

THE SPORTS LAW
REVIEW

THIRD EDITION

Editor
András Gurovits

THE LAWREVIEWS

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PREFACE

This third edition of *The Sports Law Review* is intended as a practical, business-focused legal guide for all relevant stakeholder groups in the area of sports, including sports business entities, sports federations, sports clubs and athletes. Its goal is to provide an analysis of recent developments and their effects on the sports law sector in 23 jurisdictions. It will serve as a guidebook for practitioners as to how a selected range of legal topics is dealt with under various national laws. The guidance given herein will, of course, not substitute for any particular local law advice that a party may have to seek in connection with sports-related operations and activities. It puts specific emphasis on the most significant developments and decisions of the past year in the relevant jurisdictions that may be of interest for an international audience.

The Sports Law Review recognises that sports law is not a single legal topic, but rather a field of law that is related to a wide variety of legal areas, such as contract, corporate, intellectual property, civil procedure, arbitration and criminal law. In addition, it covers the local legal frameworks that allows sports federations and sports governing bodies to set-up their own internal statutes and regulations as well as to enforce these regulations in relation to their members and other affiliated persons. While the statutory laws of a particular jurisdiction apply, as a rule, only within the borders of that jurisdiction, such statutes and regulations, if enacted by international sports governing bodies, such as FIFA, UEFA, FIS, IIHF, IAAF and WADA have a worldwide reach. Sports lawyers who intend to act internationally or globally must, therefore, be familiar with these international private norms if and to the extent that they intend to advise federations, clubs and athletes that are affiliated with such sports governing bodies. In addition, they should also be familiar with relevant practice of the Court of Arbitration for Sport (CAS) in Lausanne, Switzerland, as far as it acts as the supreme legal body in sport-related disputes. Likewise, these practitioners should have at least a basic understanding of the Swiss rules on domestic and international arbitration as Swiss law is the *lex arbitri* in CAS arbitration.

While sports law has an important international dimension, local laws remain relevant in respect of all matters not covered by the statutes and regulations of the sports governing bodies, as well as in respect of local mandatory provisions that may prevail over or invalidate certain provisions of regulations enacted by sports governing bodies. The primacy of local laws is of particular importance in international employment relationships, for example, between clubs and foreign players, where the local laws of the clubs usually provide for a set of mandatory provisions that may impede performance by the athletes of their contractually agreed rights as regards the employers should they not fulfil the employment agreement. To avoid dependency on proceedings before local state courts and their application of local laws, which may be completely unknown to them, foreign athletes may seek to get the employers'

consent to arbitration (with place of arbitration in a jurisdiction that allows for arbitration in international employment relationships, such as, e.g., Switzerland) and to confer to the arbitral tribunal the competence to decide the dispute *ex aequo et bono*. This is an approach that to our knowledge is increasingly applied in basketball and that may facilitate emergence of an international *lex sportiva* in employment matters also in other sports.

Each chapter of this third edition will start by discussing the legal framework of the relevant jurisdiction permitting sports organisations, such as sports clubs and sports governing bodies (e.g., national and international sports federations), to establish themselves and determine their organisational structure, as well as their disciplinary and other internal proceedings. The section detailing the competence and organisation of sports governing bodies will explain the degree of autonomy that sports governing bodies enjoy in the jurisdiction, particularly in terms of organisational freedoms and the right to establish an internal judiciary system to regulate a particular sport in the relevant country. The purpose of the dispute resolution system section is to outline the judiciary system for sports matters in general, including those that have been dealt with at first instance by sports governing bodies. An overview of the most relevant issues in the context of the organisation of a sports event is provided in the next section and, subsequent to that, a discussion on the commercialisation of such events and sports rights will cover the kinds of event- or sports-related rights that can be exploited, including rights relating to sponsorship, broadcasting and merchandising. This section will further analyse ownership of the relevant rights and how these rights can be transferred.

Our authors then provide sections detailing the relationships between professional sports and labour law, antitrust law and taxation in their own countries. The section devoted to specific sports issues will discuss certain acts that may qualify not only as breaches of the rules and regulations of the sports governing bodies, but also as criminal offences under local law, such as doping, betting and match-fixing.

