

Dr. Tone Jagodic
Olympic Committee of Slovenia, Ljubljana
Dr. Zlatko Mateša
Zagreb School of Economics and Management, Zagreb

THE AUTONOMY OF A NATIONAL OLYMPIC COMMITTEE AND THE RELATION WITH DIFFERENT LEGAL SUBJECTS AND ATHLETES

UDK: 769/799 : 34(4)
Primljeno: 10. 10. 2016.
Izvorni znanstveni rad

The autonomy of sports organizations is the basic principle which gives sport the possibility to develop in a specific way. Sports law represents the collection of specific legal rules which help sport organizations to manage the relationship among the subjects involved in sport. On the other hand it is necessary to use common legal rules and there are sometimes problems which legal rules should be respected. The principle of the autonomy of the NOC-s represents one of the backbones of the Olympic Movement and therefore it is interesting to find out where the autonomy also represents a special kind of independence and where the autonomy is limited by other subjects. There are some questions which are connected with the autonomy of a sport organization, such as - Are sport organizations really independent? - Are we aware of the political influence – the pressure by the government and other institutions? - Where is the backbone of the subordination of a governing body towards a sport organization? -What kind of a relationship amongst sports and governing bodies does exist; is the partnership a reality or an illusion?

After analyzing different situations in the organization of modern sport, we feel that our conclusion is more than evident. A constructive and inclusive dialogue between the government authorities and the sports organizations concerned is needed in order to establish a consistent sports policy and legislative framework which are compatible with both, the general principles of the law in the country and, the principles of the Olympic Movement and the rules of the international sports organizations.

Key words: *autonomy, specificity of sport, Olympic Movement, dialogue, EU Law*

1. INTRODUCTION

The importance of sport in different aspects is growing continuously. On the one hand, the organization of modern sport represents a lot of interesting questions as professional sport is getting very complex. On the other hand popularity of sport also attracts politics and economic world so much, that certain decisions of sports organizations get a lot of attention. The specific nature of sports organizations, the relationship among different subjects, the responsibility and consequences of

decisions and other matters also deserve certain attention from the legal point of view.

The National Olympic Committees (NOCs) constitute a vital part of the Olympic Movement deriving their rights from legal rules intended to regulate the relationship among the subjects of the "Olympic family". The Olympic Movement is the concerted, organized, universal and permanent action, carried out under the supreme authority of the International Olympic Committee (IOC), of all the individuals and entities who are inspired by the values of Olympism. In addition to the IOC, the Olympic Movement therefore includes the International Sports Federations (IFs), the National Olympic Committees (NOCs), the Organizing Committees for the Olympic Games (OCOGs), all other recognized federations, institutions and organizations, as well as athletes, judges/referees, coaches and other sports technicians.

The imperative of the Olympic Movement is to set a system with the exact rules how to govern the relationship among different subjects. The Olympic Movement has become global many years ago but the impact of the media made the importance of the decisions much more important than it was in the past. During the last Olympic Games in Rio de Janeiro in 2016 a lot of attention was also given to some matters which were not strictly connected with sports competitions and which might be very interesting from the legal point of view. The problems with selling tickets are still open and it is probably too early to make any kind of conclusion about this question. The Olympic Games are not only sports competitions and the commercialization is progressing, which underlines the different roles and increases the importance of the subjects involved in the Olympic Movement.

In the article we would like to examine the principle of the autonomy of the NOC-s which represents one of the backbones of the Olympic Movement and we will try to find out where the autonomy also represents a special kind of independence and where the autonomy is limited by other subjects. The mission of the NOC-s is to develop, promote and protect the Olympic Movement in their respective countries. The most essential task that each NOC must perform for the Olympic Games is to constitute, organize and lead their teams. The NOC decides upon the entry of athletes proposed by their respective national federations. The NOCs are also the only organizations that can select and designate the city which may apply to organize the Olympic Games in their respective countries. In addition, the NOC-s have an important role for the development of sport in their countries. Together with governmental bodies and institutions of sports science they are responsible for the development of different aspects in sport. Elite competitive sport is only one segment of their work as sport for all becomes more and more important following the modern trends of a healthy life of the population. As an NOC establishes a lot of relationships with different subjects it is interesting to find out the proper position of the NOC towards governmental bodies, the IOC, the International Federations, the National Federations, sponsors and other business partners, scientific institutions, athletes, coaches and many others. It would be interesting to identify major legal limitations of the NOCs when they work with other subjects.

The legal relationship within the Olympic Movement is set in the Olympic Charter which represents the codification of the Fundamental Principles of Olympism, Rules and Bye-Laws adopted by the IOC. It governs the organization, action and operation of the Olympic Movement and sets forth the conditions for the celebration of the Olympic Games. One of the main purposes is to define the main reciprocal rights and obligations of the three main constituents of the Olympic Movement, namely the International Olympic Committee, the International Federations and the National Olympic Committees, as well as the Organizing Committees for the Olympic Games, all of which are required to comply with the Olympic Charter.

In the article we would like to touch the following structure:

- The relationship within the Olympic Movement,
- The legal definitions and the Importance of the Olympic Charter and the position of the IOC
- The role of the NOCs, the relation with the IOC, the International Federations and the Organizing Committees, the National Federations, athletes and trainers and business partners in sport,
- The relationship of the NOCs with other subjects; the autonomous position regarding governmental and other “non – sport” institutions.

We also intend to explore the partnership of an NOC with the governmental structures as different ministries constitute institutions responsible for the legislation and are also responsible for the distribution of the state budget allocated for sport. The proper and fair relationship should mean “win-win” situation but it is not always easy to find the optimal solution and we could face dilemmas, which are also interesting in the legal sense.

2. THE DEVELOPMENT AND THE RECOGNITION OF THE AUTONOMY OF SPORTS ORGANIZATIONS

The European sports model underlines the autonomy of sports organizations as one of the basic pillars of the development of modern sport. It represents one of the fundamental criteria giving a sports organization the proper and necessary position to fulfill the unique role in the process of the growing importance of sport in our society. The autonomy means the principle, which is socio-economically justifiable in the developed societies. The concept of the autonomy of sports particular the NOCs, was clearly recognized by the Olympic organizations as early as in the 1950s, and by the European intergovernmental organizations from the 1990s onwards. Today, however, this principle clashes with the increasing complexity of the international and Olympic systems and with the growing economic dimension of sport, which unquestionably facilitates its financial autonomy but also entails

new risks due to the involvement of the third parties (sponsors, media, investors, gamblers and so on).¹

It is interesting to find out the way of the recognition of the autonomy of sports organizations granted by different political bodies. The recognition of autonomy by the European Commission is clearly set up in the White Paper on Sport, which was published in July 2007.² The Commission acknowledges the autonomy of sporting organizations and representative structures (such as leagues). Furthermore, it recognizes that the governance is mainly the responsibility of the sports governing bodies and, to some extent, the Member States and social partners. The Commission considers that most challenges can be addressed through self-regulation respectful of good governance principles, provided that the EU law is respected, and is ready to play a facilitating role or take action if necessary.

