Legal Issues for Alternative Sports Events in Europe

Posted on July 28, 2022

View this essay online:
https://academic-master.com/legal-issues-for-alternative-sports-events-in-europe/

Legal and regulatory frameworks for sports evolve over time, and despite there being no clear guidelines for sports law at the European Union (EU) level, sufficient agreement exists on the organization of sports as a business activity. The broader sports policy includes sports that are popular, coupled with alternative sports like Zorb Ball or Zorbing, Roller Derby, Sepak Takraw, Kite Surfing, Paintballing, Water Spheres, High Ropes and Wire Adventure Course, Archery, Indoor Sky-Diving, and Bog Snorkelling. In this paper, the legal and regulatory framework for alternative sports organizers in the European Union (EU) is also incorporated. The initial sections shed light on particular laws and regulations. In the following sections, the practical implications for independent third-party organizers have been discussed. The last section contains a critical analysis and some suggestions for regulators and organizers in the EU. *"Legal and regulatory framework" for alternative sports in the "European Union (EU)" emphasizes non-discrimination, openness, and fairness in competitions and collaboration between organizations responsible for sport.*

Analysis

Historical Background

European sports policy initially originated from the "Council of Europe". First, in 1967, the institution issued a resolution inviting member states to adopt anti-doping regulations. Then, in 1985, a European convention on violence and spectator excesses during sporting events was adopted. In the EU, strictly speaking, the first initiatives in the field of sports date back to 1974, with a decision by the "European Court of Justice" defining sport as falling within Community competence. In 1991, a "European Sport Forum" was then held, and in 1997, with the "Treaty of Amsterdam", the social importance of sport was recognized, particularly its role as a leaven of identity and a link between men. Since then, the EU has stepped up initiatives around the economic role of sport and its importance for health and fitness, education, social assimilation, and culture. Finally, since 2014, the "European Week of Sport" has been held every year, which aims to promote physical activity in European society and everyday life. The COVID-19 pandemic has negatively affected sports activities across the globe, and the same is the case with EU nations. It is hoped that after the pandemic, cooperation among the continent's nations would increase further. As per the research analysis of Katsarova & Halleux (2019), sports have a growing impact on the economy and society of the

European Union (EU). [1]

However, Parrish (2003) argues that the wider acceptance of discrete bodies of sports does not exist in a form that has legal and philosophical foundations connecting to the polity of the European Union. The author states that Article 3 of the EU's Treaty does not refer to sports in the manner in which they are organized; rather, it emphasizes dedicating an area for the mobility of persons, goods, capital, and services within member states. Additionally, the markets of the zone need to be undistorted, which has implications for the economic activities pertaining to sports. On the one hand, sporting bodies are obliged to abide by the laws of the treaty, and on the other hand, an additional ruling of 'Bosman' elaborates on the significant impact of EU laws on sports.

The "Legal Framework" for Alternative Sports in the "European Union (EU)"

The legal framework for alternative sports in the European Union (EU) has evolved over time. Although no specific legal competence in the field of alternative sports can be found in the Treaties before 2009, the European Commission laid the foundations for a European sports policy with the 2007 White Paper on the subject matter. With the "Treaty of Lisbon", the Union attained explicit capability in the world of sport (Phinnemore, 2013, page 1). "Article 6 (e) of the Treaty on the Functioning of the European Union (TFEU)" confers competence on the Union to undertake actions in order to support or supplement the acts of the Members in the field of sport, while "Article 165, paragraph 1" elaborates sports policy, declaring that the Union "contributes to the promotion of European sports issues while taking into account its specific features and its structures based on voluntary service as well as its social and educational function." According to Article 165, paragraph 2, the Union aims "to develop the European dimension of sport, by promoting fairness and openness in sports competitions and cooperation between bodies responsible for sport, as well as by guarding the physical and moral integrity of athletes, especially the youngest of them." It is clear that the "Treaty on the Functioning of the European Union (TFEU)" has great significance for the parties intending to hold alternative sports events in the EU.

EU laws forbid racial and other forms of discrimination in alternative sports. The organizers of alternative sports in the member nations should follow the applicable laws that do not allow any discrimination based on race, gender, nationality, religion, etc. The provisions concerning the nationality of the EU and parity amongst men and women in service should also be taken into consideration. Sports activities are governed under EU law. A classical Treaty of economic freedoms and competition law is applicable to professional sports, including the legal and regulatory framework for 'alternative sports.' [2] Serby (2016) argues that the European Union's competence in sports is the consequence of the Court of Justice of the European Union (CJEU) decision, which established that professional sports, especially the 'sporting rules,' are subject to the laws of economics.