In the final sections of each chapter the authors provide a review of the year, outlining recent decisions of courts or arbitral tribunals in their respective jurisdictions that are of interest and relevance to practitioners and sports organisations in an international context, before they summarise their conclusions and the outlook for the coming period.

This third edition of *The Sports Law Review* covers 23 jurisdictions. Each chapter has been provided by renowned sports law practitioners in the relevant jurisdiction. As editor of this publication I would like to take the opportunity to thank all of the authors for their skilful and insightful contributions to this publication. I trust that you will find this global survey informative and will avail yourselves at every opportunity of the valuable insights contained herein.

András Gurovits
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SPAIN

*Jordi López Batet and Yago Vázquez Moraga*¹

I ORGANISATION OF SPORTS CLUBS AND SPORTS GOVERNING BODIES

The Spanish sports model is basically structured on Act 10/1990 on sports (Act 10/1990), and developed by various other regulations that deal with the institutions involved in sports as well as the organisation, governance and development of sports.

However, owing to the particular construction of the state, not only the regulations enacted by the Spanish parliament (such as Act 10/1990) need to be taken into account in this respect: while Spain is a single sovereign state, it is composed of 17 regions or autonomous communities that are vested with a fair amount of autonomy and with competences to rule on very diverse issues, among them sports. Therefore, some particularities may be found in specific territories as a result of the powers granted to regions to rule on sports matters.

i Organisational form

From an organisational perspective, Act 10/1990 and the relevant provisions developing it mainly govern the following kinds of sports entities.

Clubs

Clubs are sports associations composed of natural or legal persons that are devoted to the promotion of one or several sports modalities, their practice by relevant associates and participation in sports activities and competitions.

Clubs that participate in official professional sports competitions of national scope shall take the legal form of a sports limited liability company (SAD). These companies have a special regime established in Act 10/1990, Royal Decree 1251/1999 on Sports Limited Liability Companies and the Companies Act (Royal Legislative Decree 1/2010).

Federations

Federations are private entities with legal personality that, *inter alia*, are responsible for the organisation of sports events and competitions, promote sport and exercise the disciplinary powers within their material scope. Federations develop their own private competences but also carry out, by delegation, public functions of an administrative nature. Depending on their territorial scope, these federations can be national or regional. Regional federations are part of their overall national federation, but have their own specific rules and regulations.

¹ Jordi López Batet is the managing partner and Yago Vázquez Moraga is a partner at Pintó Ruiz & Del Valle.

Leagues

Leagues are sports associations exclusively and compulsorily composed of sports clubs that take part in official competitions of a professional nature and national scope. They have legal personality and independent autonomy for their internal organisation, even when they are part of their corresponding federation.

Governing bodies

The National Sports Council, which sits at the top of the sports organisational pyramid, is the governmental authority overseeing and ruling general sports activities in Spain.

In addition to the ordinary organisational structure outlined above, Spain has a National Olympic Committee and a National Paralympic Committee.

ii Corporate governance

Good governance issues are gathered under both the legal regulations and the internal rules of sports entities.

Concerns about good governance in sport even come under the Spanish Criminal Code, which foresees a specific offence of corruption for managers, employees and collaborators of sports entities as well as referees and athletes for conduct aimed at predetermining or altering, in a deliberate and fraudulent manner, the result of a sports competition of special sporting or economic relevance. Act 19/2013 on transparency, access to public information and good governance also applies to the sport market. On the basis of this Act, some sports entities are obliged to make public information about their functions, regulations and organisational structure, including an updated organigram of the organs they are composed of and the profile of persons belonging to them.

Another relevant piece of legislation regarding corporate transparency is the bundle of rules contained in Royal Decree 1251/1999 on Sports Limited Liability Companies with regard to restrictions on the ownership of shares in these companies and these companies' duties of information. For example, the acquisition of over 25 per cent of the share capital of a company must be authorised by the National Sports Council; professional clubs and SADs cannot participate in the share capital of another SAD taking part in the same competition; and those parties that own 5 per cent or more of the share capital of a SAD cannot hold, directly or indirectly, a participation of 5 per cent or more in the share capital of another SAD, and the financial information of these SADs is to be communicated to the National Sports Council.

