

SPORTS LAW TODAY: PERSONAL AND ECONOMIC FREEDOMS ON SPORT*

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Abstract: *Today we are in front of a completely new, different world from the one we knew. This world is not a creation of traditionally human culture and institutions, but rather a world that somewhere, some decided to change it violently and in their own way, in the absence of the peoples.*

International Sports and the Olympic games promise Peace and friendship, which in today's world seems to be unattainable, since in the divided world we live in, international sports institutions cannot act under a regime of autonomy and international law and side unilaterally with the so-called right side of the story. The established International Truce Center does not seem to have the slightest power beyond wishful thinking, to be able to enforce the Truce and Peace during the Olympic Games. This has adverse consequences for the rights of athletes, where there are Olympic Committees, to be able to take part in the Olympic Games.

In international sports, rules of law concerning financial and personal freedoms are formulated in the context of the Lex Sportiva rules, but only state entities have the right to do so and it is not ensured that the legality is due to the sporting action as a legitimizing basis of the Lex Sportiva.

It is therefore necessary, as has been emphasized in the past, for the world of Sports to work towards the establishment of a Sports Confederation of International Law with an International Charter of Rights in Sports and Games.

This is necessary because, in the multipolar world that is spreading before us, there is a need to ensure the possibility of peaceful participation in sports action and the Games internationally without exclusion and the appropriate and due protection.

Keywords: *Sports, Athletes, Personal and Economic freedom, Olympic Games, human culture, International Truce, Lex Sportiva, Lex Olympica, Human Rights.*

Introduction

In Ancient Greece, agon and athletics are a reality of daily life; In Homer's time it was emphasized, "better than others", as divine sportsmanship. In this period, the agon is not identified with competition but with sportsmanship, the noble contest: "Always to excel and to be superior to others" (Homer, Iliad, L' 784).

The institutionalization of the "agon" begins initially as a custom by an anab-

* This Paper is an opening speech in 26th IASL congress 13-14 December 2024.in Athens. <https://hub.uoa.gr/oloklirothike-me-epitychia-to-26o-diethnes-synedrio-athlitikou-dikaiou-tis-iasl-sto-ekpa-13-14-dekemvriou-2024/>

solutization of values and then becomes institutionalized through the application of the well-known TRUCE, as a fundamental institution, a treaty, with rules of Character, of interstate law².

This institution regulated the relations between the city-states and their members for the sake of the unhindered participation of their athletes in the "Olympia Games", which took the name "Olympik" ("Ολυμπικοί" in Greek) and today the name of the "Olympic Games" ("Ολυμπιακοί Αγώνες" in Greek).

During the celebration of the Olympic Games, the ultimate goal was the great celebration of the culture of the body before the great judge, the God Zeus, where the noble competition of the agones also highlighted the great desire for peace. With the olive tree crown ("kotinos") made of wild olive, a priceless prize, without monetary value, they made it a universal celebration for the City-States of the ancient world.

Therefore, the Olympic Games were also a training in a peaceful war, through the athletic competition of sportsmanship. The great orator Gorgias emphasizes in his Olympic speech: "Two virtues are required: boldness and wisdom, boldness to endure the danger, and wisdom to know the skill" «Διττών [δε] αρετών δείται, τόλμης και σοφίας, τόλμης μεν τον κίνδυνον υπομείναι, σοφίας δε το πλίγμα γνώναι»³.

It is therefore rightly argued that the truce was a school of peace for the ancients, where every fifth year the Greeks took exams, competing in the tadium of the Sanctuary of Olympia, since "The proclamation of the Olympic Games calls the willing, but crowns with a wreath the capable" «[Κήρυγμα το Όλυμπίασιν Αγών καλεί μεν τον βουλόμενον στεφανοί δε τον δυνάμενον]»⁴!

In the modern world, the Olympic Games run parallel to, if not precede, globalization, which ultimately became a great noble desire of the global market, with the motto of the Roman era, *Citius - Altius - Fortius*, instead of «[πάντων χρημάτων μέτρον Άνθρωπος]»⁵, "Man is the measure of all things".

2. See D. Panagiotopoulos (1991), *Law of the Olympic Games: Institutional Framework in Ancient and Modern Times*, Ant. N. Sakkoulas: Athens, p. 109, cf. Ioulia Velissaropoulou-Karakosta (2005), "Legal Outline of the Ancient Olympic Games", in *Olympic Games and Law* (N. Klamaris et al.), Ant. N. Sakkoulas: Athens, p. 33ff, the same and Th. Theochari- (2003), "Truce and Olympic Games in Athens in 2004", in: *Sports Legal Order* [Panagiotopoulos D. P. Ed.], Proceedings of the 2nd Congress on Sports Law with International Participation, Ant. N. Sakkoulas: Athens, p. 108-119.