The Parliamentary Assembly of the Council of Europe in 2008 unanimously adopted the Resolution 1602 on the need to preserve the European Sport Model, in which it stated that “The independent nature of sport and sports bodies must be supported and protected and their autonomy to organize the sport for which they are responsible should be recognized. The federation must continue to be the key form of a sporting organization, providing a guarantee of cohesion and participatory democracy. The governments of the member states should acknowledge and give practical effect to the specificity of sport and protect the autonomy of the sports federations (governing bodies)”.

The autonomy of sport is deeply supported by the specificity of sport. It brings the necessary understanding of the basic differences between sports and other activities of young people. It is important to acknowledge the special character of different sport rules, such as separate competitions for men and women, limitations on the number of participants in competitions, or the need to ensure uncertainty concerning the outcomes and to preserve a competitive balance among the clubs taking part in the same competitions. The specificity of the sport structure, including notably the autonomy and diversity of sports organizations, a pyramid structure of competitions from grassroots to elite level and organized solidarity mechanisms among the different levels and operators, the organization of sport on a national basis, and the principle of a single federation per sport. It is clear that the specificity of sport will continue to be recognized, but it cannot be construed so as to justify a general exemption from the application of the EU law.

In 2009, the ‘specificity of sport’ was recognized in the amended Treaty of the European Union. Article 165³ of the Treaty states: “The Union shall contribute to the promotion of the European sporting issues, while taking account of the

¹ Jean Loup Chapellet, *Autonomy of sport in Europe*, Council of Europe Publishing, 2010, p. 50.

² White Paper on Sport, July 2007.

³ European Union, *Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community*, 13 December 2007, 2007/C 306/01, available at: <http://www.lisbon-treaty.org/> [accessed 20 March 2016].

specific nature of sport, its structures based on voluntary activity and its social and educational function.”

The political factors also include legislation and policies, such as those issued by the IOC or the World Anti-Doping Agency (WADA), as well as the political values expressed by the government. The introduction of the quotas for women in management is a political factor, as is the commitment to the Sport for All. The government policy significantly affects the operation of the Olympic Sports Organizations (OSOs). The attitude of the politicians towards sport, the prominence of sport in policy and as a policy tool, and the relationships amongst the organizations responsible for sport in particular country can have a big impact on a sports organization. For example, if the government policy values sport as a means of increasing health or decreasing crime, it is likely to be easier to get access to the funds for the services. If the relationship between the NOCs, NFs and the government departments is poor, you may find it more difficult to promote sport within the country. Perhaps, most crucially, the value that the government policies place on the physical education for children will dictate whether the country values sport or not.

Other political factors are also important. The stability of the governments and the key politicians can affect the ability to plan and fund activities. Tax policies may also have an effect since taxes may provide an organization with more, or less, income.⁴ Finally, the government’s attitudes and legislation in relation to the advertising of alcohol, tobacco and fast food may require some OSOs to seek new sponsors.⁵

The European Court recognized that the specificity of sport has to be taken into consideration in the sense that the restrictive effects on competition that are inherent in the organization and proper conduct of competitive sport are not in breach of the EU competition rules, provided that these effects are proportionate to the legitimate genuine sporting interest pursued. The necessity of a proportionality test implies the need to take into account the individual features of each case. It does not allow for the formulation of general guidelines on the application of the competition law to the sport sector.

In application of the Recommendation 28 of Olympic Agenda 2020,⁶ the International Olympic Committee (IOC), representing the Olympic Movement at the international level, in cooperation with its partners concerned – including the Association of the National Olympic Committees (ANOC), the Association of Summer Olympic International Federations (ASOIF) and the Association of International Olympic Winter Sports Federations (AIOWF) – provides the National Olympic Committees (NOCs), the National Sports Federations and their other constituents with a number of elements to allow the Olympic Movement at

⁴ For example, in Ecuador, a tax on fixed and mobile phone calls has been used to fund elite sport.

⁵ ASMC, Chapter Organizing an Olympic sport organization, Human Kinetics, 2007, IOC, Olympic Solidarity, p. 4.

⁶ Olympic Agenda 2020, Recommendation 28, issued by IOC, 2016, page 2.

the national level and the competent government authorities to develop a regular and constructive dialogue and, if appropriate, to establish a Memorandum of Understanding (MOU), a cooperation agreement and/or a partnership agreement (in general terms and/or in specific areas) on the basis of the principles and rules which govern the Olympic Movement.

In view of the above, it is proposed that the parties (the NOC/the National Sports Federations/the Olympic Movement at the national level, for the one part, and the competent government authorities, for the other part) undertake to mutually recognize and respect the following principles and elements:

- The development of sport in a country requires harmonious collaboration, synergies and common-sense relations between (i) the public authorities, in the framework of their public service missions, and (ii) the sports organizations, in the framework of their mission to develop, regulate and manage the practice of sport and sports competitions.

- This concerted, coordinated, negotiated and consensual approach is aimed at achieving efficient cooperation which will benefit sport and the athletes, in a climate of mutual trust, and at the same time avoid undue interference and conflict situations.

- To achieve this, it is necessary to properly define the role and responsibilities of the public authorities and the competent government bodies, on the one hand, and the sports organizations (NOC, national sports federations, sports clubs, etc.), on the other, and to establish the necessary interactions by jointly determining the areas of cooperation and common interest, with mutual respect for the prerogatives and competences of each, taking into account the specificity of sport and the autonomy of the sports organizations.

- The autonomy of sports organizations is a basic principle of the Olympic Movement which results from the specific nature of sport. Autonomy is not an end in itself, but a necessary means of ensuring the universality of sport, its values and its rules, and the integrity of sports competitions.

- The principle of the autonomy implies not only the rights (the freedom of association, the power of self-regulation and the definition of sporting and internal governance rules by the sports organizations without undue external interference, etc.) but also the duties (the respect of the general legal framework applicable in the country, the rules and statutes of the international sports organizations concerned, the basic principles of good governance for the proper functioning of the organization, its credibility and reputation, etc.). It is in this sense that the Olympic Movement speaks of the “responsible autonomy”.

- The autonomy of sports organizations does not mean that such organizations act in isolation, outside the national context in which they are established. On the contrary, sport and sports organizations are fully part of the framework of the local society and context, whilst respecting the universal values which characterize them. This is the principle of unity in diversity.

- The membership of the Olympic Movement is free and voluntary, but if a sports organization decides to be part of the Olympic Movement and fulfils the necessary conditions, it must respect – and be in a position to respect within its own country – the universal principles and rules which govern the Olympic Movement. This is a prerequisite to enable athletes, teams and sports leaders to take part in and represent their country at regional, continental or global sports events, and to benefit from the assistance and support of the international sports organizations for the development of sport in their country.

- The majority of sports organizations rely on the technical and/or financial support of the public authorities to pursue their activities and sport within their country.⁷

Moreover, in the framework of their public service mission and the established policies, the public and government authorities contribute to the development of sport and have extended powers and specific means, particularly for the construction of sports facilities, but also in the areas of education, health, integration and security, and in the fight against doping, corruption, illegal betting, match-fixing, violence, racism, etc.

