

Cours de 4^{ème} année Sport
Amos
M1

Sports Agents and Contract Law

DROIT DU SPORT

Négociation de contrats

**GESTION DE
CARRIERE SPORTIVE**

Agent sportif et manager

Mis à jour au 12/02/2019

Session 1 - Introduction to Sports Law

- Introduction to sports law (definition and relevant topics),
 - Legal environment of sport (public and private regulation, national and international sports institutions)
 - National and local public institutions
 - The Olympic movement
 - The federal movement
 - Lisbon Treaty 2007 and European Sport Policy
-

Session 1 - Introduction au droit du sport

- Introduction au droit du sport (définition et sujets pertinents),
- Environnement juridique du sport (réglementation publique et privée, institutions sportives nationales et internationales)
- Les institutions publiques nationales et locales
- Le mouvement olympique
- Le mouvement fédéral
- Traité de Lisbonne 2007 et politique européenne du sport

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INTRODUCTION TO SPORTS LAW: BIRTH AND EVOLUTION OF A DISCIPLINE

Updated at 11/02/2019

Sports Law (1)

<http://thelawsp.com/>

The origins

If a date were to be attributed to the origins of the law of sport, it would undoubtedly retain that of **January 17, 1931**. Indeed, this day was marked by the adoption of the principle of professionalism by the French Federation of Football Association (FFFA), which was accompanied a few months later by the status of professional player.



FC Barcelona Stadium (1909)

From now on, sport can constitute a hobby but especially a profession, which is not without consequence on the multiplication of the opportunities of litigation in particular between the employee and the employer. The first case in this case dates from June 23, 1973, when Lucien Leduc, a former coach of Olympique de Marseille, applied to the courts for **an improper breach of employment contract**. This one was successful because in a ruling in principle dated November 29 1974, the Court of Cassation dismissed the club's applications.

Judicialization: From the Leduc case to the Code du Sport

Before the 1970s, judicial decisions on sport were almost non-existent.

The athlete, totally subject to the regulations issued by the federations, has the fear of bringing a dispute before the judiciary. The first will be Olympique de Marseille coach Lucien Leduc. He will properly argue before the Court of Appeal of Aix-en-Provence (judgment of 23 June 1973) after being dismissed by the Court of First Instance, adjudicating in matter prud'homale (judgment of 1 February 1973) that his employment contract was improperly broken. The Court of Cassation will dismiss the appeal lodged by Olympique de Marseille with a judgment which will become a judgment in principle (Cass Soc. 29.11.1974).

Countless judicial decisions will follow, definitively integrating sport into the judicial world from which it can not escape.

At the same time, the strike of the professional football players in December 1972 will provoke a considerable evolution with the introduction of the Professional Football Charter and the Séguin report which will lead straight to the first law on sport of October 29th. 1975 known as Mazeaud law.

Then comes the Avice Law of July 16, 1984, amended since many times.

The abundance of regulations, law and jurisprudence will lead to the creation of a Sport Code in 2006.

All areas of law are interfering in sport so that this subject has become so complex that it is today the business of specialists.

<https://www.bertrand-sport-avocat.com/droitdusport/droit-du-sport/histoire>

But the multiplication of the number of players that are primarily athletes, but also associations like that of the National Union of Professional Cyclists of 1958, sports federations, clubs, sponsors, professional leagues, or coaches , will increase the risks of legal conflicts.

As a result of this development, state intervention has become more and more marked since the **Sports Charter of 1940**, with the aim of restoring and moralizing the sporting world. France is certainly one of the states to have developed so much and so soon endowed with regulations specifically devoted to sport, thus testifying to the public interest attached to the activity. Today, the framework emanates from the 2004 Sport Code, which replaced several French laws and recodified provisions formerly contained in the Education and Public Health (Doping) Code.

The evolutionary aspect of this real right has many advantages: the fact that it is shaped by the work of the practitioners makes it alive and interesting, which guarantees for the legal professional a varied work and the interested public a real dynamic.

The universality of sport

The fact that sport is universal is a fact. The most symbolic example is probably that of the opening ceremony of the **Olympic Games**, marked by the parade of the nations represented. For example, for the 2012 Summer Olympics, 204 countries were represented for a total of 10,568 athletes, who themselves came to participate in the 302 events proposed by the International Olympic Committee.

Today, the most universal sport is football. Indeed, collective and simple, this sport does not require a material or a specific environment, if not a balloon. The development of this sport is all the easier with regard to the almost natural practice, the tactical aspect easily understandable or even the freedom of action. All these factors explain the success of this sport in the world, as evidenced by the World Cup, the most watched and most important sporting event on the planet.

"Sport is the world, it's Asia, it's the Arab countries. And through sport, we will open the world and we will give it a truly universal dimension" (Nicolas Sarkozy, Speech on the designation of Qatar for the World 2022)

A logic, also shared by P. Boniface, in his book Football and globalization:

"Football remains multipolar, allowing even troubled continents, such as Latin America or Black Africa, to shine"

Although the scope of sport can be debated as some countries are not as involved as others for economic or religious reasons, it is certain and approved. Thus, in general, the social, cultural, political, and especially legal dimension of sport in the world and consequently in France, is naturally more and more important.

An interdependent discipline

The legal and regulatory framework of sport is governed by a large number of texts. But the standards of reference remain precise and must be distinguished. Indeed, the law of sport finds its bases in two main categories of legal texts: common law and those specific to the subject.

Indeed, this is an **interdependent matter with common law**: the law of sport may depending on the case concerned be based on civil law with the example of tort, business law, the law of public health with the fight against doping or the right of education with the teaching of physical and sports activities. This right thus benefits from fundamental supports, from public or private law.

Nevertheless, this right preserves autonomy to the extent that some texts are specific to sport, such as the Professional Football Charter of 1973.

The legal particularism

All branches of public and private law deal with the law of sport, which makes it a real transversal right.

Moreover, public law interferes with private law and ... reciprocally. This is, moreover, one of the greatest peculiarities of sports law. It applies to associations, private or mixed commercial companies, athletes (private law subjects), but is part of a public law framework since it is controlled by the State for its organization, the latter proceeding by delegation of prerogatives of the public power for the benefit of sports federations.

