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Sports Law 2025

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Switzerland: Trends & Developments

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SWITZERLAND



Trends and Developments

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Bär & Karrer is a renowned Swiss law firm with more than 170 lawyers in Zurich, Geneva, Lugano, Zug, Basel and St Moritz. Its core business is advising clients on innovative and complex transactions and representing them in litigation, arbitration and regulatory proceedings. The sports law team is headed by Michele Bernasconi, and is supported by a team of nine partners as well as nine associates from a broad range of adjacent practice areas. The firm's experts have an unmatched depth of knowledge in the sports industry, with a comprehensive

practice that offers a wide range of services throughout Switzerland and abroad. Its sports lawyers represent many of the leading international sport organisations, sports clubs, sporting event organisers, broadcasters and individual athletes in litigation, sports arbitration and other proceedings, as well as in transactions in the sports industry. Clients include UEFA, World Aquatics, CONMEBOL, the Olympic Council of Asia, the Association of National Olympic Committees (ANOC), the European Athletics Association and World Skate.

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Michele Bernasconi advises on a broad range of sports, media, energy, telecom and IT matters, acting for both domestic and international clients. He has particular expertise in

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Emanuel Cortada focuses on national and international sports law as well as media and entertainment law, telecom, privacy and data protection law. He regularly represents parties

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Introduction

In the world of sports, Switzerland continues to be the country in which the International Olympic Committee (IOC), many international sports federations – including *Fédération Internationale de Football Association* (FIFA), *Union des Associations Européennes de Football* (UEFA), the International Volleyball Federation (*Fédération Internationale de Volleyball* FIVB), the International Cycling Union (*Union Cycliste Internationale* UCI), the International Ice Hockey Federation (IIHF) and many others – and the Court of Arbitration for Sport (CAS) are located.

The country's unique position continues to have a strong impact on current trends and developments. A relatively recent development, namely greater involvement of the European Court of Justice (ECJ) in sports-related matters, has also had an impact on the regulations of sport governing bodies, such as FIFA and UEFA, based in Switzerland. The decision of the ECJ in the case of Lassana Diarra, a player who challenged FIFA's legal framework related to transfers, led FIFA to amend its Regulations on the Status and Transfer of Players (RSTP). Another particularly dynamic field relates to the emergence and updating of transgender or differences of sex development (DSD) rules and policies, which are regularly subject to legal challenges. This was recently on display in the run-up to the Summer Olympic Games in Paris in the case of a transgender Swimmer Lia Thomas, and even at the Games themselves in the case of the boxers Imane Khelif and Lin Yu-ting. A further sports-law-specific challenge is still on-going, caused by the war in Ukraine (ie, the exclusion of Russian athletes and clubs from international sports competitions). Other recent developments include an emphasis on good governance, the promotion of women in sports through governing bodies and the influence of digitalisation

on the sports industry. Because of its unique position in the world of sports, many legal and regulatory developments are closely observed in Switzerland.

The Importance of Swiss Law

In disputes related to the policies and regulations of associations and the war in Ukraine, among other sports-related disputes (commercial, contractual, disciplinary, etc), Swiss law continues to play an important role.

There are a number of reasons why many sports-related matters are and will continue to be governed by Swiss law.

Firstly, Swiss law ordinarily governs international commercial contracts in the world of sports. Most contractual/commercial disputes (eg, disputes related to sponsorship agreements or TV rights contracts) will thus be subject to Swiss law considerations.

However, Swiss law also plays a predominant role in disputes of a regulatory nature. The statutes and regulations of most international sports federations provide that such disputes are adjudicated primarily based on applicable regulations, but with Swiss law applying on a subsidiary basis. This mechanism is also reflected in the procedural rules of CAS, which establish that a dispute is primarily governed by sports regulations and only on a subsidiary basis by state law.

Regulatory Dynamics

A significant regulatory change pertains to the recent revision of FIFA's RSTP. The RSTP originally emerged from negotiations between FIFA, UEFA and the European Commission in 2001.

The currently ongoing revision was triggered by a highly anticipated ruling from the ECJ in the

case of *FIFA v Lassana Diarra*. In this case, the player contended that the RSTP had caused him severe damage by preventing him from securing employment with a new club following the early termination of his contract with his previous club. The RSTP stipulate that in case a player breaches his or her contract, a new employing club can be held severally and jointly liable for potential compensation due to the player and, under certain conditions, can face sporting sanctions.

