

國際運動賽事之常見法律問題

國際及兩岸體育交流行政研習會

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大綱

壹、認真對待法律事務：體育與法律

貳、建構於法律關係上的國際體育交流

參、國際體育交流要注意的法律關係

肆、結語：運動與法律理解、交流之必要性

壹、認真對待法律事務：體育與法律

體育圈講法律？

法律圈懂體育？

貳、建構於法律關係上的國際體育交流

基本觀念：

「國際」交流？

國際組織？

- 非政府組織/國際非政府組織
- 除了與主管機關間之關係外，主要建構於「私」法關係上

叁、國際體育交流要注意的法律關係



叁、國際體育交流要注意的法律關係

【「私」法關係的建構】

基礎法律關係

- 章程、其他規則及契約

叁、國際體育交流要注意的法律關係

基礎法律關係

- 章程、其他規則
 1. 資格要求及義務連結
 2. 決策機制
 3. 爭端解決

60 Challenging IOC decisions

Notwithstanding the applicable rules and deadlines for all arbitration and appeal procedures, and subject to any other provision of the World Anti-Doping Code, no decision taken by the IOC concerning an edition of the Olympic Games, including but not limited to competitions and their consequences such as rankings or results, can be challenged by anyone after a period of three years from the day of the closing ceremony of such Games.

61 Dispute resolution

1. The decisions of the IOC are final. Any dispute relating to their application or interpretation may be resolved solely by the IOC Executive Board and, in certain cases, by arbitration before the Court of Arbitration for Sport (CAS).
2. Any dispute arising on the occasion of, or in connection with, the Olympic Games shall be submitted exclusively to the Court of Arbitration for Sport, in accordance with the Code of Sports-Related Arbitration.

60 質疑國際奧會決定

儘管有適用規定和仲裁及裁決程序之期限，並受世界運動禁藥管制規範條款約束，國際奧會就各屆奧運所作之任何決定，包括但不限於競賽和其排名或結果，於該奧運閉幕典禮當日起三年後不得被挑戰。

61 爭議解決

1. 國際奧會的決定為最終決定。任何關於其施行或解釋之爭議，得由國際奧會執行委員會解決，在某些情況下，則須由國際運動仲裁庭仲裁。
2. 任何奧運或與奧運相關所衍生之爭議，依運動相關仲裁規章規定，應完全提交國際運動仲裁庭審理。

ARTICLE 6

Disputes

In view of the international composition of the WDSF and the resultant difficulties in settling disputes judicially where problems arise between members or between the WDSF and either Members or recognized CAs, Members and recognized CAs waive the right to take such disputes to law, and agree that such disputes shall be subject to the binding decision of the WDSF Disciplinary Council or the General Meeting (as further specified in these Statutes or other WDSF governing documents). In cases in which a governing document of WDSF specifically provides that a particular kind of decision of the WDSF Disciplinary Council or General Meeting is final, Members and recognized CAs waive the right to take such dispute to any other Court or tribunal, including the Court of Arbitration for Sport in Lausanne, Switzerland ("CAS"). If a governing document of WDSF specifically provides that a particular decision shall be submitted exclusively by way of appeal to the CAS to resolve the dispute definitively in accordance with the Code of sports-related arbitration, Members and

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WDSF Statutes – Adopted at the 2019 AGM

World DanceSport Federation (WDSF) - Statutes

recognized CAs waive the right to take such disputes to any other Court or tribunal and to accept the decision of the CAS as final.

intermediaries and licensed match agents.

2. The provisions of the CAS Code of Sports-related Arbitration shall apply to the proceedings. CAS shall primarily apply the various regulations of FIFA and, additionally, Swiss law.

58 Jurisdiction of CAS

1. Appeals against final decisions passed by FIFA's legal bodies and against decisions passed by confederations, member associations or leagues shall be lodged with CAS within 21 days of receipt of the decision in question.
2. Recourse may only be made to CAS after all other internal channels have been exhausted.
3. CAS, however, does not deal with appeals arising from:

59 Obligations relating to dispute resolution

1. The confederations, member associations and leagues shall agree to recognise CAS as an independent judicial authority and to ensure that their members, affiliated players and officials comply with the decisions passed by CAS. The same obligation shall apply to intermediaries and licensed match agents.
2. Recourse to ordinary courts of law is prohibited unless specifically provided for in the FIFA regulations. Recourse to ordinary courts of law for all types of provisional measures is also prohibited.
3. The associations shall insert a clause in their statutes or regulations, stipulating that it is prohibited to take disputes in the association or disputes affecting leagues, members of leagues, clubs, members of clubs, players, officials and other association officials to ordinary courts of law, unless the FIFA regulations or binding legal provisions specifically provide for or stipulate recourse to ordinary courts of law. Instead of recourse to ordinary courts of law, provision shall be made for arbitration. Such

叁、國際體育交流要注意的法律關係

基礎法律關係

- 契約

1. 存在於各當事人間的权利義務約定
2. 違約之責任（損害之證明）
3. 準據法及爭端解決之約定

案例：主辦權剝奪、轉換或賽事取消？

問：三者有無差別？

問：誰可以決定？該怎麼決定？

案例：國家及區域協會之承認及運作

- 相關章程怎麼規定？
- 法人格與法人登記
- 被承認的權利？

附帶提及：

國際參與與兩岸情勢

參與或主辦賽會由誰同意？

與主管機關之關係及相關重要規範

國民體育法

第 43 條

特定體育團體有違反法令、章程或妨害公益情事者，各該主管機關得予以警告、撤銷其決議、停止其業務之全部或部分，並限期令其改善；屆期未改善或情節重大者，得為下列之處理：

- 一、停止全部或一部之獎勵、補助。
- 二、撤免其職員。
- 三、限期整理。
- 四、移送人民團體法主管機關廢止許可。
- 五、移送人民團體法主管機關命令解散。

與主管機關之關係及相關重要規範

教育部運動發展基金 辦理國際體育運動交流作業要點

<https://edu.law.moe.gov.tw/LawContent.aspx?id=GL000840&KeyWord=%e5%9c%8b%e9%9a%9b%e8%b3%bd%e4%ba%8b>

肆、結語：運動與法律理解、交流之必要性： 以 Olympic Agenda 2020 為例



Reference document

Recommendation 27

Comply with basic principles of good governance

All organisations belonging to the Olympic Movement to accept and comply with the Basic Universal Principles of Good Governance of the Olympic and Sports Movement ("PGG").

1. Such compliance to be monitored and evaluated. Supporting tools and processes can be provided by the IOC in order to help organisations become compliant with the principles of good governance, if necessary.
2. Organisations to be responsible for running self-evaluation on a regular basis. The IOC to be regularly informed of the results of the organisations' self-evaluations. In the event of missing such information, the IOC to request such an evaluation at its discretion.
3. The "PGG" to be updated periodically, emphasising the necessity for transparency, integrity and opposition to any form of corruption.

Recommendation 28

Support autonomy

The IOC to create a template to facilitate cooperation between national authorities and sports organisations in a country.

Recommendation 29

Increase transparency

To further increase transparency

1. The financial statements of the IOC to be prepared and audited according to the International Financial Reporting Standards (IFRS), even if these higher standards are legally not required from the IOC.
2. The IOC to produce an annual activity and financial report, including the allowance policy for IOC members.

Recommendation 31

Ensure compliance

The IOC to establish within the administration a position of a compliance officer, to:

1. Advise the IOC members, IOC staff, NOCs, IFs and all other stakeholders of the Olympic Movement with regard to compliance.
2. Give advice on new developments with regard to compliance.

感謝聆聽，敬請指教

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