



# Sports Law & Taxation

FORMERLY KNOWN AS: GLOBAL SPORTS LAW & TAXATION REPORTS (GSLTR)

## Contents

---

2020/12 Sport in a time of COVID-19

2020/13 Settling international sports disputes through the Court of Arbitration for Sport. Part two

2020/14 International tax aspects of esports. Part two

2020/15 Gibraltar: Online sports betting

2020/16 The Netherlands: CFK bridging scheme and international taxation

2020/17 Governmental interference versus governmental intervention in sport

2020/18 How much foreign-source income is exempted for a Netherlands sportsperson? Or: does a professional sportsperson have one or two days off per week?

2020/19 Sports agents in Italy. The 2018-2019 legislative reform

2020/20 Football: Extension of players' contracts in Turkey due to the COVID-19 pandemic



# 11.2

JUNE 2020



# Colofon

## MANAGING EDITOR

Dr. Rijkele Betten

## CONSULTING EDITOR

Prof. Dr. Ian S. Blackshaw

## MEMBERS OF THE EDITORIAL BOARD

Prof. Guglielmo Maisto  
*Maisto e Associati, Milano*

Dr. Dick Molenaar  
*All Arts Tax Advisers, Rotterdam*

Mr. Kevin Offer  
*Hardwick & Morris, London*

Mr. Mario Tenore  
*Maisto e Associati, Milano*

## COORDINATOR

Erica Pasalbessy (MSc)  
Nolot  
P.O. Box 206  
5270 AE Sint-Michielsgestel  
The Netherlands  
Tel.: +31 (0)625279308  
E-mail: erica@nolot.nl

For further information on the journal  
and on how to obtain a subscription see:  
[www.sportslawandtaxation.com](http://www.sportslawandtaxation.com).

ISSN nr.: 2211-0895  
© Nolot BV 2020  
All rights reserved.

Preferred citation: *Sports, Law and  
Taxation (formerly GSLTR) 2020/2*, at  
page number(s)

## DISCLAIMER

Whilst every care has been taken in the  
production of this publication and its  
contents, the publisher and the authors  
of the articles and reports cannot  
accept any legal liability whatsoever for  
any consequential or other loss arising  
therefrom incurred by any subscribers or  
other readers as a result of their relying  
on any information contained therein,  
which is not intended to constitute  
any advice on any particular matter or  
subject but merely provide information  
of a general character.

# Table of Contents

Vol. 11 No. 2 June 2020

Editorial	4
-----------	---

## Articles

2020/12 <b>Sport in a time of COVID-19</b> <i>by Prof. Dr. Steve Cornelius</i>	9
2020/13 <b>Settling international sports disputes through the Court of Arbitration for Sport. Part two</b> <i>by Ian Blackshaw</i>	14
2020/14 <b>International tax aspects of esports. Part two</b> <i>by Robert Esau</i>	19
2020/15 <b>Gibraltar: Online sports betting</b> <i>by Steven Caetano and Paul Morello</i>	25
2020/16 <b>The Netherlands: CFK bridging scheme and international taxation</b> <i>by Dick Molenaar</i>	28
2020/17 <b>Governmental interference versus governmental intervention in sport</b> <i>by Ricardo Williams</i>	32
2020/18 <b>How much foreign-source income is exempted for a Netherlands sportsperson? Or: does a professional sportsperson have one or two days off per week?</b> <i>by Dr. Rijkele Betten</i>	38
2020/19 <b>Sports agents in Italy. The 2018-2019 legislative reform</b> <i>by Edoardo Revello and Marco Vittorio Tieghi</i>	42
2020/20 <b>Football: Extension of players' contracts in Turkey due to the COVID-19 pandemic</b> <i>by Serdar Bezen, Yesim Bezen, Zekican Samli, Tugcan Akalin and Salih Kartal</i>	46
2020/21 <b>Taxability of payments made to a foreign celebrity as the brand ambassador for a product launch event held outside India</b> <i>by Sudarshan Rangan</i>	49
2020/22 <b>Sports broadcast rights in a social media age. A perspective from the Caribbean</b> <i>by Dr. Jason Haynes</i>	54
2020/23 <b>Alonso and Geovanni : image rights case comparison</b> <i>by Kevin Offer</i>	60

# EDITORIAL

It is with much pleasure that we welcome readers to the June 2020 edition (citation: *SLT 2020/2*) of our ground-breaking journal and online database ([www.sportslawandtaxation.com](http://www.sportslawandtaxation.com)): **Sports Law & Taxation (SLT)**.

There are no prizes for guessing what has been dominating the general and sporting headlines since our March 2020 issue! Yes, you guessed it: the coronavirus pandemic (COVID-19), which has been – and still is – claiming thousands of lives around the world. At the time of writing, there are over 7 million worldwide confirmed cases of COVID-19 and over 400,000 deaths. COVID-19 has also claimed thousands of lives in Europe, not least in France, Italy, Spain and the United Kingdom, which has the highest number of deaths in Europe to date, namely, over 40,000! In the USA COVID-19 even has cost the life of more than 112,000 people as we write. And in South America the virus is now spreading rapidly. COVID-19 has also been wreaking havoc on sport with the suspension, cancellation and postponement of many major sporting events around the world, including the postponement for a year of the 2020 Olympic and Paralympic Games, which were due to take place in Tokyo, Japan, in July, August and September. Apart from the disappointment of sports fans, there has also been substantial financial loss running into millions of dollars. We have been reporting on the SLT website on the economic impact, in several sporting countries, of COVID-19 on sport, especially association football, which has been a major casualty of the pandemic, and we include highlights from some of these reports.