3. See Gorgias, Olympic. The above are also mentioned in the work of Clement of Alexandria, *Stromateis* I.51., cf. Plato, *Euthydemus*, 278b, as well as *Pankratiasts*, 271c, *Pankration Art*, 272a. Cf. Dimitrios P. Panagiotopoulos (2007, ed.), 'On Physical Agones: Institutional Speech,' in: *Philosophizing - Sports and Law*, Nomiki Vivliothiki: Athens, p. 99.

4. See J. Bernays (1853), *Zum Gorgias*, 'Olympic Speech, *Rheinisches Museum*, 8, p. 453 et seq.

5. Dimitrios P. Panagiotopoulos (2007), *International Sports and Olympic Institutions*. Interna-

1. Sport and the Olympic Games in the Modern World

The first organization for the Olympic Games was the IOC in 1894, as an association, which was founded in 1919, preceding by 25 years the League of Nations (1919), and much more the UN (1948)⁶.

For the undertaking and organization of the Olympic Games, the economic sizes are gradually growing, as well as the number of sports, and after 1981, the organization of the Olympic Games with international sports began to shape economic sizes amounting to approximately 2.5% of the global GDP. After the Athens Olympic Games in 2004, these sizes in the modern global economic market had already exceeded 3 %⁷.

The organizers of the modern Olympic Games, although they declare themselves neutral in difficult and wartime situations, in the new reality cannot benefit from the Olympic Truce, because its implementation is rather a difficult matter (vide the Olympics in 1980, in the 1990s with the dissolution of Yugoslavia, the consecutive wars in the Middle East up until today, and recently in Ukraine). In other words, there is no entity of the internationally organized and athletically active society that can impose the application of the truce voluntarily, based on legal rules that would be binding for all its members and those involved in war-time situations.

With the establishment of the International Truce Center under a private special regime, the states that consented to the Olympic Truce during the Olympic Games are not bound to implement it, and there is no enforcement mechanism, only wishes in this regard⁸. However, modern developments show the way, indicating that such an entity is more necessary today than ever before.

In this uncertain world, with the goal of an inevitable New Order of Things and the instigation of wartime situations that serve it, as emphasized in the paper presented at Kutafin State Law University last November 2023, international sporting events hold very little interest. While the modern Olympic Games and

tional Sports Law, Nomiki Vivliothiki: Athens, pages Komotini, pp. 51-95. See also Dimitrios P. Panagiotopoulos (1991), 'The Olympic Games and Classical Hellenic Law,' in: Proceedings of the 13th International HISPA Congress, Olympia / Greece, May 22-28, 1989, Hellenic Sports Research Institute: Athens, pp. 35-44.

6. D. Panagiotopoulos (1994), *Law of International Sports Relations and Institutions*, Ant. Sakoulas: Athens, pp. 30-44.

7. Dimitrios P. Panagiotopoulos (2024), *Sports Law [in Greek]*, UNKA/PRESS: Athens, pp. 216-218, *ibid* (2005 ed.), *Sports Law: Implementation and the Olympic Games*, Ant. N. Sakoulas: Athens, p.25.

8. See Dimitrios P. Panagiotopoulos (2002 Adstr.) "The Institution of the Olympic Truce", in: the 10th International Symposium of Philosophy, which organizing by the International Center of Philosophy and the Olympian Philosophy Center, Olympia July 29 - Aug. 3, 2000. http://iasl.org/pages/posts/members_articles/members_articles166.php

the truce, which we have been discussing at least since 1992 with the case of the dissolution of Yugoslavia, rather serve the idea of the organizers and their sponsors than the idea that emanates from the Olympic Games themselves⁹. The idea of the truce, as it was formulated in preparation for the Athens 2004 Olympic Games, was promoted through the creation of an international legal framework for its application by the then Greek Minister of Foreign Affairs in cooperation with the then President of the IOC. However, it was only within the framework of the IOC, as a private matter, and ultimately, even though they established the **Truce Center**, they essentially extinguished this idea, since, in this way, through private individuals, it cannot even be proposed, let alone implemented¹⁰.

Something similar was initially applied to doping as well, but in practice, the rules of the Medical Code of the IOC could not be enforced¹¹. Thus, the IOC, through the HOC and states, proposed a convention, now known as the WADA Code within the framework of the UN, aiming, after the internal approval of the WADA rules by the states, to make these rules enforceable as a reality of international law. Recently, in alignment, laws 4373/2016 and 4791/2021 were promulgated in Greece¹².