2.1. The definition of the autonomy

There are different definitions of the autonomy of sports organizations. One of those which give the comprehensive and appropriate meaning including the most important elements is the one published in the book *Autonomy of sport in Europe*.⁸ “The autonomy of sports is, within the framework of the national, the European and the international law, the possibility for non-governmental, non-profit-making sports organizations to:

- establish, amend and interpret rules appropriate to their sport freely, without undue political or economic influence;
- choose their leaders democratically, without interference by states or third parties;
- obtain adequate funds from public or other sources, without disproportionate obligations;
- use these funds to achieve objectives and carry on the activities chosen without severe external constraints;
- draw up, in consultation with the public authorities, legitimate standards proportionate to the fulfillment of these objectives.”

The definition could be very useful if we want to check the real autonomy of a sports organization. If we find any kind of obstacles in the above mentioned 5 vital

⁷ Olympic Agenda 2020, Recommendation 28, issued by IOC, 2016, page 3.

⁸ Jean Loup Chapellet, *Autonomy of sport in Europe*, Council of Europe Publishing, 2010, p 49.

elements, it is time to analyze the situation and make an honest conclusion if the autonomy is really in a way we would like to see it.

3. THE STRUCTURE AND LEGAL HIERARCHY OF THE OLYMPIC MOVEMENT AND THE POSITION OF THE IOC

The aim of this article is to find out the autonomy of a National Olympic Committee. Before examining a closer look it is necessary to discover the legal foundation and relations of different subjects existing in the Olympic Family. The structure of the Olympic Movement is precisely set down in different legal regulations with the supreme legal power of the Olympic Charter. The Olympic Charter is the codification of the Fundamental Principles, Rules and Bye-laws adopted by the International Olympic Committee (IOC). It governs the organization and running of the Olympic Movement and sets the conditions for the celebration of the Olympic Games.

In essence, the Olympic Charter serves three main purposes:

a) The Olympic Charter, as a basic instrument of a constitutional nature, sets forth and recalls the Fundamental Principles and essential values of Olympism.

b) The Olympic Charter also serves as statutes for the International Olympic Committee.

c) In addition, the Olympic Charter defines the main reciprocal rights and obligations of the three main constituents of the Olympic Movement, namely the International Olympic Committee, the International Sports Federations and the National Olympic Committees, as well as the Organizing Committees for the Olympic Games, all of which are required to comply with the Olympic Charter.

The basic chapters of the Olympic Charter consist of the Olympic Movement, the IOC, an NOC, an IF, and the Olympic Games. An important part of the Olympic Charter represents the Olympic Games specificity as the program of those games; the participation, clothing, advertising, tickets and hospitality, ambush marketing, anti - doping – policy, the responsibility of the WADA and the dispute resolution with the role of the CAS. In view to find the position of an NOC it is important to analyze the obligations of the subjects of the Olympic Family in their duty to respect the Olympic Charter. As a Magna Carta of Olympism this document gives the authority position to the IOC.

Under the supreme authority and leadership of the International Olympic Committee, the Olympic Movement encompasses organizations, athletes and other persons who agree to be guided by the Olympic Charter⁹. Any person or organization belonging in any capacity whatsoever to the Olympic Movement is bound by the provisions of the Olympic Charter and shall abide by the decisions of the IOC.¹⁰

⁹ Provision 1.1. of the Olympic Charter.

¹⁰ Provision 1.4. of the Olympic Charter.

The authority of last resort on any question concerning the Olympic Games rests with the IOC.¹¹

The IOC is an international, non-governmental, non-profit organization of unlimited duration in the form of an association with the status of a legal person, recognized by the Swiss Federal Council (decision of 17 September 1981). The specificity of the election procedure is precisely defined by the Olympic Charter giving the IOC the position of a self electing body. The IOC members represent the IOC and the Olympic Movement in their country. New members are elected by the IOC Session. Each candidature file is analyzed by the IOC Nominations Commission, and then forwarded to the Executive Board. The latter submits its proposals to the Session, which elects new members by secret ballot.

The IOC operates as a privately funded, independent organization, with the essential support from the global business community. The IOC's multi-faceted Olympic marketing programme plays a key role in staging and promoting the Games and the Olympic values, while also generating revenue that is redistributed throughout the Olympic Movement. This revenue is essential for staging the Games and supporting the National Olympic Committees (NOCs), the International Federations (IFs), the Olympic Solidarity scholarship programme and other sports organizations. The success and global popularity of the Games is in large part due to the financial, technical and promotional support of our broadcast partners and our Worldwide Olympic Partners. It is important to note the power, responsibility and hierarchy explained in the Olympic Charter which gives the IOC a certain dominant status if we want to further analyze the situation of an NOC.

4. THE NOC ROLE AND POSITION

The Olympic Charter authorizes the NOCs with some important tasks. The responsibility of an NOC is to develop, promote and protect the Olympic Movement, to constitute, organize and lead their teams, to select and designate the city which may apply to organize the Olympic Games. The NOCs are the only organizations that can select and designate the city which may apply to organize the Olympic Games in their respective countries. In addition, they alone can send athletes to the Games. The NOC decides upon the entry of the athletes proposed by their respective national federations. However, the selection of the athletes is not based solely upon the athletes' performance, but also on his or her ability to serve as an example to the sporting youth of their country. It is also the NOC that is responsible for selecting the media to be accredited by the IOC for the Olympic Games.

The relationship among the subjects which take part in the Olympic Games is described by the Olympic Charter; "The Olympic Games are competitions between athletes in individual or team events and not between countries. They bring together the athletes selected by their respective NOCs, whose entries have been accepted

¹¹ Provision 58 of the Olympic Charter.

by the IOC. They compete under the technical direction of the IFs concerned.”¹² The NOCs also supervise the preliminary selection of potential bid cities. Before a candidate city can compete against those in other countries, first, it must win the selection process by the NOC in its own country. The National Olympic Committee can then name that city to the IOC as a candidate to host the Olympic Games.

Other roles and competences of the NOC, as defined by the Olympic Charter and the NOC statutes, are, among other things, to:

- develop, promote and protect the Olympic Movement in the country, in accordance with the Olympic Charter;
- promote the Fundamental Principles and values of Olympism in their country, particularly in the areas of sport and education, by supporting the Olympic education programmes at all levels in schools, sports and physical education institutions and universities, and encourage the creation of institutions devoted to Olympic education, such as the National Olympic Academies, the Olympic Museums and other programmes, especially cultural ones, linked to the Olympic Movement;
- ensure compliance with the Olympic Charter in the country;
- represent the country at the Olympic Games, and select and enter the athletes and its team for the Olympic Games (and for the other regional, continental or global games and multi-sports competitions with the IOC patronage), in coordination with the National Sports Federations;
- protect the Olympic properties in the country;
- encourage the development of high performance sport and sport for all;
- help with the training of sports managers by organising courses and ensuring that these help to spread the Fundamental Principles of Olympism;
- take action against all forms of discrimination and violence in sport;
- adopt and implement the World Anti-Doping Code;
- encourage and support measures linked to medical care for, and the health of, the athletes;
- where applicable, work with governmental and nongovernmental organizations in order to accomplish its missions, without involvement in any activity which might be contrary to the Olympic Charter;
- preserve its autonomy and resist all pressures, including, but not limited to, political, legal, religious or economic pressures which might prevent it from complying with the Olympic Charter.¹³

During the Games, each NOC must appoint a Chef de Mission, who is the NOC's main liaison with the IOC, the IFs and the OCOG. The Chef de Mission may also accomplish other functions assigned to him/her by the NOC. The Chef de Mission has the responsibility for all the competitors, officials and other NOC team staff.

