ban and this led to a prolonged domestic and international legal battle. FC Sion ultimately decided to ignore the transfer ban and it acquired a number of players in the new football season. Because FC Sion played these players in various competitions, they were deducted points and were thrown out of the Europa League competition. This paper will look at the legal battles fought by FC Sion, both domestically as well as internationally. This paper will further address the relation between a club and the various national and international associations which can make rules that can affect that club. This paper will finally look at the relation between sporting associations incorporated in Switzerland and the powers of domestic courts over these associations.

How Effective FIFA Emergency Committee to solve Indonesia Football Association problem

By:

Hinca IP Pandjaitan

.....

The Value of Sport Write Into Constitution: Subject and Content

By:

CHEN Hua-rong, TAO Yu-liu, XIE Zheng-yang

Sport write into constitution to reflect the value orientation of the various subjects, but also reflects the Constitution is enacted for whose benefit. Throughout nearly 150 years history of sport write into the constitution, we can generally be seen from the provisions and objects, the value of the pursuit of the state, society, families and individuals are different. The state is the earliest promoters and suitors of the sport write into the constitution. The value of sports into the constitution, can not leave the value in terms of the Constitution, however, due to the relevance of the special nature of sport and sports terms, the value of sports into the constitution goals should be distinguished from the constitutional values overall. Sports services for human development, human freedom is the core of the sport, the sport's highest standard of value is free; The Outright and health belongs to human development tools and results, emphasis should be given the freedom of the physical education process. Constitutional guarantees sports rights and freedoms of the people, is an important way to the pursuit of the realization of the dignity of the human person. Sports play an important role in human development, the pursuit of value of the sport seems to be in freedom, dignity and human rights in the middle of the bridge, looking closer to the value of the person's own. Therefore, I believe that the goal of the ultimate value of the sport write into constitution is unto a free and full grown man.

On the Rights of Publicity to the Sports Celebrity

By:

Zhu Wenying

As an important personality rights, there is no corresponding law for the publicity rights in China. When the publicity rights of was damaged, the civil subject had to be selected portrait rights or intellectual property as a means of relief. Beginning with the Maradona case and taking the right of publicity to the sports celebrity as an example, the author elaborated the concept, the nature, the object of the right the publicity and the distinction between related rights , and by discussing the torts and the relives to the publicity rights, the article cleared its the concrete personality status and as well as its significance and role on the protection of the sports participants and the promotion to the healthy development of the sports.

Some View about Government Institution Construction of Public Sport Service

By:

Zhao Jingjing

Analyse the concept of sport and public service from the perspective of historical materialism, with the development of the society, sports are endowed with different connotations. A new definition of modern sports is a kind of life style, a part of life with the public attribute. In addition, with the conversion of government functions and development of a service-oriented government, sports become an important part of government public service. Historical materialism reveals the masses are the creator of history so as to find the target of public service. Sports development is a part of social development, due to the sharp shift in life style, it is urgent to use sports to fill the defects of civilization. Moreover, it is the institution construction that ensure government provide the public sport service. This paper expounds that the institution construction of sports public service should establish the correct understanding of human nature, strengthen the construction of service culture and pay attention to system of the implementation of the program in the government authorities to strengthen service culture construction, pay attention to the procedure of implementation of the institution.

Session Topics:

*Legal Problems in Amateur and Professional Sports
Athletes, Economics and Individual Freedom of Sports
Rights and Obligations
Professional Sports Activities and Players Protection
Legal Protection in Sports, Citizens, Penal Liability and
Responsibility
Sports Law Contracts and Player's Agents Regulations
Anti-Doping Regulation, WADA Code and Techno-Doping*

The Implications and Challenges of the School Physical Education Promotion Act in Korea

By:

Kee-Young-Yeun

This study focuses on the implication and the challenges in the enactment of the School Physical Education Promotion Act, which was passed by the National Assembly on December 30, 2011, promulgated on January 21st of this year, and planned to be enforced on January 27, 2013. In mean time, the emergence of the physical deterioration in the youths, the protagonists of the future of the nation, has become a serious social phenomenon, 연 새 the nation's test centered education have toll on the physical activities of the students, and the student athletes guarantee for rights for learning and human rights have been demanded. Therefore, the School Physical Education Promotion Act has been enacted in order to normalize the school physical education and to develop health and balanced body and mind in students.

This act contains obligated information such as, state and local governments to establish policy and enforce obligation, secure budgets so that school head masters can assess annual student health (PAP), operate physical education classes for students with low-stamina or obesity, and operate school fitness centers, etc. it This act also regulates the security of the basic education standards for the student athletes, rational operation on school sports, matters concerning the duty and remuneration of the athletic directors and the professional sports instructors, and the establishment basis for the School Physical Education Promotion Committee. Though the regulatory plans such as safety measures for the accidents on school sports, exclusive organization to administrate school physical education, and securing the school physical education fund, have been presented, but they do not reflect on this act.

The following significances of the enactment of the School Physical Education Promotion Act 1) the establishment of the rights to the physical education, among the basic sports right 2) the establishment of the policy on normalization and invigoration of school physical education 3) the establishment of new paradigm of the national physical education and sports 4) the establishment of a foundation for the realization of the National Sports Welfare were looked.