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This particular particularism makes it possible to evade the legal vacuum, and thus confers on this right all its efficiency, which has been able to be forged over the years and according to legal progress.

The dates of the entry into force of the major texts relating to sports law

- June 23, 1894: creation of the International Olympic Committee in Paris (CIO)
- May 21, 1904: creation of the International Federation of Football Association (FIFA)
- April 7, 1919: creation of the French Football Federation (FFF)
- 1920: creation of the French Tennis Federation (FFT)
- Ordinance of August 28, 1945: 1st legislative text of sport, relating to the activity of associations, leagues, federations and sports groups
- 1958: creation of the National Union of Professional Cyclists (UNCP)
- November 16, 1961: creation of the National Union of Professional Footballers (UNFP)
- December 11, 1962: creation of the Union of Professional Football Clubs (UCPF)
- 1973: creation of the Professional Football Charter
- Mazeaud Law of October 29, 1975: on the development of physical education and sport
- Avice Law of July 16, 1984: relating to the organization and promotion of physical and sports activities

- *Bambuck Law of June 28, 1989: relating to the prevention and the repression of the use of doping products during the competitions and sports events*
 - *May 23, 2006: Codification of laws and texts on sport*
 - *June 9, 2010: law governing the profession of sports agent*
 - *February 1th, 2012: Act to strengthen the ethics of sport and the rights of athletes*
 - *Bill 2014: on the modernization of the organization and governance of sport*
 - *Act No. 2017-261 of 1 March 2017 (ION 2017-261 of 1 March 2017 to preserve the ethics of sport, strengthen the regulation and transparency of professional sports and improve the competitiveness of clubs)*
-

Sports law is a recent right (2).

Old as the world, sport is organized legally only recently.

The rules governing the world of sport were previously scattered in different codes: the Code of Education for the provisions on sports educators, the Code of public health for doping, the Code of Homeland Security for safety in stadiums , etc.

In 2004, article 84 of the law n ° 2004-1343 of December 9 authorizes the government to create by order the legislative part of the Code of the sport. Thus was born the Sport Code in 2004.

Sport law is a varied right.

Sports law is a subject that deals with almost every aspect of the law.

The contract of employment of an athlete will be generally governed by the labor law, the sponsorship contract concluded by a player with a mark will be subject to the rules of contract law, a sports association will be in connection with public law in its relations with local authorities, etc.

The Sport Code brings together the majority of sport law rules and mentions links to other provisions.

Example: The Sport Code refers to certain offenses in the Penal Code.

The law of sport is a right in perpetual evolution.

Due to its recent birth and codification, the law of sport is subject to regular changes and changes.

Since 2004, many laws have come to make changes to the subject.

The latest legislative evolution dates from the law n ° 2017-261 of March 1, 2017 (Law n ° 2017-261 of March 1, 2017 aiming to preserve the ethics of sport, to reinforce the regulation and the transparency of the professional sport and to improve competitiveness of clubs).

In addition to the specific provisions, such as those on agents, which are the subject of a particular development, this law contains several different provisions.

So :

- The provisions of the law on the transparency of public life have been extended to the presidents of delegated sports federations, professional leagues and to the presidents of the French National Olympic and Sports Committee and the French Paralympic and Sports Committee.
- The rights granted to civil parties are granted to associations, sports companies and professional leagues.
- Conditions of good repute have been added for the exercise of sports teaching duties.
- **The delegated federations** must lay down the technical rules specific to their discipline as well as the rules whose purpose is to control their application and to sanction their non-respect by the actors of the sports competitions.
- Criminal Code provisions are amended to include the sport bribery offense.
- The loan guarantee of local authorities for the financing of sports equipment has been removed.
- The law provides for the promotion of the development and media coverage of women's sport, notably through the creation of the Permanent Conference for Women's Sport with the Minister of Sports.
- It is now authorized to conclude agreements relating to the measures implemented to fight against the access and the making available to the public online, without right or authorization, audiovisual contents whose exploitation rights have is the subject of an assignment by a federation or other organizers. This is about the fight against sports streaming.

This perpetual evolution of the law of sport is perfectly illustrated by the arrival of "e-sport".

The law of October 7, 2016 for a digital Republic devotes its articles 101 and 102 to the competitions of video games. Henceforth, video game competitions are governed by the Internal Security Code and the competitive professional video game gaming player has its legal definition.

The mediatization

Very quickly, the retransmissions of sporting events will allow television to be a factor of development and audience.

By continually increasing its financial contribution and taking advantage of new and constantly innovating technologies, channels have been at the origin of the boom that the world of sport is experiencing today.

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Professional sports unions

Ignored by the world of sport, the law appeared there in the late 1950s.

Sports professionalism was born in France with football in the early 1930s (January 17, 1931, the National Council of the FFFA (Federation of French Football Association) adopts the principle of professionalism which results in the vote five months later the status of professional player), quickly followed by cycling.

But the contractual relations between sportsmen and their employers most often disregarded the law.

It is then that, under the impetus of Jacques BERTRAND, a real forerunner in the field, will be created the first associations of professional sportsmen. Thus, the UNCP (National Union of Professional Cyclists) in 1958, with Jacques ANQUETIL and Louison BOBET; the UNFP (National Union of Professional Footballers) in 1961 with Just FONTAINE and Eugène N'JOLEA and the UNBP (National Union of Professional Boxers) with Germain BALLARIN were born.

They have since been followed by many others. Today, every sport knows an association of defense of its athletes of High level.

Jacques BERTRAND will still be the founder of FifPro (International Federation of Professional Footballers) on December 15, 1965 and FNASS (National Federation of Sports Associations and Unions).

<https://www.bertrand-sport-avocat.com/droitdusport/droit-du-sport/histoire>

THE LISBON TREATY AND SPORT

http://franceolympique.com/art/1115-le_traite_de_lisbonne_et_le_sport.html#para_1

1. Presentation
2. The main changes introduced by the Lisbon Treaty
3. The impact of the Lisbon Treaty on sport
4. Common Position of the Olympic and Sports Movement
5. The provisions of the Lisbon Treaty in the field of sport

Presentation



The entry into force of the Lisbon Treaty on 1 December 2009 marks the culmination of the efforts of the sports movement in France and Europe to provide a legal basis for European Union action in the field of sport. Articles 6 and 165 of the Treaty on the Functioning of the European Union (TFEU) explicitly refer to sport and recognize its specific nature. Sport is now part of the support skills of the European Union.