¹² Olympic Charter, 2015, Rule 6.

¹³ Olympic Agenda 2020, Recommendation 28, issued by IOC, 2016, page 3.

The NOCs are also responsible for the equipment, transport and accommodation of the members of their delegations, as well as for determining the clothing and uniforms to be worn and the equipment to be used by the delegation during the Games, with the exception of specialized equipment used by athletes during the sports competitions.

The NOCs carry out many different functions in their own countries, from the development of sport at all levels, to the creation of educational programmes, to the ongoing training of sports administrators. At the national level many NOCs represent an umbrella nongovernmental sport organization with wide responsibility for the development of sport, results of top sport, the field of sport for all a healthy life of the population and other matters connected to sport.

The NOCs have to respect different rules such as the EU law /for the EU members/, “The Olympic “ rules, foreign legislation, the national legal system, the national autonomous sports rules, the internal NOC acts. The international legislation consist of the Olympic Charter, the competition rules of the International Federations (IF), the WADA legal system, the rules of foreign commercial law especially when international sponsors are incorporated. There is also the national legislation with the Sports law and other legislation /status, commercial, finance and tax, health, /. Autonomous sports rules deserve special attention.

The NOCs have many relations with different subjects including the Olympic organizations, the International Federations and other international sports bodies, foreign commercial partners, national governmental structure, the national federations, athletes and coaches, scientific institutions, national business partners, sports infrastructure institutions and others. Relations with numerous subjects with different positions and legal systems certainly have their influence on the position of the NOC autonomy.

It is doubtful if the NOCs really have an independent position when the governments are closely involved in the structure or leadership of an NOC.¹⁴ On the other hand we face cases of political interventions towards some NOCs. The IOC suspensions of the NOC of Afghanistan (1999), the NOC of Iraq (2003), the NOC of Panama (2007), the NOC of Albania (2009) and the NOC of Kuwait (2010 and 2015) are well known. Most of these situations were solved in the favor of the NOCs but on the other hand there are still conflicts which have not been resolved.

4.1. Practical cases of the NOC autonomy and their restrictions

Each NOC has to deal with the rights and obligations of their members, the positions of the Olympic and non Olympic members, the relationship with the government and the stakeholders. In some counties, they are in power to distribute public funds. Positions, authority, autonomy, power and other parameters of the

¹⁴ Cases of NOC of Belarus, Russia, Nauru, Tajikistan could be discussed...

NOCs are very different in their own countries but all the NOCs have their dominant position connected with the Olympic Games.

Even a quick look at the Olympic Charter shows that the original and main tasks of the NOCs are united with the concept of the Olympic Games where they gain their authority and take their responsibility. In this sense they acquire their autonomous position and legal power towards other subjects. It is also important to locate different time periods which depend on the time of the Olympic Games. During the period of the preparations for the Olympic Games, the NOCs are supposed to run supporting financing programs of athletes and coaches, scholarship of athletes, scientific follow up and medical checks, insurance, doping tests, media and PR, contacts with the NOC sponsors, and other important duties. Most of the NOCs have their tasks to finance specific areas of a NF and their athletes /Olympic candidates, scholarship, insurance, preparations, employment, antidoping controls.../ Later on during the competition period, the NOC take care of the eligibility and accreditations of the members of the Olympic teams, advertising, clothes, behavior, financial rewards, media involvement, sponsors demands, etc.

4.1.1. The Olympic Programme (TOP)

One of the most interesting and successful programs where the NOCs are deeply engaged is the IOC marketing program, called The Olympic Programme (TOP). It represents a practical example of an authentic sponsorship system of contracts representing the marketing program of the IOC called The Olympic Programme (TOP). It stands for The Olympic Partner Programme. Created after the Olympics in Los Angeles in 1984, the TOP programme, managed by the IOC, is the only sponsorship with the exclusive worldwide marketing rights to both the Winter and the Summer Games. The sponsor support is crucial for the staging of the Games and the operations of every organization within the Olympic Movement. The partner support is not only relevant during the Games period; it provides vital technical services and product support to the IOC, the Organizing Committees (OCOGs) and the NOCs, benefiting athletes, coaches and spectators. The strength of the TOP sponsorship programme is evident in recognizing the fact that the programme enjoys one of the highest sponsorship renewal rates of any sports property. The TOP companies receive exclusive marketing rights and opportunities within their designated product category. They may exercise these rights on a worldwide basis, and they may develop marketing programmes with the various members of the Olympic Movement - the IOC, the NOCs, and the Organizing Committees.

In addition to the exclusive worldwide marketing opportunities, partners receive:

- the use of all the Olympic imagery, as well as the appropriate Olympic designations on products
- hospitality opportunities at the Olympic Games,

- direct advertising and promotional opportunities, including preferential access to the Olympic broadcast advertising,
- on-site concessions/franchise and product sale/showcase opportunities,
- ambush marketing protection,
- acknowledgement of their support through a broad Olympic sponsorship recognition programme¹⁵

The TOP has become one of the key factors of the great value and importance of the IOC today. The legal nature of the TOP contract is a very unique one. Basically, it is a sponsorship agreement with all the structural elements of any sponsorship. Like other marketing activities, it has spread to many different fields of work, such as economy, public relations, media, sport science, law and some others. On the other hand, it is a unique contract with many specifics. What makes the TOP contract so special?

First of all, it is the nature of the contract and the subjects it involves. The TOP contract is one of those contracts known in international law as the contracts with a special character. It is multinational and requires a very clear definition of the legal system which is used for different partners from different countries. The TOP consists of many single contracts, like a puzzle, and involves a lot of subjects of very different legal status. That is very characteristic of the TOP and it makes the whole system very interesting in legal sense. It consists of many documents that are necessary to examine in order to understand the relationship correctly. Undoubtedly, the TOP represents a complex system of connected contracts which must be adjusted. The signing of the contract requires well-developed formal procedures and sophisticated and, logistically, a well organized procedure. The timing of the signings of different partners might be of extreme importance to the whole system itself. A special way of the allocation of the money that comes out of the contract is not typical for an ordinary contract. In this sense, the IOC has developed a very sophisticated system "Olympic Solidarity" which includes some hundreds of beneficiaries. Through that, the Olympic Solidarity is also part of the TOP system. On the part of the sponsors, the exclusivity of sponsors has been developed in a very sophisticated way where also many elements from the economy were used. Certainly, there are also other elements to be examined in this contract from the aspect of the law.¹⁶

In the legal sense, the TOP means the power on the one hand and a set up of a lot of restrictions for the NOCs on the other hand. As they have to observe the rules put down by the IOC, their autonomy is strictly limited for commercial reasons. The system can be successful if all stakeholders can play their role and they are much stronger connected together rather than it would be if any of the subjects acted individually.