Future challenges, such as 1) enactment of right sub-regulation (enforcement

ordinance, enforcement regulations, ordinance), 2)the guarantee of student athletes' rights for learning and human rights which include minimum schooling, 3) The rights guaranteed and quality recognition of the person in charge of the school sports (athletic director of the school, sports trainer, 4) financing for normalization of school physical education, 5) reasonable organization and operation of School Physical Education Promotion Committee, 6) organization and operation of School Physical Education Promotion Committee, 7) strengthening in exclusive administration for school physical education, 8) the prevention of threat and expansion of safe facilities, are also presented.

The most important challenge, from this point on, is to mandate the matters in this act or to enact the need for sub-regulation to be enforced such as enforcement ordinance, enforcement regulations, ordinances, within a year of preparation period before the law takes its effect.

"Contractual stability in football: FIFA Regulations, TAS/CAS role and jurisprudence"

By:

Lucio Colantuoni

.....

Techno-Doping

By:

Klaus Vieweg

.....

Criminal Responsibility of Athletes

By:

Nader shokri

.....

A Study of Female Athletes' Awareness of Athlete Rights and its Driving Factors

By:

Safari Hamed

The purpose of the present research was to study awareness of athlete rights and its driving factors in the female athletes of three sports who exercised for at least 4 days a week and 2 hours per session in order to prepare for participation in a tournament. Theories related to athlete rights were examined and the hypotheses of the research were formulated based on the relationship between athletic experience, attitude toward sports law, socioeconomic status of the athletes, media, and awareness of athlete rights. The research was explanatory and the required data was collected by a researcher-made questionnaire. The population of the research consisted of all the female athletes of three selected sports in Tehran. Using Cochran's formula, the sample was calculated to be 270 out of a population of 1842 athletes. The sampling method was multiple cluster sampling. The data were

analyzed using SPSS software. Kendall's tau-b and Gamma tests (for examining ordinal associations), chi-square test (for examining nominal-ordinal levels cross tabulations), multivariate regression analysis, and path analysis were used for data analysis. The dependent variable of the research was female athletes' awareness of their rights. The mean awareness score of the respondents was 11.32 with a standard deviation of 0.726. The awareness scores ranged from 0 to 18. The results showed 35.2% of the athletes had little awareness of their own rights. 45.2% had average awareness and only 19.3% of the athletes had high awareness of their rights. Athletic experience, media, attitude toward sports law, and socioeconomic status were significantly associated with female athletes' awareness of their rights.

Jurisprudence analysis on the particular legal protection of sports right of the vulnerable groups

By:

Tan Zhong-qiu

Social vulnerable group's sports rights concerns about the value of legal protection in the reality of life to be fully realized. The article starts with core theories of the justice and equality, human rights and rights relief of the vulnerable groups, putting an abstractive jurisprudence analysis on the legal protection of sports right of the vulnerable groups and hopes that we strengthen the understanding of protection of sports right of vulnerable groups from the rational height. Justice is the eternal value of human society and the basic behavior criterion. Law is a means of achieving justice and the value of law is the realization of justice. Substantive equality theory is based on formal equality amendment. Substantive equality refers to the country's specific and actual situation. Due to the form of equality may lead to the fact that inequality was classified, the disadvantaged in specific populations in the economic, social, cultural, and other populations exist differences and by taking the form of inequality means to make up, which in essence provide citizens with equal development of desired material and environment, to reduce the only formal equality which bring about gap. Substantive equality theory on human rights are realized by the transition from abstract people to the reality of life with different natural characteristics of people. This transition puts the protection of the rights of vulnerable groups in a prominent position, becoming the country's duty to protect the vulnerable groups, which has turned to the theoretical premise and the justice of law implementation scale. Human right is the pursuit of human dignity as human beings and the equality between people. Therefore the human rights and equal idea is the value basis to protect the basic rights of social vulnerable groups. Social vulnerable groups have the right to the pursuit of being respected and treated as an equal. A society ruled by law shall turn human rights ideals into reality, making the social vulnerable groups to obtain protection rights. According to the theory, through special legislation, giving special groups with special care is consistent with the will of protection of human rights.

Justifying the Term of Right to Sports

By:

TANG Yong

For Right to Sports, the theory of natural rights is not the whole story. A “want” may be treated as a “right”, when it has legitimacy in history, values and system. Seen from historical documents, Right to Sports exists as early as human beings. This right is to show the value of an all-round development. The want to participate and engage in sports and exercises has been accepted by civilized nations and written in their systems. Olympic Charter and International Charter of Sport and Physical Education point out that human being has a human right or fundamental right of access to sports. Beyond the conflict between negative liberty and positive liberty, Right to Sports is a triad one. The subjects conclude ethnic groups and nations; the objects means sports benefits are inalienable and cannot be reducing; and the realization is based on the assistance of nations and society. The definition of Right to Sports shall be the right according to which people are free from harm to participate in, contribute to, and enjoy sports. It means everyone has the equal chance to sports and hence shares the fruits of sports development.

Regulation System Optimization and Propaganda, Education Promotion (Evaluation of Anti-Doping Regulation)

By:

YangFan

The Anti-Doping Regulation, hereinafter referred to as The Regulation, promulgated and implemented in 2004, is the milestone of China's endeavor for anti-doping. The Regulation has provided legal safeguard for the physical and psychological health of athletes, especially the juveniles, the fairness doctrine of sports and better social morality.