Internal market provisions and competition law also apply to alternative sports as far as they

constitute an economic activity. In 2000, the EU made three important changes in law and regulation, which also apply to alternative sports events organized in the region. The first was the “Employment Equality Directive”, which prohibited discrimination based on religious belief, age, sexual orientation, and disability in the workplace (Agency for Fundamental Rights, 2011 Page 14 para 3). The second clause was named the “Racial Equality Directive”, which prohibited discriminatory treatment and discrimination based on ethnicity or race in the context of job offerings (Agency for Fundamental Rights, 2011, Page 14 para 3). Moreover, this clause prohibited discriminatory treatment and discrimination in access to welfare benefits. Companies that arrange sports events in the EU cannot ignore these provisions. Both clauses were an extension of the possibility of non-discrimination regulation in the EU, which also applies to organizations working in non-conventional sports. The modified regulations and laws recognized that to permit people to attain their full potential in jobs in sports companies, it was also indispensable to assure them equal admission to areas such as education and health. The third, the “gender equality directives,” specifically terms sexual harassment a “specific type of discrimination, where the unwanted ‘verbal, non-verbal, or physical conduct is of a ‘sexual’ nature” (Agency for Fundamental Rights, 2011 Page 32 para 2). The EU laws and regulations do not allow racial, religious, sexual, and other forms of discrimination in alternative sports and organizations making arrangements for such events.

Another important aspect of laws and regulations covering alternative sports and organizations in the EU is the “specificity of sport.” Each sport has many specific features, which are frequently referred to as the “specificity of sport”. The specificity of European sports can be analyzed from two distinct aspects. Number one is the specificity of rules and sporting activities, such as curbs on the number of applicants in tournaments and separate competitions for males and females. The second is the specificity of the sports structure. Another area of concern for independent third-party organizers of alternative games is controlling corruption in the event. The liberalization of the betting markets and the commercialization of alternative games make professional players vulnerable to corruption and manipulation. However, there is hardly any effective remedy against it. Regulation and more transparency in the betting markets are also not solutions. In principle, a private bet between two billionaires anywhere globally is enough to offer an incentive to bribe players or referees.

Besides, so many unintentional mistakes happen in alternative games that intent is very difficult to detect and prove. At the same time, chance plays a big role. Like other sports associations that are supposed to market their sport, independent third-party organizers have no real interest in corruption but also have no interest in exposing corruption, as this could damage the reputation and marketing of the event, which is a source of considerable revenues for them. It is similar to cycling in the investigation of doping cases. Drafting a code of conduct and compliance rules is of little help. The independent third-party organizers of alternative games should transfer the control to an external body to ensure independence and transparency. In this respect, the most recent reform efforts at FIFA should be viewed for important clues. There is no doubt that overcoming this serious corruption issue is the greatest and most important task in alternative games. The credibility of alternative game events depends on it, which is already viewed very critically by many fans, given the rapid commercialization of emerging and non-traditional games.

Important Court Cases

Some court cases have a significant bearing on the organization of alternative sports events in the EU. Therefore, the management of sports companies should take care not to violate the rulings. The "Bosman Ruling" has great significance for alternative sports and organizations in the EU. In the "Bosman case", the "European Court of Justice ruled in favour of freedom of contract for professional soccer players (Antonioni & Cubin, 2000, page 1). In the case of "Bosman v. Union Royale Belge Societies de Football Association", the court's judgment is of vital importance ("Judgement of 15 December 1995, case C-415/93"). The independent third-party organizers in the EU should not restrict players from making contracts with specific clubs or companies. In such cases, the court might impose a fine or rule against the independent third-party organizers' decision. Another important case in the "Court of Justice of the European Communities" was "Walrave and Koch v. Association Union Cyclist International" ("Case c-36/74, ECR 1405"), in which the court judged that "sport is subject to EC law in so far as it constitutes an economic activity within the meaning of article no. 2 of the EC Treaty' (European Court of Justice 1974: Paragraph 4, emphasis added)" (García, 2006). The event managers should be aware of the relevant court cases, including the "Bosman Ruling" and "Walrave and Koch v. Association Union", so that the participating clubs and teams do not violate the applicable laws and regulations, such as the freedom of contract for alternative sports players.