A number of internal regulations of sports entities also deal with good governance issues. Those of the Spanish football league, La Liga, may be the most complete and exhaustive, with a focus especially on the aim of the economic control and balance of clubs and SADs.

iii Corporate liability

The general principle of *neminem laedere* is applicable regarding the liability of managers and officers of sports organisations.

In addition, some sports regulations also specifically refer to such liability. For instance, Act 10/1990 expressly establishes that in cases of wilful intent or gross negligence, managers of clubs will be held liable towards associates, the club or third parties. The general regime of liability of SAD directors is stipulated in the Companies Act, and is quite strict.

Managers and officers are not only subject to civil liability, but also to the relevant disciplinary measures, including those arising out of the legal provisions mainly set out in Act 10/1990 and Royal Decree 1591/1992 approving the Sports Discipline Regulations, but also those that specifically arise out of the internal regulations of sports entities.

II THE DISPUTE RESOLUTION SYSTEM

The Spanish sports dispute resolution system is interconnected, involving not only the ordinary courts, but also the dispute resolution bodies of federations and leagues and arbitration.

i Access to courts

Athletes, clubs and other sports stakeholders may have access to the courts when the circumstances so enable, whether at first instance (e.g., access to the labour courts in employment matters, or to the relevant ordinary courts in purely civil or commercial disputes) or with the intent to challenge certain decisions previously taken by sports or administrative bodies on organisational, disciplinary or other issues. Apart from the ordinary courts, of special note in this respect is the Sport Administrative Court, which was recently created and deals with various sports-related issues, even if it has limited *ratione materiae* scope.

ii Sports arbitration

The rules regarding arbitration in Spain are outlined in Act 60/2003 on Arbitration (Act 60/2003), which permits any and all controversies on subjects that are within the free disposition of the parties to be resolved by arbitrators. A wide range of sports conflicts may be thus brought to the knowledge and decision of arbitrators.

The submission of a dispute to arbitration will require that the parties have agreed on a valid arbitration clause in writing, with no specific formalities in this respect beyond their clear will to bring disputes that may arise between them to arbitration.

Apart from the rules foreseen in Act 60/2003 dealing with general issues (regarding the arbitration clause, the arbitrators, their competence, the basic procedural issues, and the award, its execution and annulment), the specific provisions of an arbitration court administering the procedure shall also be observed (*ad hoc* arbitration in sports is not common in Spain). The Spanish Court of Arbitration for Sport created under the auspices of the Spanish National Olympic Committee, and the Arbitration Tribunal for Football created under La Liga, are two of the arbitral courts to which sports disputes may be brought, provided that the nature of the relevant dispute may be allocated within their relevant material scope.

iii Enforceability

The enforcement of arbitral awards shall be conducted through ordinary courts in accordance with the provisions specifically foreseen in Act 60/2003 and in Procedural Act 1/2000. The enforcement of arbitral awards can only be challenged on the basis of very restricted grounds foreseen in the above-mentioned Acts (basically, the fulfilment of the award's decision and the cessation of the statute of limitations of the execution).

The internal regulations of sports federation bodies foresee measures that foster the compliance of parties with any decisions.

III ORGANISATION OF SPORTS EVENTS

In Spain, the key element in events organisation is the compulsory adherence of all members and participants to the rules of their corresponding sports bodies. The federations and leagues normally undertake the organisation of sports competitions.

i Relationship between organiser and spectator

Sports organisers are free to establish the terms and conditions that spectators shall fulfil when attending a sports event. However, in any case, sports organisers shall abide by the mandatory provisions of Act 19/2007 against violence, racism, xenophobia and intolerance in sport events (Act 19/2007) and Royal Decree 203/2010 of 26 February (Royal Decree 203/2010) approving the regulations on the same subject.

