

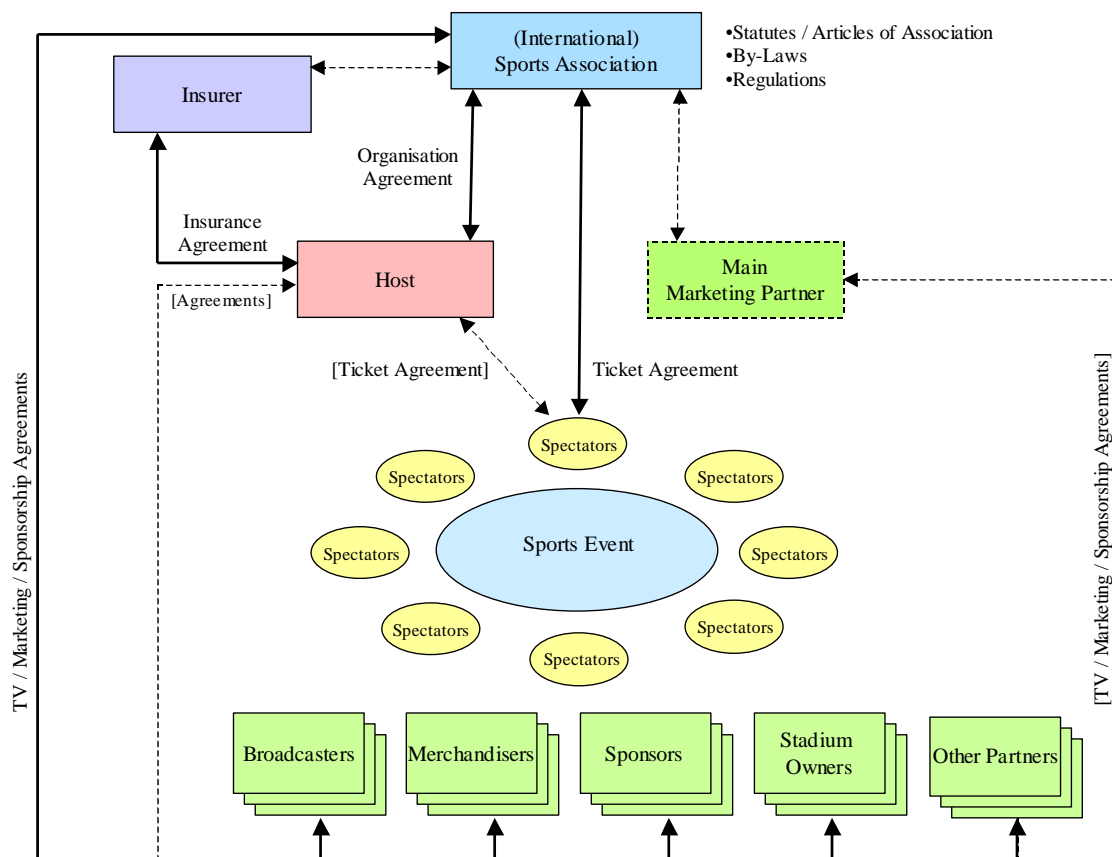
# Organisation of international and national sports events – how to manage legal complexity?

Sports fans all over the world are looking forward to large sporting events that will be organised in different sports and countries. Not too far off are, for example, the 2006 Winter Olympics in Torino and the 2006 FIFA World Cup in Germany and many other international and national championships and events. The purpose of this presentation is to outline some general legal issues that are to be dealt with in connection with the organization of a given sports event, in particular legal issues that are to be resolved by and between an international sports association and the host of a given sports event.

(1) A common factor in all sports events is that awarding them is not only a great honour to the host. Staging such a competition or championship is also associated with substantial organisational, logistical and legal expenditure and exposure. The host has to shoulder great responsibility. Although this presentation sets out some legal aspects in the context of organising a sports event, it does, however, not attempt to present a comprehensive picture but instead to provide some specific insights. The following explanations are basically applicable to national or international championships or competitions of any size, and are thus also important in the context of smaller sports events.

## Complex responsibilities

(2) From a legal point of view, organising and staging a competition or championship usually requires a complex system of contractual arrangements. This results from the necessity to cooperate with a multitude of different partners and to cover the host, as far as is possible and tenable, against contractual and non-contractual risks.



A complex framework of agreements is to be entered into and administered based on the structure chosen

(3) From the point of view of the host, the organisation agreement is at the centre of this complex system. This presentation therefore concentrates on the subject of the organisation agreement, while other important commercial agreements, such as for example marketing and television agreements, will not be discussed in detail.

(4) In the context of an organisation agreement, first of all the question arises as to who is in fact the host. It must be asked who has been awarded the right and the obligation to organise and stage the given competition or championship. It is important to remember that when a large sports event is awarded to a given country, as a rule, it is not a certain state or city that is nominated as the host. Instead, most of the time the host is a national sports association or some organisation committee having a legal personality of its own appointed by such a national sports association.

(5) For certain legal considerations (e.g. with respect to the ownership of certain rights of commercial exploitation of the event in question) it is also important to know who is the “organiser” and holder of these rights. Depending on the particulars of a given event the organiser can be the international sports association under the auspices of which the event shall take place. In other cases the international sports association and the host are regarded as co-organisers, and there are other events where the host is the organiser in the aforementioned legal sense. Within the scope of this presentation it is not possible to provide a generally-applicable rule as to who is the organiser. An answer to this question not only depends on the rights which are derived from the organiser capacity but also on the concrete circumstances of the case, such as for example the by-laws of the international sports association and the specific details of the organisational structure and responsibilities. In any case, the involved parties have to enact with highest possible care an appropriate set of rules that govern allocation and exploitation of the (commercial) rights of a given event.