Let us consider that 34 years have already passed with corruption controlling the events, techno-doping having replaced doping¹³, and bio-doping. Further-

9. Bl. Panagiotopoulos Dimitrios P. (2024), "Ideals of Olympia and Olympic Games, institutional dimension – perspective", In: International Sports Law Review Pandektis, e-Lex Sportiva Journal, Vol.15:1/2, pp 19-27.

10. See D. Panagiotopoulos (1991), *Law of the Olympic Games*, Op. cit., pp. 253-254. In 1991, at the International Congress on the topic: 'The Institution of the Olympic Games – An Interdisciplinary Approach,' a proposal was made by the author, among others: a) to make the role of the states visible and substantial under the form of an Olympic United Nations for the Olympic Games and international sports, b) to establish a permanent location for the Olympic Games with corresponding financial contributions so that their commercial character may be eliminated, c) to create an Olympic intergovernmental center as a World Peace Center, and d) to establish the Olympic truce with intergovernmental commitment within the framework of an Olympic international organization, subject to fines and exclusion from the Games for any violator or citizen, respectively.

11. See Dimitrios P. Panagiotopoulos (2002), "Negative Phenomena in Sports and International Sports Law", in: Proceedings of 6th International Special Sessions (Olympia June 30 – July 5 2001), International Olympic Academy (IOA): Ancient Olympia, pp. 541-560.

12. See Panagiotopoulos Dimitrios P., Kallimani Zografenia, Konstantinidis Konstantinos(2022), THE IMPLEMENTATION OF THE WADA CODE IN GREECE THROUGH LAW 4791/2021", Sports Science research (10.12064/ssr.2022083104) and. In: International Sports Law Review Pandektis, Vol 14, 3/4. Pp 281-287. As well as : Panagiotopoulos Dimitrios P., Konstantinidis Konstantinos, Kallimani Zografenia (2020), "The Implementation of the WADA Code in Greece Through Law 4373/2016", in KUTAFIN UNIVERSITY LAW REVIEW , Vol 7, No 2, pp.321-326.

13. See Vieweg Klaus (2013), "Techno-Doping", in: SPORTS LAW, Structures, Practice, Jus-

more, the current downfall of the Olympic Games with the inability to implement the truce, the war situations dividing the world with the exclusion of athletes from them, as well as the culture that now governs the Olympic Games, with an image of complete decay, as unfolded in Paris with their commencement, necessitates the reform of international sports and the Olympic Games so that they are an international institution of human society with the ideals of Olympia¹⁴!

2. Lex Sportiva and Lex Olympica rules

Furthermore, in the overall sports activity, private law sports organizations, apart from the sports regulations for the proper conduct of sports, as private entities, also create legal rules that regulate issues falling within the sphere of personal and economic freedoms, and contractual relationships, without a legitimizing basis for doing so¹⁵, since only state or supranational legislators (not private individuals) have this possibility¹⁶. These legal rules have been classified as **Lex Sportiva rules**¹⁷.

Through the application of these rules for the resolution of emerging disputes, the rights of the participants are put into question, while the legal certainty through the relevant judicial bodies, the fairness of the trial, which would ensure a sense of justice in the world of sports, is also controversial¹⁸. In order to effectively secure the rights of the involved parties and to avoid conflicts between different rules, both the institutional autonomy of international sports federations

tice- Sports Science and Studies, [Dimitrios Panagiotopoulos, Wang Xioping Eds], Hellenic Center of Research on Sports Law: Athens, pp. 115 -128. Also Panagiotopoulos Dimitrios P., Kallimani Zografenia, Konstantinidis Konstantinos (2022), op.cit..

14. See Dimitrios Panagiotopoulos (2015), 'Olympia and the Olympic Games – Institutional Dimension – Perspective,' in: Proceedings of the 1st National Congress - Patras, May 29-30, 2015. Patras, pp. 177-183, cf. Dimitrios P. Panagiotopoulos (2007), International Sports and Olympic Institutions. International Sports Law, Nomiki Vivliothiki: Athens, p. 432.

15. Dimitrios P. Panagiotopoulos (2016) "Personal and Economic Freedoms and FIFA Regulations (Lex Sportiva)", in: International Sports Law Review Vol. 11, Issues 3-4, pp.247-253

16. Dimitrios P. Panagiotopoulos (2013), "Clauses for a legitimizing base of regulatory competence in international sports activities A Lex Sportiva & Lex Olympica Constitutional Charter", Proceedings 17th International Association of Sports Law, Moscow 27-30, Sept. 2011, Russia, In : International Sports Law Review Pandektis (ISLR/Pand), Vol. 10, issues ½, pp15-24.