ii Relationship between organiser and athletes or clubs

The organiser ensures the terms of the participation of athletes in competitions by means of sport licences. Upon the signature of the relevant labour agreement, athletes request through their club that the relevant federation issue sports licences that will allow them to participate in the corresponding official competition. When a federation grants a licence, all the relevant sports regulations at the national and international level become binding on the athlete, and he or she thus becomes subject to the organic and disciplinary authority of the organiser.

iii Liability of the organiser

Pursuant to Article 63 of Act 10/1990, individuals or legal entities that organise any competition or sport event are liable for any damage or public disorder that takes place during the competition owing to their lack of diligence or prevention of such damage or public disorder. This civil liability is independent of and without prejudice to any other criminal or disciplinary liability. In line with this, Article 5 of Act 19/2007 establishes the economic and administrative liability of organisers of sports events for all damages that may take place due to their lack of diligence or prevention of damage or public disorder.

iv Liability of the athletes

Owing to the specific characteristics of sport, as a general rule athletes are not liable for damages (e.g., injuries) that they may cause during the performance of a sports activity. In particular, it is understood that athletes assume the risk that is inherent in the sports activity. However, the theory of the assumption of risk only applies to damages caused within the ordinary limits of a sport activity (i.e., behaviours in line with the relevant standards of conduct). Therefore, when an athlete's behaviour goes beyond those limits, he or she can be liable for the damages he or she has caused. In addition, under some circumstances an athlete can also be found guilty of a criminal offence when he or she had the clear intention to hurt or damage a third party (*animus laedendi*).

v Liability of the spectators

Spectators that breach the regulations under Act 19/2007 can be administratively sanctioned by the competent disciplinary body (not only with economic fines but also, *inter alia*, with a prohibition of access to sports venues). Spectators can also incur civil liability for any damages

that, through their fault or negligence, are caused to third parties. Furthermore, spectators can also be found guilty of criminal offences they may commit during a sports event, not only in sports venues but also in their surrounding areas.

v Riot prevention

Pursuant to Article 27 of Organic Act 4/2015 for the protection of public safety and Article 35 of Royal Decree 203/2010, the public security forces are responsible for security and public order during sport events. Neither clubs nor organisers have to pay a financial contribution towards this public service. However, Act 19/2007 and Royal Decree 203/2010 establish certain measures that clubs and organisers shall implement in sports venues aimed at preventing not only riots, but also any any kind of violence, racism, xenophobia and intolerance therein. In this regard, organisers are responsible for the implementation of the necessary measures to prevent riots and for guaranteeing that the spectators meet the conditions of entrance to a sports venue. For this purpose, clubs are obliged to arrange the necessary private security in sports venues and to implement all the means necessary to accomplish the security measures imposed by law. In particular, clubs and organisers shall implement, *inter alia*, a computerised system of access control, turnstiles, security equipment and video surveillance. In addition, all sports venues must have a control room where a security coordinator will manage the security measures in place during a sport event, and will coordinate all the security bodies involved (private security, police, firefighters, emergency services, sanitary services, etc.).

IV COMMERCIALISATION OF SPORTS EVENTS

i Types of and ownership in rights

The main sports-related rights exploited in Spain are athletes' image rights, the broadcasting rights of sports competitions and the IP rights held by clubs and organisers.

The right to self-image, guaranteed by Article 18 of the Spanish Constitution and developed by Organic Act 1/1982 on the protection of honour, intimacy and self-image, enables athletes (those who practise individual sports and those who render their sporting services in collective sports) to exploit their image and to assign it to third parties.

Each sport competition exploits its own broadcasting rights. The ownership of the sports broadcasting rights will ultimately depend on the competition at stake. However, as a general rule, these broadcasting rights belong to the clubs participating in the sports competition or to the organiser of the competition, or to both. In this respect, it is particularly noteworthy that the government recently enacted Royal Decree-Law 5/2015 on urgent measures in connection with the commercialisation of rights to operate the audiovisual content of professional football competitions, by virtue of which it has established rules for the exploitation of the broadcasting rights of the football national professional leagues (first and second division), the Spanish Cup and the Spanish Super Cup, including the distribution of revenues among clubs and SADs (depending on some legal criteria).