Until now understood from a strictly economic angle, its social and educational role, as well as the importance of its voluntary activities, will now be taken into account by the EU institutions in the application of European law.

In addition, sports organizations will be able to benefit from new European funding opportunities as a program dedicated to financing sports projects is being prepared.

However, the European Union does not have any exclusive competence in this area; it will only play a role of supporting and promoting the actions of the Member States, in accordance with the principle of subsidiarity.

The main changes introduced by the Lisbon Treaty

- The European Community and its pillar structure disappear, leaving only the "European Union", which has legal personality.
- The Presidency of the European Council gives a voice and a face to the European Union and ensures its representation for a period of two and a half years.
- The European Council (composed of Heads of State and Government) is elevated to the rank of European institution. The other six institutions are: the European Parliament, the European Commission, the Council of the European Union, the Court of Justice of the European Union, the European Central Bank and the Court of Auditors.
- Establishment of a double majority in the Council of the European Union. To be adopted, a decision must be supported by 55% of the Member States representing at least 65% of the population of the European Union.
- The creation of the position of EU High Representative for Foreign Affairs and Security Policy, which is at the head of the European External Action Service, will bring greater coherence to the EU's external relations.
- The European Parliament gains more power thanks to the generalization of the codecision procedure, which becomes the ordinary legislative procedure. National Parliaments, for their part, must be informed by the European Commission of any draft decision that may go against the principle of subsidiarity and have an early warning procedure in order to oblige the European Commission to verify its project with regard to the principle of subsidiarity.

Pour consulter le Traité : http://europa.eu/lisbon_treaty/full_text/index_fr.htm

The impact of the Lisbon Treaty on sport

The Lisbon Treaty offers for the first time a legal basis for sport in Articles 6 and 165 of the Treaty on the Functioning of the European Union. Article 6 grants the EU *"actions to support, coordinate or complement action by Member States"* in the field of sport. Article 165 provides in particular that *"the Union shall contribute to the promotion of European sporting issues while taking into account its specific features, its voluntary structures and its social and educational function"* and that *"action of the Union aims at: (...) developing the European dimension of sport"*.

The consequences of these articles on sport are of three kinds: legal, institutional and financial.

1. Legal implications

- The European Union has no exclusive competence in the field of sport but a support and promotion competence. The provisions of the Treaty concerning the internal market or competition continue to apply, while taking into account the specificities of sport, its voluntary structures and its social and educational function. It will therefore be necessary to analyse the scope that will be given to the specificity of sport.
- The EU can not adopt any compulsory legal acts (regulations and directives) or undertake any harmonization of national legislation in the field of sport. It must be limited to positions and recommendations.
- Most sport-related competencies remain with Member States, with the EU only able to adopt incentives or non-obligatory actions. EU action in the field of sport is therefore subject to the principle of subsidiarity.

2. Institutional implications

- Within the European Commission, the "Sport" Unit, part of the "Education and Culture" Directorate-General, gets new skills. The European Commission also published in January 2011 a communication on the application of the Lisbon Treaty in the field of sport.
- Within the EU Council of Ministers, a "sport" working group as well as a formal training

of Sports Ministers have been set up. The Council will adopt with the European Parliament the support measures to be proposed by the European Commission.

- Already having budgetary powers in the field of sport, the European Parliament acquires legislative competence. He will now be involved in sports matters through the codecision procedure.

3. Financial implications

- Article 165 TFEU provides a legal basis for the creation of a specific funding program for sports projects. This program should be implemented by the European Commission from 2014. In the meantime, the funding program "preparatory measures in the field of sport" remains valid for the years 2010 and 2011. In addition, sport is included in the program. other European funding policies and programs.

Common Position of the Olympic and Sports Movement

The Olympic and Sports Movement has drafted a unified common position on how the wording on sport contained in the Lisbon Treaty should be put into practice. The International Olympic Committee (IOC), the European Olympic Committees (EOC), the Association of International Olympic Winter Sports Federations (AIOWF), the Association of International Summer Olympic Sports Federations (ASOIF) and SportAccord (formerly AGFIS) are the different signatories.

The main part of the common position concerns the definition of the "specificity of sport", which should be better taken into account by Article 165 TFEU. The signatories also plead for an explicit commitment by the European authorities to the autonomy of sports organizations. Following a tradition now established, the Olympic and Sports Movement intends to continue and intensify the dialogue with the European institutions in order to achieve, in the future, sustainable results for sport.

In particular, the Olympic and Sports Movement calls for:

- Apply European competition law and internal market rules taking into account the "specific nature of sport", especially with regard to the free movement of persons.
- To support the integrity of sport and, in particular for the European Commission, to assume the initiative of cooperation between Member States concerning the fight against doping and against fraudulent sports betting.
- Intensify the integration of sport into other EU policies such as health, education, social integration and cultural policy.

The common position was sent simultaneously to the members of the European Commission and the European Parliament in February 2010.

Consult the common position

The Lisbon Treaty provisions in the field of sport

Article 6 TFEU

The Union has the competence to take action to support, coordinate or supplement the action of the Member States. The fields of these actions are, in their European purpose: (...)

e) education, vocational training, youth and sport; (...).

Article 165 TFEU:

1. The Union shall contribute to the development of quality education by encouraging cooperation between Member States and, where necessary, supporting and complementing their action while fully respecting the responsibility of the Member States for the content of education and the organization of the education system as well as their cultural and linguistic diversity.

The Union contributes to the promotion of European sporting issues, while taking into account its specificities, its structures based on volunteering as well as its social and

educational function.

2. The action of the Union shall

to develop the European dimension in education, in particular by learning and disseminating the languages of the Member States;

to promote the mobility of students and teachers, including by encouraging the academic recognition of diplomas and periods of study;

to promote cooperation between educational institutions;

to develop the exchange of information and experience on issues common to the education systems of the Member States;

to promote the development of exchanges of young people and youth workers and to encourage the participation of young people in the democratic life of Europe;

to encourage the development of distance education;

to develop the European dimension of sport, promoting fairness and openness in sporting competitions and cooperation between the bodies responsible for sport, as well as protecting the physical and moral integrity of athletes, especially the youngest 'between them.