17. Dimitrios P. Panagiotopoulos (2023 Ed), SPORTS LAW, Legal Responsibility in Sports, Contracts - Arbitration - Ethical – Management, and COVID 19 , EKPA Publications: Athens., pp10-30.

18. Dimitrios P. Panagiotopoulos (2016) Physical Activities-Legal Horizon and Sports Regulation as Lex Specialis: Lex Sportiva, in: The Open Sports Sciences Journal, 2016, 9, (Suppl-1, M5) 35-42.

with the Lex Sportiva rules and the corresponding jurisdiction should be subject to international scrutiny as to their legitimacy.

In this regard, it becomes imperative to develop a common legal framework for sports authorities in the world of sports, with a treaty of interstate commitment within the evolving relationships. This should serve as a foundation of legitimacy, so that issues related to personal and economic freedoms of the parties involved, and contractual relations in sports activities, are regulated based on this legitimacy. It would simultaneously define the boundaries of Lex Sportiva.

This system of international legitimacy as a legitimizing foundation of Lex Sportiva determines the horizon for the correct, direct, and impartial resolution of sports disputes through a practically existing international 'Sports Court,' similar to the CAS, which would also serve as a guide for states aiming for similar regulations for impartial judgment and for fair trial in sports jurisdiction.

These issues have been discussed at the IASL congresses since the early years of the previous decade, such as at the 16th congress in Warsaw in 2010 and the 17th Congress in Moscow in 2011, with the decision to draft a statutory text regarding the 'International Constitutional Charter for Sports Activities.' An organized effort is being made to establish scientifically pioneering foundations on many general and specific issues of sports law, with the main concern being the establishment of Lex Sportiva and Lex Olympica rules based on internationally legitimized Public Law¹⁹, as well as the establishment of a uniform international sports jurisdiction²⁰.

This insistence on the establishment of the Lex Sportiva and Lex Olympica rules can be explained, as they are the most important legislative tools for the protection of the integrity of sports, distinctions, fair competition, the fight against fixed matches, doping, and the safeguarding of the ethical dimension of sports. Consequently, an international sports legal order is emerging, beyond national and international sports law: LEX SPORTIVA – Lex OLYMPICA²¹. The quality of the content of these rules, with their specific characteristics in the international

19. Dimitrios P. Panagiotopoulos (2013), "Clauses for a legitimizing base of regulatory competence in international sports activities A Lex Sportiva & Lex Olympica Constitutional Charter", Proceedings 17th International Association of Sports Law, Moscow 27-30, Sept. 2011, Russia, In : International Sports Law Review Pandektis (ISLR/Pand), Vol. 10, issues ½, pp15-24.

20. Dimitrios P. Panagiotopoulos (2013) "Lex Sportiva- Lex Olympica and International Sports law", in: SPORTS LAW: Structures, Practice, and Justice - Sports Science and Studies [Dimitrios P. Panagiotopoulos, Wang Xiaoping (Eds)], EKEAD: Beijing-Athens, pp 20-31

21. See Dimitrios P. Panagiotopoulos (2017). Sports Law International: Lex Sportiva – Lex Olympica. biblioedit: Athens, pages 739, Dimitrios P. Panagiotopoulos (2011). Sports Law International: Lex Sportiva – Lex Olympica. N. Sakkoulas: Athens, pages 739. Dimitrios P. Panagiotopoulos (2004), Sports Law [Lex Sportiva] in the World, Ant. N. Sakkoulas: Athens, pages 579., Dimitrios P. Panagiotopoulos (2003), Sports Law: A European Dimension, Ant. N. Sakkoulas: Athens, pages 220.

practical framework, shows that they do not constitute a mere subcategory of international law, such as International Sports Law, but rather distinct and more specialized rules of law within the sports context, to which the fundamental legal principle 'lex specialis derogat legi generali'²² applies – the specific rule of law prevails over the general one.

This new type of law at the international level, if not contradicting, certainly places old accepted practices and established organizational structures into a different perspective. This perspective exists alongside international law and constitutes a sui generis, international legal order²³, which today is imposed heteronomously on the sports world by these international sports institutions of private actors. Classic International Sports Law consists of the rules of international instruments and conventions of entities governed by international law, such as international treaties and instruments related to sports, now also including the rules of the WADA code and the International Charter for Physical Education and Sport. However, it does not include the rules of Lex Sportiva/Olympica.