¹⁵ www.olympic.org

¹⁶ Tone Jagodic, Sponsorship agreement as a formal legal instrument of modern sport, IASL conference, Ljubljana, Slovenija, 2006.

The sanctions for neglecting the agreements and other rules are also known ahead to all of the subjects and could be implemented in case of a breach of the contract and a violation of other rules. The autonomy of the NOCs is strictly limited by the rules of the TOP. The NOCs marketing activities during the Olympic Games are under strict control of the IOC and other worldwide commercial partners.

4.1.2. An Example of “the Olympic Games contract” of the NOCs

There are different models and ways how to tackle the problem of the conflict of interests during the period of the preparation for the Olympic Games. Many NOCs try to establish proper relations with the NF and an athlete signing an agreement during the period of the preparation for the Games.¹⁷ There are two general ways. In some cases the NOCs sign a separate contract with the federation on the one hand and an athlete on the other hand (the NOC of the Great Britain, Norway, and the Netherlands). Some others include all the parties in the same contract (the NOC of Latvia, the NOC of Slovenia) which imposes a tripartite agreement with the rights and obligations of the NOC, the NF and an athlete. In some cases the NF gets a copy of a signed agreement between the NOC and an athlete (the NOC of Belgium)

Basic criteria to select an athlete to be included in the contract is set by the NOC and is based on the achieved certain sport results. After signing of a contract, an athlete gets a status of an Olympic candidate or a member of an Olympic team, which brings him some rights and obligations. The NOC of Slovenia signs a three partite contract in which, during the preparation period, an athlete is entitled to get special rights such as logistical support, financial support via a national federation, pocket money (scholarship, funding), health care and special health insurance, training measurement at the National Institute for sport, consultations in legal and marketing matters. During the period of the competition, an athlete is entitled to clothing and equipment, transportation accommodation and accreditation, medical and physical therapeutical care, lawyers costs in possible legal procedures, pocket money and prize money in case of winning a medal.

4.1.2.1. The commercial obligations of an athlete

An athlete is obliged to obey the IOC and the NOC rules, sign an Olympic declaration which includes the eligibility code, make every effort to achieve the best result, follow the instructions of a team leader, respect fair and decent behavior towards the Olympic Team, the NOC, sponsors, and obey the anti doping rules and ignore the attempts of doping. Similar obligations and rights of an athlete are stipulated also in other contracts of an NOC.

An NOC usually signs a contract with the athletes preparing for the Olympic Games in view of the commercial obligations of an athlete. Regarding the relation

¹⁷ During the EOC Technical seminar in October 2005 in Ljubljana, Slovenija, »Who owns the athlete« the NOC's of the Great Britain, the Netherlands, Belgium, Latvia, Norway and Slovenija presented their models of the contracts with the National federations and athletes.

with his/her sponsors an athlete is obliged to obey the IOC rules regarding advertisements. He/she is supposed to inform the NOC about his/her personal sponsors, to wear official Olympic clothes, to allow that the NOC use his/her image for the promotion of the NOC sponsors, to follow the instructions of the medal ceremonies protocol and to fulfill some other common obligations. If an athlete does not respect those rules it is the NOC which is under the pressure by its sponsors and has to take a certain activity not to harm its own position.

It is obvious that the Olympic Charter Rule 41 is very strict. Except as permitted by the IOC Executive Board no competitor, coach, trainer or official who participates in the Olympic Games may allow his/her person, name, and picture or sports performance to be used for advertising purposes during the Olympic Games.¹⁸ The commercial use of athlete images during the Games may only be made in a congratulatory or generic manner. Such communications may not refer directly to the use of any product or service that enhances the performance in practicing or competing in sport and may not refer to the competitor's performance at the Games, except in the case of congratulatory communications. At no time can the use of an athlete's name, image or likeness be used to make reference to the official product of the athlete. Reference to the athlete's biography may be used in a factual manner. An athlete must appear dressed in either his or her National Olympic Team uniform or in generic, unbranded clothing. Athletes may not be dressed in a uniform that is branded with the sponsor's trademarks or any other commercial mark other than the approved manufacturer trademark.¹⁹

There is no doubt that different rights might be in conflict. An image right of an athlete representing his/her own personal right on the one hand, while on the other hand the rights of the sporting organizations are based on the intellectual property rights. The IOC original right of the use of the Olympic image has its background in Nairobi treaty of protection of the Olympic symbol.²⁰ The NOC's right to send an athlete to the Olympic Games is granted by the IOC Olympic Charter and the NOC has also the right over its own Olympic symbols as an intellectual property right which is transferable to its sponsors.

In praxis some NOCs (Great Britain, Netherlands, and Belgium) implicitly regulate the transfer of the image (portrait) right for the use of the NOC during the Games. Without an athlete's permission it would not be possible to commercially exploit his/her image right, the NOC would not be able to use the athlete's images for the commercial purposes of its sponsors.²¹

¹⁸ Olympic Charter, Rule 41, Bye-law paragraph 3.

¹⁹ Presentation of the IOC managing Director Timo Lumme, »Changes and Challenges within the Olympic Market«, the EOC Technical seminar, Ljubljana, Slovenija, October 2005.

²⁰ »Nairobi treaty on the protection of the Olympic symbol«, was issued on 26.9.1981 in Nairobi.

²¹ Tone Jagodic, Legal nature of the obligations of an athlete preparing to compete at the Olympic Games, Presentation at the IASL conference, Mexico, 2007.

The Olympic Games contract could be an example of the collaboration where each of the subjects contributes a part of its rights in exchange for a better common result. Does that mean that the autonomy of each of these subjects has disappeared? They all have to respect the rights (and autonomy) of other subjects, like in the most common commercial relationship. It seems that the autonomy of different subjects could be complementarily »sacrificed« in the name of a much better outcome when the subjects collaborate together in a productive way before and during the Olympic Games.

5. COURT DECISIONS AND INTERESTING CASES

The autonomy of an NOC was endangered in many cases. In some fields the position of an NOC is quite strong and sometimes it is supported even by the court decisions. One of the most important court decisions connected with the autonomy of sports organizations on the international level can be found in the *Deliege* case.²² In this case a Belgian athlete was not satisfied with the decision of her NF not to be selected for international competition. The explanation of the court decision points out the arguments in favor of sport which should be used in different cases when the autonomy of sports organizations is endangered. The court underlined that the adoption, for the purposes of an international sports tournament, of one system for selecting participants rather than another must be based on a large number of considerations unconnected with the personal situation of any athlete, such as the nature, the organization and the financing of the sport concerned. Although a selection system may prove more favorable to one category of athletes than another, it cannot be inferred from that fact alone that the adoption of that system constitutes a restriction on the freedom to provide services. Accordingly, it naturally falls to the bodies concerned, such as the organizers of tournaments, sports federations or professional athletes' associations, to lay down appropriate rules and to make their selections in accordance with them. In that connection, it must be conceded that the delegation of such a task to the national federations, which normally have the necessary knowledge and experience, is the arrangement adopted in most sporting disciplines, which is based in principle on the existence of a federation in each country.