3. The Union and the Member States shall promote cooperation with third countries and relevant international organizations in the field of education and sport, and in particular with the Council of Europe.

4. To contribute to the achievement of the objectives referred to in this Article:

the European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions, shall adopt incentive measures, to the exclusion of any harmonization of the laws and regulations of the Member States ;

the Council adopts recommendations on a proposal from the Commission.

ORGANIZATION OF PHYSICAL AND SPORTS ACTIVITIES - INSTITUTIONS IN SPORT - ORGANISMS IN SPORT

Updated at 11/02/2019

INTRODUCTORY TITLE - THE ORGANIZATION OF PHYSICAL AND SPORTS ACTIVITIES

Section 1: Law of July 1, 1901 relating to the contract of association Section 1: Decree of August 16, 1901 taken for the execution of the law of July 1, 1901 relating to the contract of association

In law of associations, an **association** law 1901 is, in general, in France and in many countries colonized at the time by France, a **non-profit** association which falls under the law of July 1, 1901 set up by Waldeck-Rousseau (former Minister of the Interior, then President of the Council) and the decree of August 16, 1901.

According to article 1 of the law of 1st July 1901:

"The association is the convention by which two or more persons permanently pool their knowledge or their activity for a purpose other than to share profits. It is governed, as to its validity, by the general principles of law applicable to contracts and obligations. "

The 1901 law actually defines very few things. The association is a private law contract.

This law leaves freedom to creators and association members.

Section 2: Decentralization Act and Community Code

Decentralization in France (not to be confused with deconcentration) is *"a process of development of the unitary state that consists of transferring administrative powers from the state to local entities (or communities) distinct from it"*. With the transfer of certain competences (including that of organizing the practice of sports activities and their promotion on their territories) to a community, the State must also transfer the corresponding resources. This decentralization of the Republic is enshrined in the Constitution whose article 1 specifies "the organization [of the French Republic] is decentralized".

This competence allows, among other things, local authorities (cities, communities of agglomerations, county councils, regional councils) to organize sports services headed by Territorial Advisers of APS (CTAPS, category A competitions), Territorial Educators. APS (ETAPS, Category B competition) and APS Operators (Category C).

A dual process of territorial decentralization and functional decentralization began with the creation of the departments, then was revived by the Defferre laws passed in 1982 by the Mauroy government, shortly after the 1981 presidential election that brought François Mitterrand (PS) to the power.

A- Institutional decentralization

Decentralization is the state's responsibility to transfer competencies to the moral persons it creates (as opposed to deconcentration, which is the transfer of powers within the state; creation of a legal person). These legal entities may have a general vocation (territorial decentralization = local authorities that have jurisdiction over all matters in their territory) or a specific vocation (functional decentralization = public institutions, which have jurisdiction

only for what their statutes determine). There is a third category of decentralization, which includes the special cases of the Banque de France and public interest groups.

B- Décentralisation fonctionnelle

Related article: Public institution.

It will appear from the moment when a legal entity under public law (State or local authority) decides not to manage a public service but to transfer its management to a separate body known as a public institution, as it was the case in France for universities, public hospitals, national museums, regions from 1972 to 1982).

The public establishment will have a certain autonomy that will be able to manifest itself at the level of the budget and also a certain freedom of management for technical purposes. Institutions are most often subject to a specialty principle (for example, the university is a public institution responsible for managing higher education).

The establishment has legal personality; it is therefore a legal person distinct from the person who creates it. But public institutions do not have the same protection as local authorities, since they can always be removed by the person who created them, while for communities, the state (which created them) can not, for political reasons, delete them.

Despite the theoretical freedom of management of public institutions, it often happens in practice that the creative moral person actually holds the reins. In addition, there is a supervisory control exercised by the relevant Minister for national public institutions and local authorities for local public institutions.

C- Territorial decentralization

Territorial decentralization aims to give territorial communities their own powers, distinct from those of the State, to elect their authorities by the population and thus to ensure a better balance of powers throughout the territory. Decentralization brings citizens' decision-making closer together, favoring the emergence of a local democracy. It takes on its full meaning when it gives these communities sufficient control of the financial resources they need.

D- Deconcentration

Deconcentration is a very distinct concept; it aims to improve the effectiveness of the State's action by delegating certain powers of the central administrative level to local officials, that is to say to the prefects, to the departmental directors of the State services or to their subordinates.

The state deconcentrates its Ministry of Sports within DRDJSCS and DDCS, at the level of Regions and Departments. Within these entities work sports teachers (competitions of category A of the Ministry of Sports): their managerial functions, make them sportsmen in the service of associations, practitioners, and sports movement in general.

There are also Sports Teachers seconded from the Ministry of Sports within the Delegated and Authorized Sports Federations (Technical Advisers, National Coaches, National Technical Directors, Project Managers ...), within labeled Poles, CREPS, INSEP .

The **General Code of Territorial Collectivities (CGCT)** brings together, in France, legislative and regulatory provisions relating to the law of local authorities.

Its legislative part was promulgated in 1996 and the regulatory part in 2000 only. Upon its promulgation, the general code of territorial collectivities is adopted at constant law, that is to say without new rule of law in relation to the texts in force. It synthesizes and orders over two centuries of laws concerning territorial administration, the first of which dates back to the Convention (1791). This codification work contributes to the simplification of access to the

law in France, in particular by reducing the number of previously dispersed laws and decrees, now gathered in a single reference document, and reordered according to a plan facilitating understanding of the rules. .

Section 3: Law No. 84-610 of 16 July 1984 on the organization and promotion of physical and sports activities

Sport governance: an original model of organization undergoing change?

The organization of sports policy in France has for more than 50 years been based on two fundamental principles: the delegation by the State of the animation and management of sport to structures essentially associative on the one hand, and solidarity within federations between amateur and professional sports, on the other hand. Until the early eighties, this model has two major players: the state services and the sports movement, itself articulated between the federal system specific to each sport and its shared representation, through the National Committee Olympic and sporting French.

A public service of sport more and more delegated:

Very interventionist from 1958 to 1966, the policy led by Maurice Herzog at the head of the Office of the High Commissioner for Youth and Sports lays the regulatory and ideological basis of a sport considered a public service. The state invests in all sports fields: sports equipment, organization of competitions, sports medicine, executive training, women's sports ... In 1966, the creation of a "sports ministry" crowns this building.