In recent years, along with the fast development of sports technology and industry and the anti-doping progress, parts of The Regulation has been proved to be lag behind, which stimulate us to carry out the evaluation, investigate research and solve the problems coming forth in the practice of anti-doping. For this reason, in September 2010, the Legislative Affairs Office of the State Council taking the lead with the cooperation of General Administration of Sport and the State Food and Drug Administration, has started the job of The Regulation evaluation.

The evaluation has chosen three critical systems set up by The Regulation as follows: 1. control of the origin of doping; 2. the obligation of anti-doping of the sports organization and athletes administration; 3. the obligation of anti-doping of athletes and athletes support personnels. Based on the results of evaluation, the essay would try to investigate the problems and countermeasures and offer a suggestion for the revision of The Regulation and the development of China's anti-doping.

Rule of Criminal Law against Corruption in Chinese Professional Sports

By:

TIAN Siyuan LIN zaoqi

The corruption in Chinese professional sports not only reflects the factors of social corruption in this field, but also reveals the problems which originate from the start and development of professional sports. Conducts of corruption in sports mainly include: malicious wrong calls and missed calls by the referees; match-fixing; doping; athlete eligibility fraud; sports gambling and so on.

Criminal Law brings the toughest penalties against the corrupt conducts in sports. In this paper, the author analyzes the applicability of a) crime of accepting bribes, b) crime of accepting bribes by non-state personnel, c) crime of accepting bribes by an entity, and d) crime of gambling, for different subjects of crime. He also suggests an addition of “crime of match-fixing in a cultural or sporting event” to the current Criminal Law. Accordingly, the author provides the theoretical basis, as well as the criteria for judicial determination, for the rule of Criminal Law against corruption in professional sports.

On the sports right of Adolescent under the Public Sport service perspective

By:

Chen Shurui China

Sports rights is the right of every citizen to obtain the qualifications, conditions and skills involved in sports activities, engage in sports activities that they choose and benefit from them. The political, economic, social and cultural affect and restrict the development of rights, so people didn't pay attention to sports in a very long period of time, thus the sports rights has been a neglected issue.

Adolescent health concerns the future of the country; adolescents are the talent base of social development, “young and strong, the country strong”. To enhance teen's physical fitness, to change their way of life fundamentally, and among the lifestyle indicators of influence, sports is an important factor affecting the adolescent physical fitness.

Sports system implicit the concept of the health right, health is the important value of the goals of the sports system, therefore, the health right is an important foundation of sports legal system. The health right of adolescent is a comprehensive reflection of adolescent physical, psychological and social needs; the health right of young people is a private one and most importantly is a public one, is an asocial right, and thus it is necessary for the state special protection. Meanwhile, the proper meaning of the education right includes the youth sports rights , this can conclude from the meaning of the sports right and the education right, also can conclude from the relevant provisions of the Constitution , the Sports Law and Education Law.

As the fundamental law of the country, Constitution prescribes the education right of young people requires the goal of education is the comprehensive development of moral, intellectual and physical fitness, the young people's right to education includes the right to receive physical education. Chapter III of Sports

Law is the “School Sports”, it specifies the obligations and responsibilities of the educational and administrative departments in the protection of the realization of the young students’ sports right. “Education Law” and its sub-method "Compulsory Education Law" and "Higher Education Law provide the obligation of the institutions of education, sports and others to protect youth sports rights from the perspective of the education right.

Youth sports right is a moral and human rights, and it is an important means of adolescent health rights and the right to education. It is not enough that the protection of the realization of the right to youth sports relies solely on the power of young individuals, and the realization of youth sports rights need the protection from the nation family, school, family and social. Therefore, the protection of the right of youth sports need society and the state accountability and obligations, and need the government to safeguard it by public services and others.

Study on Adolescents' Right to Physical Education from the Perspective of Public Sports Service

By:

Chen Shurui China

Adolescents are the future of our country, and therefore, the enhancement of adolescents' physical fitness and the promotion of their healthy growth are of major concern to both the country and the nation. The enhancement of the adolescents' physical fitness fundamentally lies in changing their way of life. Among the indicators influence their lifestyle, sport is a significant factor that influences the adolescents' physical fitness. In Study on Physical Education, Mao Zedong said: "A person's body serves as a residence accommodates his/her knowledge and morality....For children and pupils in primary school, attention shall be paid to physical growth, the priority of which shall precede the promotion of knowledge and morality; for us, physical education shall be the top priority, and a strong body will give a great and everlasting impetus to the promotion of knowledge and morality." The adolescents' physical fitness, which is closely related to the country's and even the world's economic and social development, has received more and more attention from the international community and the governments around the world. Physical education is an important means to realize the adolescents' rights of health, and the governments shall perform their governmental function with respect to physical education. Therefore, concerns about adolescents' physical fitness, physical education, and governments' responsibilities of ensuring adolescents' physical fitness and health have become important social and legal issues.

Research on Law Protection of Chinese Athletes' Labor Rights and Interests

By:

ZHANG En-li, DONG Xiao-long, GUO Chun-ling

In China, athletes who signed employment agreement could has basic labor rights of equal employment, freedom of choosing employer, reward, rests and

vocations, health and safety, occupation training, social security, labor relief way. Besides, Chinese athletes also have the right to enjoy grant, scholarship, care fund, disabled mutual insurance and some other sports industrial special welfare benefit. At present, the protection situation of Chinese athletes labor rights and interests reflects the following characteristics, such as lacking of special legislation for athletes labor characteristics; legislation level and protection scope of athletes labor rights and interests protection in the sports industry is lower and limited; local legislation of athletes labor rights and interests protection are collective absence; lacking of professional athletes collective bargaining system; labor relief means is difficult to works. Causes of the present situation are lawmakers ignoring legislation of athletes labor rights and interests protection; sports managers take less attention to athletes labor rights and interests protection work, and related protective policy is hard to implemented; athletes self-protection consciousness is weak, and lacking of rights protection means by law; employers and related interest groups are opposed to protect athletes labor rights and interests intensely. Basic the above reasons, we put forward the following suggestions, such as implementing Chinese salary collective consultation system; improving the athlete social insurance legislations; improving sports industry labor management systems; building legal relief mechanism of athletes labor rights and interests.