A Comprehensive Example in the light of EU Laws and Regulations

Assuming that ABC is an independent third-party company that wants to hold a kite surfing tournament in the EU, the most important thing for the management is to have a thorough knowledge of all the relevant legal and regulatory frameworks and applicable clauses and laws, including financial regulations and anti-corruption provisions. It is advisable to hire a law firm or a lawyer so that legal complications might be avoided. The management should contact the prospective clubs or participating teams and convey the kite surfing tournament's schedule and terms and conditions. Such events are mostly held to make money; therefore, the independent third-party company (ABC) should run a marketing campaign. The company should follow all the relevant laws, especially the related communication clauses. The company might use social media to promote the event. Promoters might use advanced analytics to assess the popularity of marketing content because it is vital to analyze and review clients' social behaviours (Dynamic Digital, 2020). Advanced analytics would also save costs and reduce waste by creating targeted marketing. The ABC Company should select the right metrics to achieve social media goals (15 Step, 2018). Apart from marketing and finance, HR is another important aspect.

In this regard, every type of discrimination and harassment should be avoided. Special emphasis should be placed on avoiding sexual harassment. "The gender equality directives of EU" term sexual harassment a "specific type of discrimination, where the unwanted 'verbal, non-verbal, or physical conduct is of a 'sexual' nature" (Agency for Fundamental Rights, 2011 Page 32 para 2). In the light of court cases mentioned in the previous section, the players are free to join any club; therefore, the

organizers should not place illegal restrictions. The event should take place on the announced date and time. The success of the kite surfing event in the EU would serve the purpose of entertainment and generate revenues for the sponsors. The promotion of alternative sports, including kite surfing in the EU, serves multiple purposes, such as improving health, well-being, and business.

Conclusion

The legal and regulatory framework of sports in the EU is market-friendly and has an inclusive approach to organization. The various bodies of sports responsible for respective goods and services interact with each other and negotiate the laws and regulations. The EU regulatory and legal framework provides guidance for the collaboration of organizations responsible for sport, seeking organizations to appreciate free-market policies of fairness in competition and openness, and includes an increased emphasis on non-discrimination. Many sports competitions take place each year in Europe, covering a wide spectrum of disciplines. Some of these events are followed nationally and internationally; apart from conventional sports, they include alternative sports, including kite surfing. The legal and regulatory framework of the EU has evolved over time. In recent years, the EU has streamlined regulations regarding non-discrimination and bias. The independent third-party organizers should follow the applicable laws in the EU. Companies should learn from court judgments so that investors can avoid unnecessary and avoidable damages in the form of claims and lawsuits.

References

15 step social media marketing strategy for businesses in 2020. (2018, November 17). Influencer Marketing Hub. https://influencermarketinghub.com/social-media-marketing-strategy/

Agency for Fundamental Rights. (2011). *Handbook on European non-discrimination law*. Publ. Office of The Europ. Union. https://fra.europa.eu/sites/default/files/fra_uploads/1510-fra-case-law-handbook_en.pdf

Antonioni, P., & Cubbin, J. (2000). The Bosman Ruling and the Emergence of a Single Market in Soccer Talent. *European Journal of Law and Economics*, *9*(2), 157–173. https://doi.org/10.1023/a:1018778718514

Dymic Digital. (2020, February 5). *Cutting-edge social media trends in 2020 that you need to be aware of*. https://www.dymic.com/digital-marketing/cutting-edge-social-media-trends-in-2020-that-you-need-to-be-aware-of/

García, B. (2006). *The European Union and Sport, rescuing the nation-state? **. https://ecpr.eu/Filestore/paperproposal/86bc8bfd-09f7-49a5-af23-991dc2e1a06c.pdf

Katsarova, I., & Halleux, V. (2019). EU sports policy: Going faster, aiming higher, reaching further.

Parrish, R. (2003). *Sports law and policy in the European Union*. Manchester University Press.

Phinnemore, D. (2013). *The Treaty of Lisbon*. London Palgrave Macmillan UK. https://books.google.com.pk/books/about/The_Treaty_of_Lisbon.html?id=ZQrRAQAAQBAJ&source=kp_book_description&redir_esc=y

Serby, T. (2016). The state of EU sports law: lessons from UEFA's Financial Fair Play regulations. *The International Sports Law Journal*, *16*(1), 37-51.

As per the empirical evidence, approximately seven million people work in the sector, which also includes services and goods of a sporting nature. Three percent of the EU's total gross value addition is due to the sports economy. ↑

The evolution of sports law in the EU is the result of negotiations taking place between diverse interest groups. ↑