Among the major texts that structure the politics of sport is the law of July 16, 1984, known as the Avice law, which replaces the law of October 29, 1975, known as the Mazeaud law. The Avice law provides that the approved sports federations participate in the execution of a public service mission and are responsible for *"developing and organizing the practice of sports activities, providing training and development for their volunteer and to issue the federal titles "*.

The law of 1984 and the subsequent texts which modified it, in particular the law of July 6, 2000, known as Buffet law, carefully organize the statute and the role of the sports federations and the sports groups, above which **the National Olympic and Sports Committee (CNOSF)** is located, whose powers have increased. The law also regulates the role of local authorities, high-level sports, medical surveillance, insurance, equipment and event safety, sports equipment programming, occupational training, and even spaces, sites and itineraries related to nature sports!

The law of 6 July 2000 sets the framework for the **public service** of sport and reaffirms the principle of the recognition of a close complementarity between the State and the sports movement.

The Sport Code (ordinance of 23 May 2006 for its legislative part, decrees of 24 July 2007 for the regulatory part) constitutes the framework of the organization of sport and derives from article 84 of the law n ° 2004-1343 of the December 9, 2004 simplification of the law.

These are the bases on which sport policy is still based.

Section 4 : Sport Code

The French Sport Code belongs to all the specialized codes that constitute civil law.

In 2004, the Ministry of Youth, Sports and Community Life wanted to be part of the overall approach of the French State to improve the intelligibility and accessibility of the law.

This desire resulted in an order (Article 84 of Law No. 2004-1343 of 9 December 2004 simplifying the law). The sports code replaces several French laws, in particular Law No. 84-610 of 16 July 1984 on the development of physical and sports activities. It also recodifies

certain provisions previously contained in the Education Code (on school and university sport) and in the Public Health Code (on doping).

The Sport Code thus created (by the method of constant law codification), includes four books:

- Organization of physical and sports activities.
- Actors of sport (sportsmen, referees, coaches, coaching clubs and teachers outside national education).
- The different modes of sports practice, the safety and hygiene of the places of practice, as well as the organization and operation of sports events.
- The financing of sport and the application of the code to local authorities overseas.
- The legislative part has been published as an appendix to Order No. 2006-596 of 23 May 2006 on the legislative part of the sport code, and is available on Légifrance.
- The regulatory part was published as an appendix to decrees 2007-1132 and 2007-1133 of 24 July 2007.

This set of laws and modes of political organizations (including that of sport) in France leads to recognize the desire and concern of sport in France, in parallel with that of health. This leads us to question the relationship between social organization and economic means within a state, and the ability to produce World and Olympic medals, which express for the media and the general public the ultimate consecration. of any sporting practice:

PRELIMINARY TITLE: GENERAL PRINCIPLES

ORGANIZATION OF PHYSICAL AND SPORTS ACTIVITIES

Sport Code Legislative Part BOOK I:

Article L100-1 and following of the Sport Code

Physical and sport activities are an important part of education, culture, integration and social life.

They contribute in particular to the fight against school failure and the reduction of social and cultural inequalities, as well as to health.

The promotion and development of physical activities and sports for all, especially for people with disabilities, are of general interest.

Equal access of men and women to sports activities, in all their forms, is of general interest.

TITLE I: PUBLIC INSTITUTIONS

CHAPTER I: State

The State.

Sport Code Legislative Part BOOK I TITLE I: PUBLIC PEOPLE Chapter I: State

Sport Code Legislative Part

Article L111-1 and following of the Sports Code

I.- The State ensures or controls, in liaison with all the interested parties, the organization of the trainings leading to the different professions of the physical and sports activities and the issuance of the corresponding diplomas.

It contributes to the training of sports executives specialized in supervising the physical and sports activities of disabled people.

II.-The State exercises the supervision of sports federations.

It ensures compliance with the laws and regulations in force by the sports federations.

CHAPTER II: National public institutions

National Public Institutions

Code Du Sport Regulatory Part - Decrees BOOK I: ORGANIZATION OF PHYSICAL AND SPORTS ACTIVITIES TITLE I: PUBLIC PEOPLE

Section 1: General Provisions

Article R112-1 and following of the Sport Code

The public institutions mentioned in this chapter participate in the implementation of the policy defined by the Minister of Sports. They are placed under its supervision and, unless otherwise stipulated, constitute public administrative establishments.

Section 2: The National Center for Sport Development

National Center for Sport Development

Section 3: Public Training Institutions

N / A

Section 4: The National Sports Museum

N / A

CHAPTER III: Territorial Communities

Sport Code Legislative Part

Article L113-1 and following of the Sports Code

For **missions of general interest**, sports associations or sports companies may receive public subsidies. These grants are the subject of past agreements, on the one hand, between the local authorities, their groupings as well as the public institutions of intercommunal cooperation and, on the other hand, the sports associations or the companies they constitute.

Code du Sport Regulatory Part - Decrees BOOK I: ORGANIZATION OF PHYSICAL AND SPORTING ACTIVITIES TITLE I: PUBLIC PEOPLE Chapter III: Territorial Collectivities

Single Section: Community Aid

Article R113-1 and following of the Sport Code

The maximum amount of subsidies that the sports associations or the companies they constitute pursuant to Article L. 122-1 may receive, pursuant to Article L. 113-2, local authorities, their groupings or public institutions of intercommunal cooperation, can not exceed 2.3 million euros for each sporting season of the discipline concerned.

The missions of general interest mentioned in Article L. 113-2 concern:

1 ° The training, the improvement and the educational or professional insertion of young athletes hosted in approved training centers under the conditions provided for in Article L. 211-4;

2 ° The participation of the association or society in education, integration or social cohesion actions;

3 ° The implementation of actions aimed at improving public safety and preventing violence in sports arenas. However, the subsidies of the collectivities mentioned in article R. 113-1 can not be used to finance the expenses resulting from the implementation of the article L. 332-1,

nor the remunerations paid to companies subjected to the Law No. 83-629 of 12 July 1983 regulating private surveillance, security and cash-in-transit activities.