Moreover, it must be pointed out that the selection rules at issue in the main proceedings apply both to competitions organized within the Community and to those taking place outside it and involve both nationals of Member States and those of non-member countries. The court concluded that a rule requiring professional or semi-professional athletes or persons aspiring to take part in a professional or semi-professional activity to have been authorized or selected by their federation in order to be able to participate in a high-level international sports competition, which does not involve national teams competing against each other, does not in itself, as

²² *Deliege – Belgian Judo Federation* (C 51/96 and C 191/97).

long as it derives from a need inherent in the organization of such a competition, constitute a restriction on the freedom to provide services prohibited by Article 59 of the Treaty. The decision gives the sport organization (also NOCs) the exclusive power to select athletes to compete in international competitions. If the decision was different, in that case, the whole structure of the European sport model would be ruined.

Another case to strengthen the position of a sports organization is the case of a young football player Olivier Bernard²³ where the European court underlined the right of football clubs to get a proportional compensation for training young football players. The Court found out that a scheme providing for the payment of the compensation for the training where a young player, at the end of his training, signs a professional contract with a club other than the one which had trained him can, in principle, be justified by the objective of encouraging the recruitment and training of young players. However, such a scheme must be actually capable of attaining that objective and be proportionate to it, taking due account of the costs borne by the clubs in training both future professional players and those who will never play professionally.

Vital decisions were connected with doping cases, where appellants tried to prove an unsuitable and even monopoly position of the IOC anti doping policy. In both cases the courts (The European Court and the English High Court) found out, that the sports organization has its right to sanction the cases where the doping rules were violated. The European Court in the Medina – Majcen case²⁴ has decided that the antidoping policy of sports organizations do not include discrimination and do not limit the competition of economical subjects within the EU.

It is interesting to see the explanation of the Court which stated that at the material time the average endogenous production observed in all studies then published was 20 times lower than 2ng/ml of urine and that the maximum endogenous production value observed was nearly a third lower. While the appellants contend that, from 1993, the IOC could not have been unaware of the risk reported by an expert that merely consuming a limited quantity of boar meat could cause entirely innocent athletes to exceed the threshold in question, it is not in any event established that at the material time this risk had been confirmed by the majority of the scientific community. Moreover, the results of the studies and the experiments carried out on this point subsequent to the decision at issue have no bearing in any event on the legality of that decision. In those circumstances, and as the appellants do not specify at what level the threshold in question should have been set at the material time, it does not appear that the restrictions which that threshold imposes on professional sportsmen go beyond what is necessary in order to ensure that sporting events take place and function properly.²⁵

²³ *Olympique Lyonnais – Bernard and Newcastle United (C 325/08)*.

²⁴ *Meca, Medina, Majcen – EU Commission; (T 313/02, C 519/04)*.

²⁵ *Case C-519/04*.

A similar decision was found in the Chambers case by the English High Court.²⁶ An athlete was not successful in the case where he was trying to get the right to compete at the Olympic Games 2012 after he was found guilty for violating anti doping rules.

The recent decision of the European Commission to begin an investigation in the case of the ISU deserves special attention. In October 2016, it was announced that the European Commission had opened a formal antitrust investigation into the International Skating Union (ISU) rules that permanently ban skaters from the competitions such as the Winter Olympics and the ISU World and European Championships if they take part in the events not approved by the ISU. The investigation follows a complaint by two Dutch ice speed skaters, Mark Tuitert and Niels Kerstholt. The Commission will in particular investigate whether the ISU rules are unduly preventing athletes from exercising their profession by putting disproportionate and unjustified obstacles in the way of companies not linked to the ISU that want to organize alternative ice-skating events. Indeed, the ISU rules threaten the athletes who participate in such events with a lifetime ban. This may prevent alternative event organizers from entering the market or drive them out of business. If confirmed, such practices could constitute anti-competitive agreements and/or an abuse of a dominant market position in breach of the EU antitrust rules.²⁷

The decision will be a kind of prejudice for many other international federations with pyramidal structure of qualifying competitions for major international sports events. In this case the way of the interpretation of the autonomy included in the White paper and the European Council Resolution by the European Commission will be important. It is worth to mention that a similar case was finished by the European Court of Justice ruling in the Greek Motorcycling Federation (Motosykletistiki Omospondia Ellados NPID (MOTOE)) v Elliniko Dimosio (hereafter MOTOE)²⁸ confirming that a sporting body that mixes regulatory functions with economic activities should be subject to the application of the EC anti-trust law. The issue in question in the MOTOE case was about how this should affect the decision-making process by the sports governing bodies on whether or not to approve the staging of new events.

The Court of Justice ruling in the MOTOE confirmed that the organizations such as sports federations that regulate the undertaking of sporting events and have a direct commercial interest in the events (for example entering into sponsorship, advertising and insurance contracts) can have exclusive rights in deciding which

²⁶ Dwain Chambers - BOA (2012).

²⁷ EU Commissioner in charge of competition policy Margrethe Vestager said: *“For many, sport is a passion – but it can also be a business. We recognize and respect the role of international sports federations to set the rules of the game and to ensure proper governance of sport, notably in terms of the health and safety of the athletes and the integrity of competitions. However, in the case of the International Skating Union we will investigate if such rules are being abused to enforce a monopoly over the organization of sporting events or otherwise restrict competition. Athletes can only compete at the highest level for a limited number of years, so there must be good reasons for preventing them to take part in events.”*

²⁸ Case C 49/07, Motosykletistiki Omospondia Ellados NPID (MOTOE) v Elliniko Dimosio, ECLI:EU:C:2008:376.

events take place. The ruling however clarified that the procedures and criteria for selection used by sports governing bodies need to be transparent when responding to other organizations that are applying to organize the events. The fact that the Greek Automobile and Touring Association was operating a virtual monopoly in organizing motorcycle events was not viewed as a breach of the Treaty. The Court of Justice ruled that while the position and activities were not automatically abusive, the fact that there was no recourse for those who were refused consent, MOTOE in this case, could be considered an abuse of the federation's dominant position.

The MOTOE decision provides further demonstration of the Court's consistent view that sport, in so far as it constitutes an economic activity, falls within the scope of the application of the EU competition law. Reflecting the landmark Medina ruling, the MOTOE has enhanced legal certainty by clearly pronouncing that there exists no such thing as a category of "purely sporting rules" that would be excluded straightaway from the scope of the EC competition law. The decision confirmed the readiness of the Court of Justice to subject the detailed aspects of sports organization to the scrutiny of the EU (competition law).