The Protection and Balance of the Wage Benefits of Athletes in Professional Sports

From negotiations of the National Basketball Association of the USA

By:

Shi Pu & Tang Weidong

Professional sports are actually a type of market management activity because there is labor relation. However, professional sports are different from other market management activities because both labor and management are in one community all the time in spite of the fact that they not only cooperate with each other but also fight each other for their own interests.

As athletes, the employees, they are essentially the basis of professional sports. And their wages are essential for their economic benefits. But they are weak groups comparing with their management - professional sports organizations. So they have to form a union to fight against their professional sports organizations for their wage benefits. However, it can not be carried on without restriction.

Based on the protection of the interests of the community, here is a main and efficient method and strategy for professional sports to protect and balance the wage benefits of athletes - to hold negotiations between labor and management. It is the basis on which the bilateral relations can and should continue to develop. The National Basketball Association of the USA has given us a good example.

On the legal obligations of professional sports club servicing community

By:

Yan Cheng-dong

Communities provide the best possible supports to professional sports clubs. The professional sport club funded by communities should perform the obligation by providing positive externality to communities. There are the fact trading relations between the clubs and the communities. For coordinating the interests between the club and the community, it is the key to protect professional sports clubs to perform community service obligation In accordance with the law. Japanese professional sports clubs active commitment to community service and the American legislative exploration of protecting community interests provide us useful reference. Our country should perfect relevant law system, security professional sports club to achieve community service obligation.

Regulating Football Hooliganism in Europe

By:

Anastassia Tsoukala

This paper addresses the way counter-hooliganism has been regulated at the European level. The analysis of the key relevant measures introduced by the Council of the EU since the late 1990s, in line with the provisions of the 1985 European Convention, uncovers the impact of the risk-based mindset and the growing politicisation of security issues on a regulatory process that has led to the institutionalisation of the control and punishment of deviant behaviour. It is argued that this institutionalisation is facilitated by the absence of both an overarching academic and a proper legal definition of football hooliganism.

On Sport Rights Legislation

By:

Peng Zhang

It is agreed that sport rights should be written into Sports law. But there is no widely accepted definition of sport rights in China. Therefore, sport rights cannot be written as a separate provision into the body of Sports Law. We should abandon the previous concept that legal rights should be directly defined in Sport Law only if right-oriented paradigm is emphasized. Then sport rights can be written in the legal propose provision of Sport law. It's a complex system to adopt sport rights in Sport Law. The legislative language should be right-oriented. And legislators should concentrate on how to improve Sport Law more operative.

Dismissal of Professional Player's Contract and Other Related Issues

By:

Han Yong

There are many differences between the contract of professional players and the ordinary workers. With the developing of China's professional sports, disputes arises in club-player contract, especially in contract dismissing. This paper differentiates between professional player contract and ordinary labor contract by

using player contract in American Major leagues and European soccer and listing situations in dismissing the professional players contract, including bilateral counseled dismissal, player unilateral dismissal, clubs unilateral dismissal. in professional sports. The unilateral dismissal of player is strict limited to protect Stable the of the league. The clubs have more freedom to dismiss contract unilaterally, as for the reason of player's fault, illness and lack of skill, with the guaranteed contract or signing bonus to protect player's right.

**Research on the Motivation and Path of Intellectual Property Protection of
Traditional Culture
-An Traditional Martial Arts Perspective**

By:

Xu xiangdong

China is rich in traditional cultural resources, in particular, in traditional martial arts which represents China in the international arena. However, there are great obstacles in the legal protection and development of traditional martial arts. Among them, the law protected mode is a huge controversy which has not been a reasonable solution. Faced with increasingly intense cultural conflict, China's urgent to find out the power source of protecting the traditional martial arts to show the way to develop. As a view of intellectual property, this article tries to explore the path of protection and development of our traditional martial arts.

Session Topics:

Sports Events and Policies

Legal Environment of Sports Industry, Events and Liability of Organizers

Major Sports Events, Sports Marketing and Management

Gambling and Betting in Sports, Fraud and Match Fixing in Sports

Sponsoring, Broadcasting in Sports

Legal Situation and Policies of Sports Activities in Europe and the World

Betting on Sports in the European Union

By:

Magdalena Kedzior

In general Sports Betting constitutes a significant global industry which presents legal problems.

It is vulnerable to improper influence and corruption. The tendency in the European Union is not to forbid the Sports Betting but rather to monitor its availability to the general public. It is however not always easy to combine this approach with the principles of European Union law, in particular with the free movement of services, as well as with the principle of proportionality.

In order to show the described phenomena the abstract looks at the law and policy developments on betting and sport in the European Union, showing the position of the European Institutions and the jurisprudence of the European Court of Justice. It also offers an overview of the legal situation in some member states of the European Union.

