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“Africa’s Socio-Economic and Political Future: The African Union’s Agenda 2063 in Perspective”

SPORTS IN AFRICA
BY THE
SPORTS COMMITTEE

INTRODUCTION

Why is Sports good for Africa? It allows the growth of other industries such as Tourism, Construction, Psychology, and Medicine. It allows social Mobility. It is a source of national pride. Sports in Africa are now globally recognized for its excellence in various sporting fields. The most popular Sports in Africa are Football (Soccer); Squash; Handball, Tennis; Basket Ball and Running.

From North to South, East to West Africa, football is, no doubt, Africa’s most popular and favorite sport. Football is an incredibly exciting game with origins tracing back to the 1800s when the British introduced the sport to Africa.

Aside from the sense of community and fun of the game any sport brings, they are a force strengthening education for children and young people. Sports promote health — in various ways such as preventing drug abuse. They also encourage the organizers of mass sporting events to leverage those events to promote peace initiatives and raise awareness at all levels (i.e. Olympic Games and FIFA World Cup). They also promote spirit among countries.

SCOPE

The sports industry touches, with special twist, on a variety of matters including contract, employment, intellectual property, tax issues, etc.

The Sports industry is wide and diverse requiring a special need for legal protection. Athletes are requested to sign exclusivity at an early stage; they need to be coached on their image creation, wealth management advice and complex tax regulations on revenues - especially in individual sports.

Players who play in leagues other than the top leagues of their country are more than those who are playing in the top leagues. The majority need legal assistance than the top league players – since their talents are limited, their profession and service are more open to abuse. The necessity of legal awareness and education of football players is an important role. Aside from the wholly unpredictable risk of a career-ending injury, the transition to a post-sports career is a very difficult time. The mental challenge for the individual in leaving something they have loved and dedicated so much time to is likewise critical. Once you stop earning the loss of capital is permanent. This why both legal awareness as well as wealth management are essential for all rising, established and retiring athletes.

On 31 May 2017, law number 71 for the year 2017 promulgating the Egyptian Sports Law was issued in the Egyptian Gazette. The new Law addressed sports dispute resolution, fan conduct, etc. Nonetheless, many legal issues were not addressed and present a gap in the legal field and therefore in the sports industry alike.

The recent amendments failed to address the interpretation and implementation of sports contracts (including sport broadcasting agreements; athlete sponsorship contracts; contracts over the use of trademarks during sports competitions, sports intermediary contracts, and contracts between clubs, coaches, and athletes). This has major repercussions on athletes. The poor drafting of the contracts means that contractual provisions lack precision. In result athletes are less likely to have their rights protected in such contracts. For example, an insurance provision that does not adequately cover a serious injury, hindering a player's capability of returning to the required fitness and health, simultaneously prevents the player from a potential source of income. This calls for establishing standards and minimum requirements as well as defining which bodies are in charge of preserving the rights of athletes. The New Egyptian Sports Law, similarly, regulated a specialized body named "Sports Dispute Resolution and Arbitration Centre" to settle disputes over sports. They would be no longer be heard in front of Civilian Courts. However, the Centre's rules are not yet issued.

Furthermore, the amendments do not provide rules on the criminal liability of doping which threatens the health, safety and efficiency of the athlete himself, his team and the game. The Egyptian Football player Mohamed Dabash was prosecuted for doping. He was prescribed certain medication which violated the WADA rules on criminal liability.

Freedom of contract and the protection of the athlete from unfair provisions is another crucial element in need of improvement and execution. The Federation Internationale de Football Association (FIFA) sets minimum requirements in the Circular No. 1171 for the terms of a professional football player which cover the most important and essential rights and duties of

both contractual parties (professional players and clubs). Those minimum requirements set by the FIFA are important for the relationship of professional football players. However, the parties should have freedom of negotiation and agree on the terms and conditions that is not against the basic principles of law instead of signing on pre-printed uniform contracts which is more of “fill in the blanks”. The Egyptian Football Federation provide this type of contract in order to ensure certain provisions are covered without agreeing on so many crucial terms and conditions in the contract. In result, poorly drafted model contracts are offered to young athletes leaving them little room for understanding, negotiation and overall legal awareness. This is especially alarming since the victims of these contracts are young people with poor legal protection.

Contracts concluded between a player and a sporting club should be ratified by the Sports Association and a 5% of the contractual payment should be remitted to the Sports Association (Law No. 63 for the year 2010). Unfortunately, many clubs in Egypt evade to remit the mentioned percentage to the Sports Association. The contracts concluded between football players and clubs must be ratified by the Sports Association, however, they are not. A year ago, it was a case before the Egyptian Courts filed by the Sports Association against one of the top tier clubs in Egypt.

In Palestine, a 5% of the contractual payment is deducted and remitted to their competent authority. In UAE, it is a 10% of the contractual payment.

Additionally, national sporting clubs have tended to deduct the insurance value from individual players not to remit it to the competent social insurance authority but rather to keep them in their own pockets. As to the non-existent special taxation system tailored to the different athletes playing different sports, young players end up at a further disadvantage in the sports industry. There should thus be objective criteria in which Football players are taxed upon. Certain criteria should be taken into consideration in order to apply the appropriate tax tranche on the football player such as: 1) The player’s salary as football players in first tier national leagues are paid more than in lower division leagues; 2) Age of the player and 3) Player’s family status.

Not only so, but most importantly are the obstacles presented due to the widespread corruption in the sports industry.

Football is the most popular sport thereby an intrinsic part of the social fabric in the African continent. However, football is not immune to corruption. Sports over time have a stronger link to politics as do most people in administrative positions developing its own system of patronage.

Problems arise over and above the already existing administrative challenges. For instance, the Togolese players at the 2006 World Cup in Germany have threatened to strike for non-payment of bonuses.

FIFA's non-intervention policy was initially put in place as not to interfere with political matters and rather promote independence/autonomy of the game. The sovereignty of the FIFA has shown some exceptions in the past. For example, in 2009 when the Zambian National Sports Council suspended Kalusha Bwalya (Football player) for corrupt activities/conspiracies.

CONCLUSION AND DISCUSSIONS

The purpose of the Sports Committee in the AFBA Conference in Nairobi, Kenya is to:

- Create a platform for the exchange of ideas, concepts, case studies, and reflections that address sports industry local needs and global issues.
- Gain insights from latest trends in the sports business.
- Contribute to enlarging an important economic activity in Africa.
- Assist in building our national pride.
- The understanding of the threats of doping to the health of players and their career prospects.
- Young lawyers to widen their interests, be creative, inclusive and participate.

For more information, submission of abstract and registration details, please go to the official website of the Conference: www.afribar.org

To get in touch with the conference organizing committee, please email: moa@id.com.eg