CHAPTER IV: Distribution of missions and competences between the State and the regions in the organization and functioning of the centers of resources, expertise and sports performance

CHAPTER V: Special provisions relating to certain management structures of public services of sport

Article L115-1 and following of the Sport Code

TITLE II: FEDERATIONS AND REPRESENTATION AND CONCILIATION AGENCIES

CHAPTER I - The Olympic Movement

Section 1: The structure

(CNOSF) A- The French National Olympic and Sports Committee

B - CDOS and CROS

Section 2: Missions

Section 3: Conciliation

A - The principle of conciliation

B - The conciliators' conference

C - The procedure

In France, the Olympic movement occupies a special place because it is the privileged interlocutor of the Ministry of Sports to which it ensures the representation of the sports world.

He also represents the **International Olympic Committee (IOC)** in France, which has charged him with applying the **Olympic Charter**.

He is also in charge of a conciliation mission, a sort of pre-jurisdictional settlement of conflicts. Lastly, it has a Sports Arbitration Chamber.

Section 1: The Structure

A- The French National Olympic and Sports Committee

French Olympic and Sports Committee (CNOSF)

<http://cnosf.franceolympique.com/cnosf/>

Created in 1971 from the merger of the French Olympic Committee and the National Sports Committee, the CNOSF is an association recognized by public utility whose statutes are approved by a decree in Council of State.

The CNOSF is in particular a representative organ : It takes care of the interests of sports associations and sports trading companies, federations and their licensees.

Organization:

It is thus composed of

- federations approved by the Minister of Sports,
- French members of the IOC,
- top athletes who have taken part in the Olympic Games,
- Presidents of French nationality of international federations,
- members of the Management Committee of the National Council of Regional Olympic and Sports Committees (CROS)
- and the Departmental Olympic and Sports Committees (CDOS),
- finally, personalities who render or have rendered outstanding services to French sport.

The CNOSF is governed by a Board of Directors composed, in addition to the ex-officio members (members of the IOC French nationality), of more than 40 directors grouped in representative colleges of categories of members (representatives of the Olympic, non Olympic, federations multisport, athletes, school and university federations, CROS and CDOS, etc.).

The CNOSF is administered by an Executive Board composed of 7 members, including the President, the Secretary General and the Treasurer General. The majority of members must be from Olympic federations. He is vested with the broadest powers to act in all circumstances on behalf of the CNOSF.

The conference of conciliators is the most original organ. It brings together personalities recognized for their legal skills and their knowledge of the sports movement and who agree to take on, on a voluntary basis, the conciliation mission incumbent on the CNOSF.

The normative work of the CNOSF is developing through the ethics committee. Among its 9 members, 3 have legal skills, 3 in scientific, medical or technical fields and 3 are recognized for their experience and influence in sport.

B - The Departmental and Regional Olympic and Sports Committees (CDOS and CROS)

These are the French Departmental and Regional Olympic Committees.

These organs implement, at the local level, in the name and under the control of the CNOSF, some of its missions.

These are associations whose statutes must be approved by the CNOSF.

They are the interlocutors of the Olympic movement in the framework of the consultation with the territorial public authorities.

They report annually to the CNOSF Board of Directors.

Section 2: The Missions

In France, the CNOSF occupies a special place because it is the privileged interlocutor of the Ministry of sports to which it ensures the representation of the sports world.

The CNOSF represents sports associations and societies, federations and their licensees with public authorities and official bodies.

It is also involved in the decision-making process of the federations since it gives its opinion on standard regulations or publication by the federations of their regulatory decisions.

He acts in court for the defense of the collective interests of the sports movement.

The CNOSF also conducts activities of common interest on behalf of the federations to encourage the development of high performance sport and sport for all. He also participates in the prevention of doping.

The CNOSF also represents the **International Olympic Committee (IOC)** in France.

He is responsible for spreading the fundamental principles of Olympism defined by Pierre de Coubertin and contained in the Olympic Charter. The CNOSF opposes any use of the Olympic symbol, flag, motto, and anthem that would be contrary to the provisions of the Charter and to ensure the protection of the terms "Olympic" and "Olympiad" whose Code sport gives him ownership.

The CNOSF is responsible for collaborating in the preparation and selection of French athletes and ensuring their participation in the Olympic Games. The Sport Code confers on it the exclusive competence to constitute, organize and lead the French delegation to the Olympic Games.

He is responsible for the behaviour of the members of the delegation and may designate the French city that can apply for the organization of the Games.

The CNOSF is also responsible for ensuring respect for the **Olympic Charter** in France. It must define, in accordance with the Charter, the ethical rules of sport and ensure their observation.

The CNOSF is entrusted by law with a conciliation and arbitration mission in disputes between licensees, sports groups and approved federations, with the exception of disputes involving doping offenses.

It also has a **sports arbitration chamber**.

Section 3: Conciliation

A -The principle of conciliation

The **French National Olympic and Sports Committee (CNOSF)** is entrusted with a **conciliation mission** in conflicts between licensees, sports agents, sports associations and sports societies and approved sports federations, with the exception of conflicts involving doping facts.

Before any contentious appeal against a decision taken by a federation in the exercise of prerogatives of public authority, it is necessary to refer to the **National Olympic and Sports Committee (CNOSF)** for conciliation.

This is a **mandatory prerequisite for any litigation**.

Where the dispute concerns an individual decision, the execution of that decision shall be suspended from the notification of the act appointing the conciliator to the author of the contested decision.

The conciliator is appointed by the chairman of the conciliators' conference.

The suspension of the contested individual decision ends with the notification of conciliation measures to interested parties. This notification shall be made no later than one month after the referral and shall contain proposals for conciliation measures.

➤ Decree No. 2015-651 of 10 June 2015 amended the rules applicable to sports litigation with the aim of improving the handling of contentious appeals against individual decisions taken by sports federations or professional leagues exercise of their prerogatives of public power.

Two main changes took place:

➤ shorter protest periods.

The decree reduces the deadline for referral to the **French National Olympic and Sports Committee (CNOSF)** for conciliation for a period of 15 days.

Following the conciliation hearing, while the parties had a period of one month to oppose the proposal made by the conciliator, the parties will have only 15 days to accept or reject the proposal.