Online Sport Betting Developments and Athletic Activity Funding

By:

Marios Papaloukas

On the 24th of March 2011 the European Commission issued the so called Green Paper on online gambling in the Internal Market. The European Commission purpose is to tackle the problems resulting from the rapid development of on-line gambling in the EU. As long as sport betting services providers were operating at a national level, member states could easily regulate on the matter providing also funding of athletic activities. This was done by implementing either a system of licensed operators or a strictly controlled monopoly (state owned or otherwise). These two regulatory models co-existed within the internal market up until the day when the development of internet and the increased supply of online gambling services have made it more difficult for the different national regulatory models to co-exist.

The harmonization at EU level of all national legal provisions on betting as a whole should be considered as an opportunity for the athletic establishment to exploit the

fact that there is a broad consensus that sport events, on which gambling relies, should receive a fair return from the sports related gambling activity.

Preventing Sports Corruption: A comparison between the North America and EU Approach

By:

Jonees Karen

Sports corruption is often used to identify sports related activities that are socially or morally wrong, or illegal. It often brings to mind many things such as fraud, illegal betting, match-fixing, doping, even money laundering. European Union Treaty, Article 29, identifies prevention and combating of corruption in all forms as a key objective in safeguarding “freedom, security and justice” within the European Union. This research will compare the approach taken to combat sports corruption within the European Union with those used in North America, with the goal of exposing the similarities and differences in approach as well as the impact of the approach on the effectiveness of combating sports corruption and identification of best practices.

Does European Football Need an American style Salary Cap?

By:

Wolohan John

In June, 2012, Robert Kraft the owner of the New England Patriots, an American Football Team said that he would rather donate \$100 million to charity than invest in a top European soccer club because the economics of European football make no business sense. In particular, Kraft noted that the lack of a salary cap combined with other clubs' decisions to run up significant levels of debt ensured that there was not a level playing field in English football. For example, Manchester City which won English Premier League (EPL) last year revealed that it lost £194.9m for the last financial year (the highest figure in English football history).

The purpose of this presentation is to examine the English Premier League (EPL) and compare it to Major League Soccer (MLS) in the United States. In particular, the presentation will examine whether MLS's salary cap, which limits the amount of money a team can spend on players' wages, promotes a more balanced and level playing field.

The presentation will begin by comparing the final standings of the EPL to MLS. Next, the presentation will examine what the EPL might look like under the American sports model. In particular, the presentation will look at some of the benefits and shortcomings of both the English and American league models, such as the system of promotion and relegation, market allocations, player development and revenue distribution. Next, the presentation shows that instead of promoting a more balanced and competitive league the EPL's system of promotion and relegation, with teams fighting up until the last game to prevent relegation out of the Premier League, actually decreases the competitive balanced of the league. In

particular, the presentation shows that the EPL's system of promotion and relegation actually tilts the competitive balance of the league in favor of the bigger clubs by negatively impacting smaller teams with limited resources and less stability.

The presentation concludes by giving an example of what English Football would look like under an American sports model with fixed salary caps and whether it would promote more competitive balance in the EPL.

Keeping an eye on copyright developments affecting sports events in Australia

By:

Wyburn Mary

The relationship between sports events and intellectual property law protection, including copyright, is multifaceted. The key stakeholders, the sports organisations, media and communications companies and the general public, have very different views about where the value of the sports event lies, who should contribute to its costs and how ownership rights provided by various categories of intellectual property law should be exercised. Meanwhile, new communications technologies are rapidly expanding the ways in which sports events are experienced away from the sports arena controlled by the event organiser. Commercial interests and the public interest are both at stake. Copyright law has been reticent about offering protection for the sports event itself but its protection of the broadcast signal has been critical in attracting value to the event for the benefit of the organiser. However, this framework has come under stress on two fronts. The first front is the changing nature of sports news reporting and the second front relates to the services that capture the free-to-air broadcast signal, record it in the 'cloud' and then subsequently transmit it to the various communication devices of subscribers. This paper explores these two controversial copyright issues as they have been faced in the Australian context. One controversy has been resolved, at least temporarily, by the adoption of a voluntary code of practice for reporting sports news but a new review of copyright exceptions may be used to revisit the issue. The other controversy is still being fought over in the courts and it reflects in part the Australian Government's struggle over the question of extending the current broadcasting regulatory regime to communications over the internet.

Illegal Gambling and its Influence on the Integrity of Sport – Legal Aspects And Problems

By:

Janez Kocijančič

.....

Matches truqués : La situation juridique dans le sport

Match fixing: The legal situation in sports

By:

Tolunay Özgerhan Ahmet

.....

The subjects of sport legal relationship

By:

Ma hongjun Zhang yaqiong

This article starts from the concept of the sport legal relationship subjects. First, it clears the subjects of the sport legal relationship including the citizens, the state and the various organs, enterprises and institutions and sports community groups. Second, it establishes the legal status of athletes, coaches, referees in sports law by analyzing the rights and obligations of the coaches and athletes and referees source of power. Third, it specifically demonstrated the administrative body qualifications of the Sports Industry Association. At last, the article clarifies the relationship between the sports industry associations and the athletes, coaches, referees. In short, the article clarifies the main content of the subjects of sport legal relationship by means of comprehensive elaboration of the above aspects.