3. International Legality in Sports Activities

The challenges for the legal regulation of international entities and practices in sports today are great and significant. It is very important to ensure the human rights of athletes, coaches, and participants in sporting events, and to establish legal certainty and integrity in the world of sport²⁴. This can only be guaranteed by the establishment of a strong and effective regulatory legislative framework, an International Constitutional Charter of Sport, as well as a Code of Sports Ethics²⁵, that would meet the needs of the times²⁶.

In conclusion, above all stands ethics and sports values, which are tested in

22. Dimitrios P. Panagiotopoulos (2023), Implementation of Lex Specialis in Sports Jurisdiction, Kutafin Law Review , Vol. 10: 2,pp.239-255 (<https://doi.org/10.17803/2713-0533.2023.2.24.239-255>).

23.see Dimitrios P. Panagiotopoulos (2012), “Lex Sportiva: International or sui Generis – ‘Un-ethnic’ Law?”, in: "SPORTS LAW: PROSPECTS OF DEVELOPMENT", sixth International scientific practical conference, Moscow State Law Academy et al, Russia. 30 May 2012 Mosk-Ba, pp. 25-31.

24. See Dimitrios P. Panagiotopoulos (2009), “Sports Law Foundation: Lex Sportiva, a Fundamental Institutional Approach”, in: Sports Law: an Emerging Legal Order - Human Rights of Athletes, Nomiki Bibliothiki: Athens and International Sports law Review Pandektis, Vol.8, Issues 1-2,pp 6-14.

25. See Panagiotopoulos Dimitrios P., Panagiotopoulou Daphne I. (2023),THE SPIRIT OF SPORTSMANSHIP - ETHICAL AND DEONTOLOGY CODE, In: International Sports Law Review Pandektis, Vol 14, 3/4. Pp.239-255.

26. Dimitrios P. Panagiotopoulos (2013), "Clauses for a legitimizing base of regulatory competence in international sports activities A Lex Sportiva & Lex Olympica Constitutional Charter",

various ways, especially within the framework of the Olympic Games, which are the pinnacle of global sports events, and must promote the values and ideals of Olympia. For this reason, it is of fundamental importance to reconstitute the Olympic Truce through an internationally recognized public institution. However, the restoring and the measure of this could only be achieved through an international center for the economic management and execution of the Olympic Games, with corresponding financial contribution, democratic delegation – assumption of the organization of the Olympic Games by each interested country²⁷.

In view of the 2004 Athens Games, we emphasized: "Among the major possibilities is the shrinking of the global reach of the Olympic Games due to the participation of certain countries, which will lead to the abstention of others. We are very close to the time when we would not want to confirm the decline of the Olympic Games as a prestigious institution, as a sick giant, especially within the country of the Idea of it."

Conclusions

Allow me to bring to your attention that in the multipolar world which is starting to form in front of us, a global sports system, including the Olympic Games within it, would only make sense within the perspective of an international amphictyony of the nations of this world.

However, this would be within the framework of new structures and rules emerging from this world and a law of the international amphictyony of free nations²⁸, for a strong **International Sports Law**.

For this future world of humanity, it is worth working hard and dedicating oneself to the future of mankind on this planet. I will give you only a picture from the work of Nobel laureate Giorgos Seferis, who mentions that: during Oedipus's return to Thebes from Delphi, he encountered the Sphinx, who said only one word, and he answered "Man!" and the monster was destroyed²⁹.

Proceedings 17th International Association of Sports Law, Moscow 27-30, Sept. 2011, Russia, In : International Sports Law Review Pandektis (ISLR/Pand), Vol. 10, issues ½, pp15-24.

27. See Dimitrios Panagiotopoulos (2015), 'Olympia and the Olympic Games – Institutional Dimension – Perspective,' in: Proceedings of the 1st National Congress – Patras, May 29-30, 2015. Patras, pp. 177-183.

28. See Dimitris P. Panagiotopoulos (2023), Modern Greek State, Institutional Reconstruction, NOHSH: Athens, pp. 213-220.

29. Georgios Seferis, Nobel award Stockholm 1963, in his rejoinder emphasized: "*We must seek man, wherever he may be. When, on the road to Thebes, Oedipus met the Sphinx and she posed her riddle to him, his response was: man. This simple word ruined the monster. We have many monsters to destroy. Let us reflect on Oedipus' response*" <https://www.imerodromos.gr/giorgos-seferis-echoume-polla-terata-na-katastrepsoume/>