As a result of the conciliation procedure by the **French National Olympic and Sports Committee (CNOSF)**, the litigation period for referral to the competent Administrative Tribunal is reduced to 1 month.

➤ The jurisdiction of the administrative court.

Previously, it was appropriate to seize the administrative court in whose jurisdiction the residence or the registered office of the applicant (the sportsman or the club) was located.

From now on, it is necessary to seize the administrative court in the jurisdiction of which is located the headquarters of the federation having taken the contested decision.

B - The Conference of Conciliators

The conciliators' conference is composed of at least 13 members and at most 21 members recognized for their knowledge of the organization of sports activities and their competence in legal matters. These personalities are appointed for the duration of the Olympiad (4 years) by the Board of Directors of the **French National Olympic and Sports Committee (CNOSF)** on the proposal of its ethics committee. They perform their duties on a voluntary basis.

The conference of conciliators chooses among its members and for the duration of an Olympiad, a president and a vice-president. The chairman of the conciliators' conference is responsible for coordinating the work of the conciliators, ensuring the distribution of the files to be processed and preparing an annual activity report.

C - Procedure

1) Conciliator's Referral and Application Direction

The request for conciliation is sent to the chairman of the conciliators' conference by registered letter with acknowledgment of receipt and must mention the name and address of the party requesting the conciliation procedure. It contains the facts, arguments and conclusions of the plaintiff, who must have a direct and personal interest in acting.

When it is directed against a decision, the application must, on pain of inadmissibility, be accompanied by a copy of it.

The President of the conciliators' conference shall carry out a prior check of the conciliation application and shall notify without delay, by reasoned decision, the rejection of the application when:

- Does not fall within the competence of the conciliators' conference
- Is manifestly inadmissible and not likely to be covered later
- Is manifestly ill-founded

When the request is admissible, the President of the Conference of Conciliators designates one or more conciliators to examine the case. The names of the conciliators shall be notified to each party who has the option of challenging the conciliators thus appointed within three days of receipt of such notification for one of the following reasons:

- Relationship or alliance of conciliators with one of the parties

Community or opposition of interest between the conciliators and one of the parties.

- Interest or intervention of the conciliators in the dispute

This request for disqualification shall be decided by the chairman of the conciliators' conference or, if he is concerned, by the vice-chairman. In case of recusation of the conciliators, it is provided for their replacement in the same forms and deadlines as an initial designation. After their appointment, the conciliators shall fix the date of the conciliation hearing and notify it to the interested parties.

2) The Hearing and Conciliation Measures

The conciliation hearing takes place at the premises of the **French National Olympic and Sports Committee (CNOSF)**, unless otherwise decided by the conciliator. She is not public.

The parties attend the debates themselves and may be assisted or represented by counsel of their choice and may call witnesses or experts at their own expense.

During the hearing, the parties, their counsel or representatives are invited to discuss.

When an agreement, even partial, has been reached at the hearing, it is noted by minutes bearing the signatures of the conciliators and parties present and communicated on the spot to those parties who immediately acknowledge receipt. In the absence of agreement at the hearing between the parties, the conciliators notify them of conciliation measures.

➤ The decree of June 10, 2015 relating to the treatment of sporting disputes modified the timeframes of the conciliation procedure before the **CNOSF**.

From now on, article R.141-7 states that *"Within one month of the referral, the conciliator, after having heard the interested parties, proposes conciliation measures. Such measures shall be presumed to be accepted by the parties, unless the conciliator and the parties have been notified of the opposition, within fifteen days of the formulation of the conciliator's proposals to the parties."*

The measures proposed by the conciliators are deemed to be accepted by the parties and must be applied as soon as they are notified. This opposition can only be taken into account if it is notified to the conciliators and to the other parties by registered letter with acknowledgment of receipt.

In case of further appeal to the courts, the proposal for conciliation is transmitted to the competent court by the President of the conciliators' conference.

ESSENTIAL

The **French National Olympic and Sports Committee** is the institution that represents the Olympic movement in France. CROS and CDOS are its local branches.

The missions of the **CNOSF** are diverse:

- Representation of the **IOC** in France and application of the **Olympic Charter**
- Representation of the sports world with local authorities and the Minister of Sports
- Conciliation body

Conciliation before the **CNOSF** is mandatory before any judicial appeal according to article R.141-5 of the Sport Code. It is carried out by a conciliator appointed by the President of the Conference of Conciliators.

If no agreement is reached during the hearing, *"within one month of the referral, the conciliator, after having heard the interested parties, propose conciliation measures"* (**article R141-7, C. sport**).

CHAPTER II: The National Federal Movement

Section 1: The approved federations

A - Characteristics

B - The missions

Section 2: The delegated federations

A - Characteristics

B - The missions

Section 3: Professional Leagues

A - Characteristics

B - The missions

Section 1: Authorized Federations

Federations approved by the Minister of Sport

A- Characteristics

According to **Article L.131-8 of the Sports Code**, an authorization may be issued by the Minister for Sports to the federations which, in order to participate in the performance of a public service mission, comply with the following conditions:

- Take care of one or more sports
- To have adopted statutes, some of which are mandatory, guaranteeing the democratic functioning, the transparency of management and the equal access of men and women to the executive functions
- To have adopted a disciplinary regulation in conformity with that contained in annex I-6 of the Sport Code
- To have adopted a specific disciplinary regulation in the fight against doping in conformity with the prescriptions of the article L.3634-1 of the Code of the public health
- Justify an existence of at least 3 years and be able to offer to all members the administrative structures and technical supervision required for the practice of discipline

Approval may be withdrawn from the federation which ceases to fulfil the conditions and in particular:

- In case of modification of the statutes or the compulsory regulations incompatible with the conditions fixed
- For a serious reason resulting from the violation of its statutes or a breach of public order
- For lack of knowledge of hygiene and safety rules
- For lack of knowledge of the provisions of **articles L.212-1 and following**
- For a general interest reason which focuses on the promotion and development of physical and sports activities

The accreditation recognizes the participation of the federation in a public service mission. It therefore authorizes it to ask the State for financial assistance and a staff competition awarded under conditions set by a convention of objectives.

The approved federations are placed under the supervision of the General Inspectorate of the Ministry of Sports, the Inspectorate of Finances and the Court of Auditors.