Analysis on the legal status and regulation of fans-based on the example of football fans

By:

Wang Xiaoping

The Chinese football supporters are growing and developing in last 20 years. We fully give positive affirmation that these football supporters are contribute their power to help our Industry developing, but at the same time, we find out some of them whom has negative behaviors were deeply infect some negative effects to our industry. Due to some of the fanatical football supporters are over-acting to the game, it may occur excessive action or criminal act. Thus, these criminals will prey on the social community, destroy the stable social environment, and even severely impair the vital interests of people in the whole society. It is necessary to post out written rules to conduct football supporter's behaviors. How do we establish the correlate standard and regulation concerning to make a better environment to the society and administer the violence and violent disturbance by law, is not only apply to the industry association's responsibility, to a higher degree, it apply to the legal responsibility.

The theory of sports injury of the imputation principles and the mediation mechanism construction

By:

Wangxiaoheng Zhangxiubo

It is very common that College students could be injured in the school sports activities by various degrees, however, subject to the special nature of the sport itself, and the limitations sight of legal scholars and it is lack of academic research on college students' injuries. This article mainly focuses on the jurisprudence basis and imputations of different types of injury accidents. This paper considers four major reasons on college sports injuries. So the imputations of legal Liabilities under the four reasons are different. However, these four imputation methods are

under the principle of fault liability, which is "no-fault responsibility". There are some problems in principle.

A Research on the Evidence Issue of Anti-doping

By:

Jiao hong chang Liu yingting

In recent years people pay more and more attention to the issue of anti-doping in sports. The evidence issue related plays an important role to promote the development of anti-doping. However, there is no rule to regulate this problem at present, which is obviously not good for the solving of doping problem. The article starts from the peculiarities of evidence issues of anti-doping, including aspects such as object of proof, proof method, categories of evidence, burden of evidence and standard of proof. Meanwhile it analyses the problems existing in the evidence issue of anti-doping and gives suggestions both in theory and in practice.

A Brief Analysis of Management and Supervision about Malpractices in the Football World

By:

Zhao jing

The magnificent and victorious football on the storm in the people in the Talking about horizon, more than of sighs, can't help trigger endless thinking, how to solve the football "false, gambling, black, bribe" unhealthy tendencies of, also China a clean football, quiet football? This paper from the football analysis of the causes of the formation of unhealthy tendencies, and internal and external supervision and in-depth study, try to analysis the football in the path of the unhealthy tendencies.

A Study on Protection of Olympic Intellectual Property of China

By:

JIA Haixiang

The protection on Olympic intellectual property is the very important economic guarantee for hosting 2008 Olympic Games in China. The successful organization of 2008 Olympic has great significance for reconstruction of Chinese nations. Following the constantly development of market economy of China, Olympic intellectual property has become the main target of tort, because of huge business benefits, the protection of Olympic intellectual property shall be applied by the civil, administrative, judicial channels and relating thereto, so as to effectively safeguard Olympic intellectual property, and it's the important content of pushing forward the future construction of Chinese law system in all aspects. This paper states the basic feature of Chinese Olympic intellectual property, and analyses the current status of Olympic intellectual property of China, as well as proposes the relevant measures and strategies in view of the existing current issues of protecting Olympic intellectual property of China.

On the policy of Chinese sports for the disabled

By:

Zhang Linfang

This article uses the literature material, expert interview, social surveys and other methods based on sports for the disabled in China the development of policies and regulations related to the analysis, pointed out the policy and regulations for the disabled sports development to provide a strong guarantee, largely determines our country disabled person sports continue to develop the direction. In recent years our country disabled athletics sports development significantly, but the disabled mass sports still need further to increase strength

Profound Interpretation of Chinese College Physical Education Policy and Regulation Construction

By:

Kong Wei

Resorting to the method of document, consultation with experts, logic analytic approach and so on ,this paper analytic historical stages of the construction of college physical educational policies and regulations, gives investigation and interpretation to its basic situation, points out the problems in the construction, and puts forward the countermeasures which includes publicizing the education of legal system , enhancing awareness of the law, speeding up the pace of legislation, setting up a perfect college sports policies and regulations, establishing the supervision of the law enforcement, strengthening the legislative construction of sports. All of these aim at promoting the college physical educational reformation and development, perfecting the system of sports laws and regulations, and providing beneficial reference for the construction of policies and regulations in our country.

A Study on the relevant law issues of third party certification services in sports intermediary market

By:

Huanghuai-quan Wangjian-guo

After more than 20 years of development, Sports intermediary market in China has evolved into the sports market system with different services and fields. These market systems include brokerage services, advisory services and supervision services markets. According to their own principles of neutrality and impartiality, the third party conformity certification of sports service shall be responsible for both supply side and demand side of sports services. Its test and certification activities should be separated from government agencies fully. Any administrative powers to gain profit are not allowed. There is still a lot to improve due to the special historical background: First, Some third party certification agencies have features of half administration and half civil. They are not only under the direct

command of administration in their business, but also are engaged in the profit-making test charge activities when accepting social delegating, acting as both players and referees at the same time and often vulnerable to administrative interference and protection. Second, as their legal status is not clear, Third party sports service certification agencies are unable to supply error or even false test data or reports for both sides as a result of accidents and have to bear civil liability independently, including the liability of compensation. Therefore, the author suggests as follows: Firstly, because social cognition of sport service standards and service certification is very low, law and regulations shall be made and passed to require service providers to perform a combination of mandatory and non-mandatory standards mode, promote their services and credibility, and provide quality services. Secondly, let the third party sports certification agencies become the real corporate main qualification, bearing corresponding compensation responsibility. In justice practice, their compensation responsibility should be specifically classified into subjective deliberately, negligence, fault and assumed limited, and unlimited or joint responsibility. Its damage compensation range can be expanded due to "false statement". Through legislation guarantees, the main related interests shall have the right of litigation due to "purely economic loss". Third, the service items related to sports facilities and equipment, health and sanitation, safety and security and environmental indicators or index. The hardware part in sports service certification required to meet the demand shall be moved ahead. Certification in open conditions is prior to the opening of business, the software on service quality guarantee system is required to be placed after the opening of business and monitored routinely