(6) The host has to enter into agreements with a large number of organisations which have to be tied into the entire organisation structure. As mentioned above, the relationship between the host and the international association under whose patronage the event is staged is in the foreground. The mutual rights and obligations regarding the organisation and staging of the event, to the extent that they are not prescribed by the articles and other by-laws of the respective international association, are to be specified in the organisation agreement. For example, such an organisation agreement should regulate the following issues:

- the technical conditions and safety measures which have to be fulfilled and provided by the host;
- the number and dates of competitions or games;
- the commercial issues (e.g. distribution of income from ticket sales);
- issues relating to the exploitation of rights (in particular sponsoring or marketing and exploitation of television rights);
- organisational aspects and questions relating to the monitoring and control of preparatory tasks;
- tax aspects;
- duration of the contract, and premature termination of the contract;
- force majeure and postponement or cancellation of the event; and
- aspects of insurance law.

(7) At the other end of the organisational chain are the spectators who want to follow the events live in the stadiums or in some other event location. With each individual spectator or ticket purchaser a separate contract is entered into which essentially grants the spectator the right to attend a particular game or competition. Further aspects of the contract, such as security, advertising (in particular prohibition of ambush marketing) and liability still have to be specified.

(8) Further contractual relationships are entered into with sponsors, advertising partners and television companies as well as any specialised marketing companies that may have been contracted. If the agreements with these parties are not concluded by the host but instead by the international sports association, the host must be obliged to ensure that the rights which the international sports association has granted to sponsors, television companies and other partners are indeed maintained. The international association

must thus oblige the host to ensure that these rights are upheld. This may for example mean that only the official advertising partners are authorised to advertise in the stadiums and that only the official television company is permitted to film and broadcast the competitions. Also of importance in this context are the agreements with stadium owners or operators; they are to be obliged e.g. to provide stadiums free of any advertising and to meet all security conditions.

### **Serious consequences of organisational problems**

<sup>(9)</sup> Together with the organisation agreement, all the necessary agreements are to be joined to form a consistent system which is free of contradictions, with the objectives of fulfilling the obligations of the host, ensuring proper organisation and staging of the event, ensuring the safety of all parties involved and minimising the risks to the host and the international sports association. Since many international sports associations are domiciled in Switzerland it is worth to also outline in this presentation some specific legal issues resulting from the application of Swiss law.

<sup>(10)</sup> If the host encounters difficulties in the preparation and organisation of the event, this can have far-reaching consequences. Under Swiss law, for instance, an organisation agreement can, with good reason, be deemed a work contract or a contract predominantly with elements similar to a work contract. The host thus has to assume responsibility for a specified measurable performance success, namely staging all the games or competitions within the agreed framework. In return for this, the host is usually entitled to a certain compensation or consideration, for example in the form of income from ticket sales. The applicability of the law relating to work contracts means that – provided this has not been defined otherwise in the organisation agreement or in the applicable by-laws – the international association can take away from the host the holding of an event if the host fails to start preparatory work on time, delays carrying out such work, or is behind schedule to such an extent that belated completion is to be expected. In this situation the law gives a right to premature rescission of a contract. Such a rescission by the international association would result in the host having to pay back any consideration already received, and, if applicable, having to pay compensation for loss.

<sup>(11)</sup> If the host fails in its organisation, the financial consequences would be far-reaching – above all because the costs incurred and any additional compensation for loss would have to be borne. As a result of rescission of a contract by the international sports association, all the entitlements for counter-performance would cease to apply, as would the right to stage the event. Similarly grave consequences would result were the event would have to be cancelled or transferred to another country as a result of force majeure (for example a natural disaster or an act of terrorism). Unless otherwise provided for by the organisation agreement or by the by-laws of the international association in the case of subsequent impossibility of performing (which would have to be assumed in such a case), the international sports association's claim for performance by the host expires. On the other hand, the host would have to reimburse any consideration already received and the host would lose any claim for future counter-performance.

### **The need for rigorous risk management**

<sup>(12)</sup> Any host is therefore well advised to incorporate the above-mentioned issues in a comprehensive risk analysis at a very early stage in its bid for hosting a large sports event. It is equally important for the host to monitor performance on an ongoing basis and to monitor the milestones specified in the organisation agreement and/or specified internally. Moreover, it will have to be ascertained to what extent and at what financial terms and conditions the host can obtain insurance cover. Insurance cover against the financial risks associated with hosting a sports event (in particular cancellation or liability) is highly recommendable, even though in the case of very large events involving global broadcasting a host taking out a policy in the insurance market might be faced with certain limits as far as the insurable amount is concerned.

## Summary of contents of an organisation agreement

(13) An organisation agreement will typically contain the following sections/chapters:

- Definitions
- Scope of the Agreement
- Conclusion of the Agreement
- Organizational Duties and Responsibility of Host
- Commercial Exploitation of the Event
- Intellectual Property Rights
- Ticket Sales
- Insurance
- Reporting and Monitoring
- Remuneration
- Indemnification
- Tax Matters
- Term / Termination
- Force Majeure and Cancellation
- Miscellaneous
- Governing Law
- Arbitration

---

Any feedback to the aforesaid is most welcome. Please contact:

**Dr. András Gurovits Kohli**  
Attorney-at-Law  
Lecturer at Law Faculty of Zurich University

**NIEDERER KRAFT & FREY**  
RECHTSANWÄLTE / ATTORNEYS-AT-LAW  
Bahnhofstrasse 13  
CH-8001 Zurich  
Tel. +41-58-800-8000  
Fax. + 41-58-800-8080  
E-Mail: andras.gurovits@nkf.ch