The MOTOE decision confirms however that the specific features of sport should be considered in assessing the compatibility of the organizational sporting rules with the EU competition law. The MOTOE clarifies that the EU law expects that the organization of sports events should be subject to stringent regulations by the governing bodies. A system involving prior consent is not of itself objectionable: acting as a 'gatekeeper' is an obvious task of a sports federation. The objection in the MOTOE and confirmed by the Court is not in terms of how the sport was regulated but rather the system of the approval that was used by the sporting body.

Regarding the organization of sports competitions there are some interesting decisions still to come. In October 2015, the Spanish National Commission of Markets and Competition opened an investigation into the financial conditions set by the Spanish Basketball Clubs Association (ACB) for the clubs being promoted to the ACB's national league. In February 2016, the Euroleague Properties, a subsidiary company of the Euroleague filed a complaint against the International Basketball Federation (FIBA) and the FIBA Europe to the Commission, stating that the FIBA had put clubs under pressure to join its Basketball Champions League. In response, the FIBA submitted a complaint to the European Commission against the Euroleague based on a similar basis that the alleged engaged in anti-competitive behavior in order to gain a competitive advantage. More information about these conflicts is available in the document of the European Commission Mapping and Analysis of the Specificity of Sport.²⁹

If we take the standpoint of the EU Commission expressed in the White paper, the position of the autonomy of sports organizations is strong. The EU Commission acknowledges the autonomy of sporting organizations and representative structures (such as leagues). Furthermore, it recognizes that governance is mainly the

²⁹ Mapping and Analysis of the Specificity of Sport, *A Final Report to the DG Education & Culture of the European Commission*, Publications Office of the European Union, 2016.

responsibility of sports governing bodies and, to some extent, the Member States and social partners. Nonetheless, the dialogue with sports organizations has brought a number of areas to the Commission's attentions, which are addressed below. The Commission considers that most challenges can be addressed through self-regulation respectful of good governance principles, provided that the EU law is respected, and is ready to play a facilitating role or take action if necessary.³⁰

It is obvious that attempts to shake the position of sport organizations will go on as private organizations would like to get their share when organizing international competitions. In case of the competitions which are valid as the qualifications for the Olympic Games, the World or the European Championships and similar events it would be dangerous to move them from non governmental and no profit sports organizations to private companies trying to make money and other kinds of commercial profit. This would seriously endanger the European model of sport and shaken the position of organized sport in Europe under the IOC and other Olympic institutions.

6. CONCLUSION

It is of the extreme importance to obtain the autonomy of sport organizations. On the other hand it is obvious that sports organizations face different weaknesses which have nowadays an immense public effect and should be observed very carefully. If we are aware that sports organizations are vital and irreplaceable in the future development in modern sport, we also have to face the difficulties connected with ethics on the one hand, and to fight firmly against the corruption and other deviations in sport today on the other hand. A study published by the Sports governance observer 2015 - The legitimacy crisis in international sports governance made by the Danish Institute for Sports Studies shows dangerous weaknesses in 35 international Olympic Federations.³¹ The study explores how corruption, unsatisfied internal stakeholders, and a (perceived) lack of effectiveness have led to a crisis in the legitimacy of the international sports federation, which may lead to instability and disorder in international sports governance. The study demonstrates that legitimacy crises are caused, first and foremost, by flawed institutional design; in particular, by a lack of robust control mechanisms that allow both member federations and external actors to control international sports federations.

It seems that the policy of good governance in sport executed by sports organizations is the best way to preserve their autonomy. Sports organizations have the autonomy to conduct their affairs independently from the state. The inclusion of sports NGOs into the policy making and funding procedures evidences the

³⁰ White paper, Chapter 4. »Organization of Sport«.

³¹ Sports governance observer 2015 - The legitimacy crisis in international sports governance, Danish Institute for Sports Studies; the report is available for free download at www.playthegame.org.

democratic nature of sport governance by the state.³² There is no rule prohibiting a member of the governmental administrative authority from serving in the decision making bodies of sports organizations. Sports clubs and organizations are independent and are able to conduct profit-making activities where furthering the public-benefit purposes of the organizations.

The organized sports movement is constantly developing and adapting to stay competitive with other organizations appearing on the sports scene while also working to protect sport and preserve its friendly nature and voluntary character. This seems to be the best way to ensure a fruitful collaboration of sports NGOs with the State in the issues related to sports legislation regulating the work and life of athletes, sports organizations and all those actively involved in sports programmes.

The best ways to establish good governance in sport are the examples of good collaboration between non governmental sport organizations and governmental institutions. It seems that a common solution has been achieved by realizing that sports subjects have to stick together if they do not want to lose contact with modern trends of the development of sport. Taking into account the specific situation of a small sport nation, the decision was taken to deliver specific tasks to the subjects for whom they were founded on the one hand and to work together in general for the benefit of the progress of our sport on the other hand. Many common activities have been carried out jointly by different subjects from the governmental and the non-governmental sides which are supposed to take care of the Slovenian sport. The relationship and understanding of different positions and responsibilities of governmental and non governmental sides is crucial for a small country like Slovenia. The changes of the Slovenian sport legislation in the near future will be an opportunity to find out the ways how to carry on successful examples of good governance in sport in the future.³³

The IOC is also concerned with the danger of loosing the autonomy of sports organizations. A special document called »Support autonomy« under Recommendation 28 of the Olympic Agenda 2020 was issued to create a template to facilitate good governance and relations between the national authorities and the sports organizations in a country.³⁴ Among different findings and proposals it is worth to mention some of them. Sports organizations are non-governmental organizations with their own legal entity, governed by their own statutes (adopted by the general assembly of each organization) in conformity with the general framework of the applicable law and the universal principles and rules of the international sports organizations to which they have been affiliated or by which they have been recognized. They must have the power among other things to determine the internal governance rules in their own statutes, their operating procedures, the holding of meetings, decision-making mechanisms, election rules, etc., in accordance with the

³² Chaker Andree-Noel, Good governance in sport, Country overview of sport legislation and sport governance, Council of Europe, Strasbourg, p. 89.

³³ Tone Jagodic, National models of Good Governance in sport – Slovenija, 2010, p. 15.

³⁴ Olympic Agenda 2020, Recommendation 28, issued by IOC, 2016, page 4-5.

general principles of the local law and the basic rules of the international sports bodies to which they have been affiliated. When drawing up and revising the rules of their statutes and in the framework of their own responsibilities, sports organizations must include and respect the basic principles of good governance, transparency and ethics. They must also be in a position to comply with the World Anti-Doping Code and implement it at their level, and to make provision for independent conciliation, mediation and/or arbitration mechanisms to deal with sports-related disputes or those linked to the internal governance of the sports organizations, and to recognize – voluntarily and in the context defined in their own statutes and/or in the rules of the local independent dispute-resolution bodies – the jurisdiction of the Court of Arbitration for Sport (CAS) as the final instance body.