Discussion on Marketing of CNOSF from Legal Aspect

By:

MA Fa-chao, ZHANG Ruo

As one of the earliest NOC in the world, CNOSF has made progress and done a very worthy and reference in marketing to COC. Firstly, this paper introduced the Basic situation of CNOSF and sports management system in France, then discussed the difference between CNOSF and IFs on marketing rights, and explained the marketing scope of CNOSF entitled by law and regulation, and then Interpreted the method to solve the controversy between CNOSF and Ifs when they marketing. Lastly, this paper gave suggestions to our NOC' marketing from legal aspect.

Gambling and Corruption

By:

Richard H. McLaren

The integrity of sport is being compromised by betting and doping in sport. Problems associated with sports betting are gaining significant recognition as the stakeholders (sports governing bodies, legal betting operators, and state authorities) become more aware of the degree of corruption within sports. The advancement of internet and mobile phone technology has greatly increased the

size of the sports betting market, which enhances the potential for corrupt activity. This article reviews the most prevalent forms of illegal sports betting behaviour, namely match-fixing and spot-fixing. This will include how these types of sports fraud are executed. The article reviews and analyzes the actions taken by several prominent sports governing bodies to combat this corrupt behaviour. This includes the use and enforcement of anti-corruption codes for members of teams and ethical codes for sport's governing body officials. Finally there is an analysis of the role of legal betting operators. These operators have a twofold role. First, they regulate the legal sports betting market. Second, they disclose betting patterns to sports governing bodies, which assist in the bodies' efforts to enforce their anti-corruption programs. The best approach to minimizing corrupt behaviour in sport is for each stakeholder to be proactive and accountable in their efforts to eliminate irregular and illegal betting in sport. To be truly effective this must include a collaborative effort between stakeholders.

Research On the Accident Remedy Compensation System In Japanese Schools

By:

Chen li

By means of observing the accident remedy compensation system in Japanese schools, this essay systematically introduces the current situation of this system and its inspiration to our country. It provides beneficial reference for perfecting and consummating our country's social guard system to hurt accidents which happen in P.E class.

Rules or Ethics: Conflict and Harmony

-- The Case of "Negative Competition" in Badminton Tournaments at the 2012 Olympic Games in London

By:

MA Jianchuan

At the 2012 Olympic Games in London, for the sake of strategic gains, a Chinese double- player team, an Indonesian one, and two South Korean ones together played negative matches of competing for defeats. As a result, they were disqualified by the Badminton World Federation. This incident is detrimental to the reputation of Olympic games and has aroused widespread controversies both at home and abroad. Rules are the criteria for behaviors in sporting events, while ethics are the values orienting sports competition. In a normative sense, the two should be in harmony so as to guide athletes' behaviors. However, in this case of negative competition, they are in serious conflict - one of whether to make use of the rules to gain and compete negatively, or to hold up Olympic ethics and play the match positively and fairly. The choice between rules and ethics, or the question of how to choose rules under ethics are crucial in sports.

Using both case study and empirical analysis, this article looks into the negative competition phenomena in the women's badminton doubles, investigates the conflict between rules and ethics when those athletes chose to act, analyzes the

underlying reasons, lists the harms of negative matches, and suggests ways of governance in realizing the harmony between sports ethics and rules. This article is organized into four sections. Section one analyzes how the incident of negative competition leads to the conflict between rules and ethics. Section two points out that the reason underlying this conflict is the Gold Medal mentality and the manipulation of rules for gains. Section three illustrates how negative competitions harm the Olympic games and its spirit, affect athletes and the public, and damage the national image of member countries. Section four proposes some aspects of governance to transform the ideas in sporting events, eliminate the cognitive misconception of negative competition, strengthen the accountability mechanism on negative matches, and perfect the competing rules.

Professional sports club`s deviant behavior and its control

By:

Han Xin-jun, Hu Xiao-hua

Chinese football "sweeping gambling" and "Anti-triad evil" legal practice shows, professional sports clubs are often the main perpetrators of deviant behavior in the professional sports league. Therefore, it is great significance to purify the professional sports league environment, protect the league stable and orderly, according to the law to control the transgressions of professional sports club. Research according to professional sports clubs to the deviant behavior of the object, the classification described the deviant behavior of a professional sports club for athletes, league related parties, government and society, From a society in transition, system , the league specification point of view, to discuss these deviant behavior reasons, and the corresponding legal control measures.