Consequently, the player challenged the RSTP's compliance with EU law, specifically European competition law and the freedom of movement of workers. In response, the ECJ provided abstract guidance on several issues referred to it by a Belgian court, concluding that certain aspects of the FIFA RSTP exceeded what was necessary to achieve FIFA's legitimate interests, such as maintaining contractual stability.

Following the ECJ judgment, FIFA initiated a global dialogue on the amendment of the RSTP, which resulted in a revised interim legal framework in December 2024, reflecting the considerations of the ECJ.

Furthermore, in Switzerland, international sports federations are actively developing policies regarding the participation of transgender athletes, guided by the IOC's 2021 framework on fairness, inclusion and non-discrimination on the basis of gender identity and sex variations. Consequently, federations headquartered in Switzerland, such as World Athletics and World Aquatics, have been working to establish or refine their guidelines to balance inclusivity with fair competition. However, the implementation of these policies varies, with some federations having finalised their regulations while others continue

to deliberate on the most appropriate measures based on new scientific developments.

By way of example, in February 2025, World Athletics initiated a new consultation process to update its eligibility conditions for the female category, focusing on athletes with DSD and transgender athletes. Proposed measures include mandatory cheek swab tests to determine biological sex, aiming to reinforce the existing regulations and address concerns about male athletic advantages that may manifest even before puberty.

Matters of Debate

The ECJ's decision in the *Diarra* case has prompted vigorous discussions. The precise impact of this ruling on the player transfer system is yet to be determined. An initial indication, suggesting that the current transfer system may not be imminently changed as many have predicted, is reflected in the recent transfer data released by FIFA. The number of international transfers has reached a historic high, with a significant amount again spent on international transfer fees. However, it is still too early to make any reliable predictions.

It remains clear that cases involving international transfers all have unique features, and each dispute will ultimately have to be decided on a case-by-case basis taking into account all pertinent factual, regulatory and legal circumstances.

The developments in the case of *Diarra* raise broader questions about the increasing involvement of the ECJ in the regulatory domain of sports associations. *Diarra* is neither the first nor the last case to be brought before the ECJ concerning the regulations of sports associations. However, in recent years, such challenges have become increasingly common, and this trend

indicates a growing willingness of the ECJ to entertain such challenges and to actively intervene in the regulatory frameworks established by sports associations.

With regard to policies for transgender athletes, the debate centres on striking a balance between protecting the integrity of female sports and ensuring inclusivity. Consequently, sports associations continue to refine their policies based on emerging scientific evidence, to maintain fairness and prevent discrimination. Given the inherent differences across various sports, a one-size-fits-all approach to transgender policies is neither feasible nor fair. Each sport presents unique challenges and demands. Therefore, it is imperative that policies be tailored to the specificities of each sport, taking into account factors such as competitive balance, safety and inclusion. By recognising the distinct nature of each sport, governing bodies can develop nuanced regulations that respect the integrity thereof while ensuring that all athletes are treated with dignity and fairness.

Other Recent Topics

On a commercial level, the trend of enhancing fan engagement has persisted. For instance, an increasing number of sports associations are selling collectibles to their supporters. Additionally, various sports clubs are exploring the world of esports, recognising its significant market potential, particularly among the younger generation.

Furthermore, the Swiss government has decided to introduce far-reaching policies in relation to Swiss sports law, impacting sports governing

bodies. Firstly, the Swiss Olympic Association and national sports federations will have to fulfil a mandatory women's quota of 40%. The goal of this policy is to promote women in sports governing bodies.

Secondly, as a reaction to well-publicised cases of abuse of athletes, particularly in the sport of gymnastics, the Swiss government decided that sports associations must comply with an ethical code approved by the Swiss Parliament in 2021 in order to keep receiving state funding. Furthermore, an independent reporting office with investigatory powers and a disciplinary body with sanctioning powers were introduced.

In July 2024, the Disciplinary Chamber of Swiss Sports was replaced with the Swiss Sports Tribunal, a foundation of Swiss Olympic. The Swiss Sports Tribunal, as an independent judicial appellate body, is responsible for resolving disputes and imposing sanctions, particularly in cases related to doping and ethical violations within Swiss sports.

Conclusion

As a final point, the war in Ukraine is sadly still impacting the world of sports. While an interim solution was found by the IOC for the participation of Russian and Belarusian athletes at the Olympics in Paris 2024, it remains to be seen how the IOC and international federations will deal with this issue at the upcoming Olympics in 2026. Most importantly, it must be hoped that hostilities in Ukraine can finally be resolved, without unnecessary further loss of life – this is far more important than any legal considerations.

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