Clubs and organisers can also hold IP rights that are exploited through the merchandising activity of their brands and symbols, either personally or through a licence to third parties, based on private law rules.

ii Rights protection

The protection and enforcement of sports-related rights depend on the type of right involved in each specific case.

With regard to athletes' image rights, their defence can be enforced before the ordinary courts through proceedings based on the principles of preference and preliminary hearings or, if applicable, through a relevant claim before the Constitutional Court. In particular, the right to self-image is covered by the civil protection procedure established in Act 1/1982, which provides legal safeguards against illegal exploitation of the self-image right. Spanish jurisprudence has made important contributions to the development of this right.

IP rights are protected through the specific mechanisms envisaged in Act 17/2001 on trademarks that include, *inter alia*, cessation of actions, removal of effects and compensation for damages in the case of a breach of any IP rights.

The tools and mechanisms foreseen in Act 34/1988 on general advertising and in Act 3/1991 on unfair competition should also be considered with regard to protection of this kind of right.

iii Contractual provisions for exploitation of rights

In accordance with Spanish law, sponsorship, merchandising and image rights contracts are not expressly ruled by any specific regulation; thus, the parties can freely determine their content with the sole limitations arising out of law.

Nevertheless, it should be emphasised that a number of provisions typically arise in these contracts, such as the relevant licensing of trademarks and other distinctive signs, non-compete and exclusivity clauses, first refusal clauses and provisions regarding the assignment of IP rights. In this regard, it is worth noting that the Spanish regulations prohibit the sponsorship of sports events by alcoholic drinks and tobacco brands. The exact definition of the scope of the exploitation and assignment of such rights is also of utmost importance, as is the self-reservation of rights, as the case may be.

The sale of broadcasting rights may be carried out on an exclusive or non-exclusive exploitation basis in accordance with the legal provisions in force. It is mandatory that the duration of the assignment of rights does not exceed three years. In addition, pursuant to Act 7/2010 on audiovisual communication, the exclusive assignment of the television broadcasting rights of sports competitions cannot restrict the right to information of the citizenship. For this purpose, the broadcasters that hold the exclusive rights with regard to an event of 'general interest for society' must allow other broadcasters to broadcast 'brief information summaries' (of less than 90 seconds) to be used only in general information programmes in which the logo or trademark of the organiser and the brand of the main sponsor of the event shall appear.

V PROFESSIONAL SPORTS AND LABOUR LAW

Professional athletes have a 'special labour relationship' with their employers that is ruled in accordance with Royal Decree 1006/1985, given the special features of the kind of services to be rendered and the qualities of the persons rendering these services.

i Mandatory provisions

Royal Decree 1006/1985 applies on a compulsory basis to sports contracts, while the general regulations on employment in Spain (especially the Workers Statute) will only apply on a subsidiary basis.

The special relationship of athletes with their employers is of a temporary nature, and salaries are, as a general rule, fixed in the relevant collective bargaining or labour agreement, or in both, apart from in the contract.

The labour relationship may end because of any of the general causes of termination of labour contracts (e.g., expiration of term, by mutual agreement), even if there is a special regime of unilateral termination of the contract by the athlete in exchange for the payment of compensation to the club, which will be the compensation fixed for this purpose in the labour agreement or, in the absence of a provision of this kind in the contract, the compensation established by the labour courts.

ii Free movement of athletes

The free movement of athletes from EU Member States is guaranteed in the same general terms applicable in all EU countries. However, in some sports there are some direct or indirect restrictions on the number of non-EU athletes that can take part in competitions (*inter alia*, football and basketball). The same happens with minors.

iii Application of employment rules of sports governing bodies

Labour agreements may contain provisions that the parties freely agree (including those potentially already included in the regulations of the sports governing bodies), provided that these do not contravene compulsory laws, in which case they would be deemed null and void.

VI SPORTS AND ANTITRUST LAW

In Spain, competition law issues are increasingly prevalent in the field of sport. Instances of state aid to clubs, the *a priori* economic control rules imposed on clubs by some professional leagues and the conditions of access to professions (e.g. in the case of licences for football coaches) have led to legal discussions concerning their potential restriction of competition.