B- The missions

The approved federations are responsible for the promotion of education through physical and sports activities. They must, among other things, provide access for all to sports practices, ensure the development of leaders, trainers, federal coaches, promote the organization and acceptance of the practice of arbitration, especially for young people.

They can issue national or federal championship titles and regional or departmental titles by following these titles with the mention "Federation".

They also exercise disciplinary power over all of their members.

They also have a normative power over their members in that they enact statutes, rules of procedure, disciplinary regulations, and financial regulations.

Section 2: delegated federations

Delegate federations

A- Characteristics

According to article 131-14 of the Sport Code, only one **approved federation** in each discipline may:

- Receive, for a fixed term, the **delegation** of the Minister in charge of Sports to organize the sports competitions at the end of which are issued the international, national, regional or departmental titles
- Make the corresponding selections, and propose the inclusion on the lists of athletes, coaches, referees and high-level judges, on the list of athletes Hopeful and on the list of training partners.

To receive this delegation, the federation must:

- Have been incorporated to organize the practice of a single sport or related disciplines
- Have been approved

Its regulations must provide:

- The publication, before the beginning of the sports season, of an official calendar of the competitions that it organizes or authorizes, giving to the athletes the recovery time necessary for the protection of their health
- The organization of a special medical surveillance of its licensees registered on the lists of high level athletes

The decree of the Minister granting the delegation is taken after consulting the CNOSF and

published in the Official Journal. The delegation is granted for a period of 4 years corresponding to the Olympic cycle of the discipline in question. At the end, the delegation ceases automatically. The delegation may be withdrawn when the federation ceases to fulfill the necessary conditions.

B- The missions

The monopoly of organization of the discipline enshrined in Article L.131-14 of the Sports Code is guaranteed by penal provisions punishing a fine of € 7,500 for organizing without holding the delegation, sports competitions at the end of which are awarded international titles, national, regional, departmental, or a title likely to create confusion with them.

According to article R.132-10 of the Sport Code, the delegated federations are responsible for issuing sporting licenses and sporting agent licenses, organizing and supervising athletes in accordance with the Code. public health, the selection and management of teams bearing the name "Team of France", the accession to the practice of high level sport and the approval of sports equipment.

They also have a normative power for:

- To enact the technical rules of the discipline
- Publish the rules of events open to their licensees
- To enact the rules of safety, supervision and deontology of their discipline

The delegated federations may also reproduce all or part of the regulations of the international federations in the norms they enact, provided they meet the conditions of legality laid down by the Conseil d'État and included in the Sports Code. They must make appropriate regulations to ensure the safety of the athletes and the events they organize.

They must publish each year an official calendar of events allowing athletes to have a recovery time to protect their health.

Article L.131-9 of the Sports Code states that, with the exception of professional leagues, delegated federations may not delegate all or part of their public service missions, any agreement to the contrary being deemed void and unwritten.

- The law of March 1, 2017 to preserve the ethics of sport has created an obligation for delegated federations.

Thus, article L.131-15-1 has been inserted in the Sport Code and states that: *"The delegating federations, if necessary in coordination with the professional leagues they have created, draw up a code of ethics and of ethics in accordance with the principles defined by the charter provided for in Article L.141-3.*

They set up a committee with independent powers of attorney, empowered to refer the matter to the competent disciplinary bodies and to ensure the application of this charter and to respect the rules of ethics, professional conduct, prevention and treatment of conflicts of interest. "

This provision must be completed by December 31, 2017.

Section 3: Professional Leagues

Professional league

A- Characteristics

Article L.132-1 of the Sports Code states that delegate federations may create a professional league for the representation, management, coordination of professional sports activities of associations affiliated with them and companies they have consisting. The law imposes a non-arm's length relationship between the delegated federation and the professional league, which results in an agreement drawn up for a period of not more than five years, specifying in particular the distribution of their powers. It also determines the conditions under which the delegate federation may grant to the professional league, for a period not exceeding four years, the marketing of the rights to exploit professional competitions.

B- The missions

Professional leagues are responsible for organizing professional championships. This results in the preparation, in collaboration with the federation, of the calendar of professional competitions and by the enactment of regulations that must not be in conflict with those of the delegated federation.

The professional leagues also participate, in collaboration with the delegated federations, in the setting up and control of the training centers, the implementation of the federal medical regulations, and the exercise of the right to information provided for in Article L.333-6 of the Sport Code.

The creation of the body responsible for the legal and financial control of associations and sports companies (example: the DNCG for football) falls under the exclusive competence of the delegated federation.

Article R.132-10 of the Sports Code reserving to the federations the exercise of the disciplinary power on appeal, the leagues know of these questions only in first instance.

ESSENTIAL

The national federal movement breaks down as follows:

- The approved federations which are responsible for the promotion of education through physical and sports activities
- The delegated federations that have the monopoly of organization of their discipline (article L.131-14 of the Sport Code)
- Professional leagues that have jurisdiction over all matters concerning the organization of professional championships.

Supplementary Section: Regional and Departmental Committees

According to Article 16 of the Act of 16 July 1984, federations may delegate to some of their powers within the limits of the territorial jurisdiction of the latter.

These associative structures representing federations at the local level are the privileged interlocutors of local authorities.

Decree No. 2004-22 of 7 January 2004 adopted for the application of Article 16 of Law No. 84-610 of 16 July 1984 on the authorization of sports federations and the mandatory provisions of the statutes of the federations approved sports and their standard disciplinary regulations set the conditions for participation in the life of the sports federations of the establishments they approve.

CHAPITRE COMPLEMENTAIRE : Autres organismes de concertation

Section 1 : Le Conseil national du sport

Sous-section 1 : Missions et attributions

Sous-section 2 : Composition

Sous-section 3 : Organisation

Paragraphe 1 : La formation plénière

Paragraphe 2 : La commission d'examen des projets de règlements fédéraux relatifs aux équipements sportifs

Paragraphe 3 : La commission de l'égalité des territoires

Paragraphe 4 : La commission éthique et valeurs du sport

Paragraphe 5 : La commission du sport de haut niveau

Section 2 : Le Conseil supérieur des sports de montagne

Section 4 : La commission professionnelle consultative des " métiers du sport et de l'animation "



DEFINITIONS

Mis à jour au 11/10/2018