Session Topics:

Sports Jurisdictional Order
Sports Arbitration and Justice
Resolution of Sports Disputes and Mediation in Sports Disputes
Court Arbitration of Sport (CAS)
Applicable Law and Decisions' Excitability in Sports Law

Sport and Sex Discrimination – Olympic Games Case Studies

By:

Kopczyk Renata

Very foundation of sports and the ideology of Olympism state says that it has to be free from any form of discrimination. Around the world, especially In Europe, the cradle of the Olympic ideology, sport fulfils essential social and cultural roles. It is also an important segment of economic activity. Participation in the ancient Olympic Games was limited to male athletes only. The only way women were able to take part was to enter horses in the equestrian events. Women participation in Olympic Games was increasing continuously though slowly. Against the militant movement of vigorous suffragists in countries in West Europe and Scandinavia, especially in England even Coubertin had to relent. On the background of disputes over Olympic rights for women there was almost the serious split in sport, when spokeswoman of women full of emancipation organized Women International Sports Federation and in 1921 organized in Monte Carlo "Feminine Olympics". Finally there was no drastic split in sport for men and women. However to the present day continues the process of fight for Olympic women's equality. Author in her presentation summarizes the current fight for women rights in the Olympic Movement. This case study describes the topic of women' access to sports, while it is also asking whether a woman in sports is still a 'weaker sex' and if we have legal instruments which can change this image. It goes without saying that current women' involvement in sports is much bigger than it was 50 years ago, but there's a very long ahead to make both genders equal in this aspect.

Court Of Arbitration for Sports (CAS)

By:

Seyedeh Maryam Talebzadeh

In general 'the notion of arbitration defines the way in which a dispute is settled by a third person. Specifically in the context of legal terminology' however'it «signifies an institution which consists in the settlement of a certain category of disputes by judges who are chosen by the litigants.

In the context of international law, arbitration acquires a specific but slightly different meaning: arbitration of international law and international arbitration constitute «different juridical categories». International arbitration is a different institution within the context of which international disputes are settled ,by a judgment of binding force for the litigants, issued by a third party

before which the opposing parties have brought their dispute.

International arbitration can be defined as the method of settlement of international disputes by a judgment of binding force for the opposing parties, issued by a third party before which the litigants have brought their dispute.

The Application of FIFA And CAS Regulations in Player Contract Disputes Under Chinese Football League

By:
David W. Wu

A large amount of player contract disputes occur in football world every year. In recent years, with the improvement of the entire environment of Chinese Football League, many football clubs input more funds to buy high level foreign players, which have improved the level of Chinese football league to a great extent. Meanwhile, the player contract disputes have been upgraded in Chinese Football League.

During the season of 2011 and 2012, several player contract disputes have occurred in Chinese Football League. A great range of reasons which have resulted in disputes: (1) alleged not providing the player with an appropriate medical treatment; (2) the player leaving the club without notice; (3) Non-payment of salaries; (4) core players bargaining for more salary; (5) the player/coach being severely sanctioned by Chinese Football Association/AFC/FIFA; (6) consuming prohibited substances (Doping); (7) not complying with a mandatory clause of the employment contract; (8) the business contract dispute affecting the fulfillment of the work contract or the work contract dispute affecting the fulfillment of the business contract.

The nature of player contract is labor contract. In China, labor contract disputes are regulated to be exclusively governed by the Arbitration Committee for Labor Disputes and hereafter appealed to the court. The applicable laws are Chinese Laws and Regulations. However, in football world, the player contract disputes are governed by the football federation of the country concerned, FIFA, or the Court of Arbitration in Sport (CAS). The applicable laws are Football Federation Regulations or FIFA Regulations. Consequently, when player contract disputes occur, how to coordinate national laws with football world internal regulations and how to choose the appropriate institute to settle the disputes are challenging and profound issues both in practice and in theory.

As lawyer of domestic clubs and players and arbitrator of the Court of Arbitration in Sport (CAS), I have joined in the process of the settlement of many disputes before Chinese Football Association, FIFA and the CAS in recent years. In this article, I will summarize my experiences in the process of dealing with football player contract disputes and analyze the correct way to settle different sorts of football player contract disputes and the jurisdiction in order to protect the benefits of clubs and players in Chinese Football League and promote the fusion and integration between Chinese Football and International Football in the legal system.

A Study of the Court of Arbitration for Sport and“Lex Sportiva”development

By:

XIANG Hui-ying

In the process of sports globalization, the emergence of a large number of sports dispute put forward an urgent appeal to establish the field of sports dispute mechanism at the global level, the Court of Arbitration for Sport emerge as the time required. CAS is the forming base and development force of "Lex Sportiva", ensure standard stability of" Lex Sportiva". They have inalienable connection. The formation of "Lex Sportiva" by means of the general of the internal order, apply and promote the general principles, create principia sportive, form the common law through precedent, general and unification the appeal procedures principle. "Lex Sportiva" growth with the development of CAS, its development will be combining case law and codification.

The Research on Arbitrability of on-the-spot Penalties--Technical Specifications

By:

LI Baoqing

On the sports arbitration practice, on-the-spot penalty and technical specification have been invoking the international conventions” not arbitration or not to review”, for which have the great significance and effects to maintain of the normal order of sports activities, and to promote the sports movement. Nevertheless, in the modern high level sports, the applicable rules of sports frequently bring the enormous impacts to the parties’ property or the economic aspects, or even likely to have the serious effects on personality rights. Therefore, whether the application of such rules should be reviewed by the ruling institution caused the great controversy in sports circles of both theory and practice. This paper is proceeding from analyzing the relationship between the definition of on-the-spot penalty and technical specification, combined with typical cases, to present the comprehensive and in-depth analysis of the arbitrability of on-the-spot penalty & technical specification, in order to propose the reasonable solutions.