The intervention of antitrust law measures in sport is not new in Spain. However, situations encountered in the past (such as in matters related to the freedom of movement of athletes or broadcasting rights distribution) have been resolved, and new issues have developed. While we are probably not in a position to state that a genuinely separate and autonomous competition sports law exists in Spain, it is undeniable that in recent years, the competition rules have come into play and the authorities are involved more and more in the day-to-day activity of sports, and that the authorities take antitrust principles into consideration in their resolution of conflicts. The professionalisation of sport in Spain has had a great deal to do with this.

VII SPORTS AND TAXATION

The main particularities of the tax regime for athletes and professional clubs in Spain may be briefly summarised as follows.

Athletes who are tax residents in Spain shall pay personal income tax (PIT) on their worldwide incomes. The PIT tax rate is progressive, and can reach up to 48 per cent depending on the athlete's territory of residence in Spain. The PIT rules do not foresee a special tax regime for these athletes (this used to apply in the past).

Athletes who have transferred their image rights to a third party and who have a working relationship with a club that has obtained their image rights as part of such relationship are also taxed PIT on the payments made by the club to third parties for the image rights. This special rule does not apply if the salary represents at least 85 per cent of the total amount paid by the club to the athlete.

Athletes who are not tax-resident in Spain and foreign clubs that obtain income related to their participation in events in Spain can be subject to non-resident income tax in Spain in relation to their participation in events held in Spain. Double tax treaties (if any) will have to be considered in this respect.

SADs are subject to corporate income tax at a general tax rate of 25 per cent.

VIII SPECIFIC SPORTS ISSUES

i Doping

Besides the administrative sanctions established by Organic Act 3/2013 on the protection of the health of athletes and the fight against doping in sport by those who infringe its provisions, under Spanish law those who, without therapeutic justification, prescribe, provide, dispense, supply or facilitate banned or prohibited pharmacological substances or other prohibited methods to athletes in order to enhance physical capabilities or modify the results of a given sports competition commit a criminal offence (Article 362 *quinquies* of the Criminal Code).

Therefore, the Criminal Code punishes doping in sport, but it does not criminally sanction the use of doping substances by athletes, only its provision or supply to the latter. The criminal sanctions established by the Criminal Code include the imprisonment of the offender for a period of between six months and two years, a fine equivalent to six up to 18 months' salary, and a special disqualification for the exercise of his or her profession or of holding a public service position.

ii Betting

Act 13/2011 on the regulation of gambling and rules regarding sports betting, which are permitted activities in Spain, provides a general legal framework for online national gambling activities in Spain. However, it should be taken into account that the 'autonomous communities', in light of the provisions set out in Section I, are competent to regulate gambling within their respective regions, so their regulations must be considered as well.

In particular, Act 13/2011 regulates national gambling performed through electronic, interactive and technological means, which include the internet, television, mobile phones, landlines and any other interactive communication systems. Betting operators must obtain the corresponding licence prior to carrying out any betting activities. Furthermore, Act 13/2011 prohibits the advertisement, sponsorship or endorsement of gambling activities as well as the advertisement or promotion of gambling operators that do not hold the appropriate licences. The provisions of Act 13/2011 are also applicable to cross-border gaming activities. In this regard, remote betting operators must obtain an administrative authorisation or licence granted by the relevant Spanish authority prior to carrying out their business in Spain.

iii Manipulation

As mentioned above, the Criminal Code envisages corruption offences for collusion between individuals, including a specific modality in relation to professional sports competitions. In this regard, Article 286 *bis* of the Criminal Code sanctions match-fixing and, in this regard, sanctions club directors, managers, employees and those who collaborate with sports entities, whatever their legal form, as well as athletes and referees, in relation to conduct aimed at deliberately and fraudulently attempting to alter the results of a professional sports match, game or sporting competition. The sanction foreseen for such conduct includes imprisonment of between six months and four years, a special disqualification banning practising in the industry or commerce for a term of between one to six years, and a fine of up to three times the value of the gains obtained by the illicit activity.

As the Criminal Code refers only to the intention to alter results, it is currently not absolutely clear if this can be applied to actions intended to alter the development of an event that can have no impact on the final results.