The framework of the law on sport at the national level must in principle serve to define the general organization of sport in the country, and to establish the responsibilities and prerogatives of the various parties involved in sport, as well as the necessary interaction between them, in compliance with the basic principles of the Olympic Movement, and in particular the principle of the autonomous functioning of sports organizations. To this end, the national legislation applicable to sport has to define a sufficiently flexible general framework which does not substitute itself for the power of each sports organization to establish its internal governance rules in its own statutes, in line with the general principles of the locally applicable law and the statutes of the international sports organizations to which they are affiliated. In other words, the legislative framework must not be used to allow government bodies to get involved in the micro-management or internal operations of sports organizations, nor to take the place of the statutes, internal rules and decisions by the competent bodies of each sports organization.

A constructive and inclusive dialogue between the government authorities and the sports organizations concerned is needed in order to establish a consistent sports policy and legislative framework which are compatible with both, the general principles of the law in the country and, the principles of the Olympic Movement and the rules of the international sports organizations.

Any financial support allocated by the public authorities (in the framework of their public service missions) to sports organizations must not give rise to disproportionate obligations on the part of the beneficiaries. A sports organization (an NOC, a national federation, etc.) which receives public funds is naturally and legitimately required to be held accountable for the use it makes of this specific funding in the predefined framework (e.g. undertakings, goal agreements or other similar contractual documents) and in accordance with the applicable procedures for monitoring and auditing public funds. This is a basic principle of good governance. However, the support received from the public authorities must not be used in any indirect way to justify unwarranted interference or pressure within sports organizations, nor to take the place of their decision-making bodies.³⁵

³⁵ President of IOC dr. Thomas Bach had sent in October 2016 to NOCs special letter regarding the autonomy of sport organizations and recommended Olympic Agenda 2020 to be considered as much as

In future it is necessary to find out a suitable solution for the governmental and the non governmental sides. We can agree with Chapelet³⁶ that the only escape is to acknowledge the advantages on both sides and respect them in mutual benefit. In this respect sports organizations must work with the states to develop a new model of sports autonomy falling somewhere between the ideal of complete autonomy and an undesirable superficial autonomy; it is a question of finding a halfway point between liberalism and interventionism, what might be described as a “negotiated autonomy”. Sport will not be able to continue to develop harmoniously unless strong negotiated co-operation is established between the sports organizations and the governments, based on mutual understanding and respect, as well as regular consultations.

Literature:

- Abstracts of EOC Technical seminar in Ljubljana, Slovenia, »Who owns the athlete« the NOC`s of the Great Britain, the Netherlands, Belgium, Latvia, Norway and Slovenia, October 2005.
- Advanced Sports Management Course, Chapter Organizing an Olympic sport organization, Human Kinetics, IOC, Olympic Solidarity, Lausanne, 2007.
- Bednarik Jakob, Some economic aspects of sport in Slovenia, Faculty of sport, Ljubljana, 2001.
- Blackshaw Ian, Siekmann Robert, Sports Image Rights in Europe, T.M.C. Asser Press, Hague, 2005.
- Chaker Andree-Noel, Good governance in sport, Country overview of sport legislation and sport governance, Council of Europe, Strasbourg, 1999.
- Chapellet Jean Loup, Autonomy of sport in Europe, Council of Europe Publishing, 2010.
- European Union, Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community, 13 December 2007, 2007/C 306/01, available at: <http://www.lisbon-treaty.org/>
- Jagodic Tone, National models of Good Governance in sport – Slovenia, 2010.
- Jagodic Tone, Sponsorship agreement as a formal legal instrument of modern sport, IASL conference, Ljubljana, Slovenija, 2006.
- Jagodic Tone, Legal nature of the obligations of an athlete preparing to compete at the Olympic Games, Presentation at the IASL conference, Mexico, 2007.
- Jagodic Tone, Pravne značivosti sponzorskih pogodb v olimpijskem gibanju, doctoral thesis, Pravna fakulteta, Ljubljana, 2007.
- Kocijančič Janez, Pravna doktrina in praksa na področju športa v EU, doctorat thesis, Pravna fakulteta Ljubljana, 2010.
- Lumme Timo, »Changes and Challenges within the Olympic Market«,

possible.

³⁶ Jean Loup Chapellet, Autonomy of sport in Europe, Council of Europe Publishing, 2010, p. 52.

Presentation of the IOC managing director at the EOC Technical seminar, Ljubljana, Slovenija, October 2005.

- Mapping and Analysis of the Specificity of Sport, A Final Report to the DG Education & Culture of the European Commission, Publications Office of the European Union, 2016.
- Nafziger James and Ross Stephen, Handbook on International Sports Law, Edward Elgar Publishing Limited, Cheltenham, U.K., 2011.
- Nairobi treaty on the protection of the Olympic symbol, Nairobi, 1981 available at www.wipo.int,
- Panagiotopoulos Dimitrios, The Institutional autonomy of sports and the limits of the economic freedom, 2th Sports Law Conference, Athens, October 2001, International Sports Law Review Pandektis, Volume V, H.C.R.SL, Athens, 2002.
- Olympic Agenda 2020, Recommendation 28, issued by IOC, 2016.
- Olympic Charter, available on web page www.olympic.org.
- Sports governance observer 2015 - The legitimacy crisis in international sports governance, Danish Institute for Sports Studies; the report is available for free download at www.playthegame.org.
- Šport & pravo, GV Založba, Ljubljana, 2008.
- White Paper on Sport, European Commission, Bruxelles, July 2007, available eac-info@ec.europa.eu, <http://publications.europa.eu>
- www.olympic.org

AUTONOMIJA NACIONALNOG OLIMPIJSKOG ODBORA I ODNOS PREMA RAZLIČITIM PRAVNIM SUBJEKTIMA I SPORTAŠIMA

Autonomija sportskih organizacija temeljni je princip koji sportu na specifičan način omogućuje razvoj. Sportsko pravo predstavlja skup specifičnih pravnih propisa koji sportskim organizacijama omogućuje upravljanje odnosima između sportskih subjekata. S druge strane, nužno je koristiti opća pravna pravila pa, s tim u vezi, ponekad ima problema koje bi sportska pravila trebala uzimati u obzir. Princip autonomije Nacionalnog olimpijskog odbora predstavlja jednu od okosnica olimpijskog pokreta pa je stoga važno znati gdje autonomija predstavlja poseban oblik neovisnosti, a gdje je ograničavaju drugi subjekti. Evo pitanja povezanih s autonomijom sportske organizacije: (1) Jesu li sportske organizacije doista neovisne?; (2) Jesmo li svjesni političkog utjecaja – pritiska vlade i drugih institucija; (3) Gdje je okosnica subordinacije sportske organizacije u odnosu na vladajuće?; Koji odnos postoji između sportskih tijela i vladajućih? Radi li se o partnerskom odnosu ili je takav odnos iluzija? Nakon analize različitih situacija u organizaciji modernog sporta, autori smatraju da je njihov zaključak više nego evidentan. Konstruktivni i inkluzivni dijalog između politike i sportskih organizacija potreban je radi izgradnje konzistentnih mjera u sportu i onog zakonodavnog okvira koji je kompatibilan kako s općim nacionalnim pravom tako i s pravilima međunarodnih sportskih organizacija.

Ključne riječi: *autonomija, specifičnost sporta, olimpijski pokret, dijalog, EU-pravo*