Finally, it should be noted that a criminal offence will be committed through the mere intent of match-fixing; therefore, it is not required that the effective benefit or advantage intended actually occurs.

iv Grey market sales

Article 67.2 of Royal Decree 2816/1982 approving the General Police Regulations on Public Entertainment and Leisure Activities stipulates that the resale of tickets is prohibited. Notwithstanding this, and bearing in mind that the Regulations only prohibit the resale of tickets on the street (and not, e.g., resale through the internet), it is not clear whether the resale of tickets outside those channels established by the organiser of the sport event is prohibited by law. Taking into account the existing legal gap, it is worth noting that the region of Catalonia is currently drafting a legislative proposal to prohibit the grey market sale of tickets on the internet without the authorisation of the organiser of the sporting event.

However, regarding the sale of tickets to a sport event, most organisers impose a general prohibition on purchasers on reselling tickets, thus establishing the conventional prohibition of such resale as valid.

IX THE YEAR IN REVIEW

The following recent decisions of the Spanish courts and authorities on sports-related issues are worth mentioning.

- a* A judgment of the Supreme Court of 25 April 2017 confirmed that the Education, Culture and Sports Ministry should compensate the cyclist Roberto Heras with €655,904,86 (and the company Bejar & Cycling Sports, SL with €69,000) for the damages caused by an anti-doping suspension ordered by the Spanish Cyclist Federation, which was further annulled in 2012 due to the procedural mistakes when taking the samples. The Supreme Court understood that the sanctioning powers of the Spanish Cyclist Federation are delegated by the State Administration (*in casu*, the referred Ministry) and, therefore, the state is liable before the athlete for all the economic losses caused by the – annulled – sanction.
- b* A judgment of the National High Court of 19 June 2017 annulled a resolution of the President of the Superior Sports Council that removed the runner Marta Dominguez from the list of ‘high performance athletes’ due to a CAS award that confirmed an

anti-doping suspension against the athlete. The National High Court reasoned that, according to the Spanish law, the CAS award should have been firstly recognised by the Spanish Agency of Health Protection in Sports (Agencia Española de Protección de la Salud) before removing Dominguez from her status of 'high performance athlete'.

c A judgment of the National High Court (Audiencia Nacional) of 21 November 2016 confirmed a resolution of the Spanish Sports Arbitral Tribunal imposing a sanction of €9,000 on Sevilla Football Club as regards the insults chanted by its fans in a certain area of the stadium to Real Madrid's players during a match. The pecuniary sanction is based on the inadmissible passivity of the club in the repression of behaviour prohibited by the RFEF Disciplinary Code. Although the existence of preventive measures implemented by Sevilla Football Club to try to avoid this type of conduct are not denied, the Court considered that the measures were insufficient to avoid this behaviour effectively.

d A judgment of the Supreme Court of 20 December 2016 recognised the right of a football player to receive a permanent disability pension because of a serious knee injury that he suffered in a match played during the World Cup in Germany with his national team. This injury was considered a work accident and therefore the player was granted permanent disability status as he was incapable of working as a football player owing to the injury. Although he claimed the referred pension when he was already 30 years old, the Court considered he had not finished his professional career at that age and that he could have remained active if he had not been injured. The pension is to be paid by the player's club's mutual company (by subrogation in the position of the club), despite the fact that the injury took place during a game played with his national team.

X OUTLOOK AND CONCLUSIONS

The sports law system in Spain is well developed, but it is still growing and being perfected in line with the relatively rapid conversion of sports into a business.

Spain has moved from amateurism in sports to professionalism over 25 years and, as usually happens, the law follows the reality. This has meant that a significant number of changes have taken place in recent years to address problems that were unknown decades ago. The tendency in the Spanish system is to continue to evolve to an even greater extent with the aim of harmonising legislation, as far as possible, with the new trends in international sports law. Spain has come a long way (especially in matters related to doping, bankruptcy, distribution of broadcasting rights, financial control and the coordinated fight against match-fixing), but new challenges are still pending and will require the Spanish legislators' and sports institutions' intervention in the near future.

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