## Italy

As one of the countries first and most heavily hit by COVID-19, Italy is facing a major economic downturn and the sports sector is no exception. Major events, from football to tennis, skiing and basketball, have been disrupted. Essential revenue streams, from sponsorship, production and distribution of media rights, to ticketing and in-stadium corporate hospitality, have suddenly dried up. According to Deloitte's report on the evolution of coronavirus and its effect on the Italian economy, the negative economic impact is estimated at € 80 billion, equal to approximately 4.6% of the country's 2020 GDP. A much worse scenario has been predicted by the International Monetary Fund, as a recent study foresees that the Italian economy will contract by approximately 9% this year. From the Italian football standpoint, Lega Serie A estimates a loss of € 720 million should the season not

be concluded, most of which is due to missed revenues from non-delivery of live matches to broadcasters. Match day revenues have also suffered substantially. Taken as a whole, Italian football – which generates up to 98,000 jobs – has been calculated to be worth € 3.5 billion per year.

## Switzerland

Switzerland was hit soon after Italy by COVID-19, especially in the southern part bordering Italy, as well as the western part in the Geneva area. The Swiss Players Union (SAFP) was the first to look after the health of the players and elaborated, on 8 March 2020, rules of conduct for players and clubs, because the COVID-19 situation was not taken so seriously in the sports sector at that time. (See [http://safp.ch/sites/default/files/article\\_attachment/code\\_of\\_conduct\\_for\\_players\\_clubs.pdf](http://safp.ch/sites/default/files/article_attachment/code_of_conduct_for_players_clubs.pdf).) When it became worse, the Swiss Federal Council ("the Council") declared, on 16 March 2020, a state of emergency, which allowed the Council to take control of the legislative power in Switzerland from Parliament. The Council introduced certain prohibitions that had an effect on the sports sector in Switzerland. As of 20 March 2020, gatherings of more than five people were banned. All sports events were prohibited, so sport in Switzerland came to a complete standstill and this is still the situation today. The Council also recognised that sport in Switzerland has been hit hard by the measures and provided a fund for professional sport of CHF 50 Million; and for amateur sport the same amount. This money can be used by clubs to avoid bankruptcy. Furthermore, the Council put in place the possibility for all companies, including companies in the field of sport, to obtain 10% of the yearly turnover of the company as a loan up to CHF 500,000, without interest, to be repaid within 5 years and with a state guarantee in case of insolvency. Discussions between the clubs and the Swiss Football League have started as to ascertain whether the costs of finishing the season with games played behind closed doors are higher than those of stopping the season. If the professional sports sector in Switzerland is not able to return soon to games with fans, some clubs will not survive the COVID-19 crisis. Football clubs are talking about a financial loss of around CHF 250 million for the whole sector.

## Cyprus

The government acted quite proactively by imposing strict social measures to fight the spread of COVID-19, including a lockdown of all non-essential businesses. An IMF projection

shows that the Cypriot economy will shrink by 6.5% this year and make a comeback in 2021 with a growth of 5.6%, while local economists' projections show the economy shrinking by a whopping 13%, in a worst case scenario and depending on how long the economy will be in lockdown. Cyprus, deeply hit by the 2012 Eurozone crisis, with a GDP of € 21 billion, has already borrowed € 1.75 billion from international markets and a further € 1.25 billion from local banks by issuing 12-month treasury bills to increase liquidity and support its economy during the lockdown. COVID-19 has struck the sports sector in Cyprus to the core, a sector that, according to EU data, contributes a sizeable share of 1.85% in the total economy and accounts for approximately 2% of total employment in Cyprus. Small or bigger businesses, which are directly or indirectly related to sport, such as fitness clubs and gyms or sports facilities are currently in lockdown, while their fixed costs keep piling up, which can soon lead the financially weakest to bankruptcy. It is inevitable that some of the jobs in the sports sector will be lost. Coaches, instructors, trainers, administrative employees, competition officials and sports journalists have already seen their incomes decreasing, which are fully dependent on training and competitions taking place. Individual athletes have lost their ability to train and compete, which has huge implications for their income and their ability to attract sponsors and public funding.

### *South Africa*

In South Africa, a sport-loving nation, COVID-19 has also wreaked havoc on the sports industry and its economic impact will be felt for years to come. The immediate impact varies from one sport to the next, as some sports were at the beginning, others were in the middle and others towards the end of their competitive seasons. The Super Rugby tournament, which involves teams from South Africa, Australia, New Zealand, Argentina and Japan, felt the early effect as two games of the Japanese Sunwolves team had to be moved to Australia to avoid the spread of the coronavirus in Japan. The tournament was exactly at the halfway point of its 14-week round-robin programme, when international travel restrictions and national government actions prompted the governing body, SANZAAR, to suspend the season indefinitely. If the Super Rugby tournament cannot be completed and if the SANZAAR Rugby Championship, involving the national teams from South Africa, Australia, New Zealand, Argentina and Japan, cannot take place in 2020, SANZAAR stands to lose US\$ 500 million, which could be crippling for some of the member federations. Cricket was in a better position than rugby, with domestic leagues entering the semi-final stages before cricket would go into its off season. However, with a planned inbound tour from the Indian national team, scheduled for August 2020, Cricket South Africa could lose US\$ 10 to 15 million if that tour cannot take place. Also, if the International Cricket Council (ICC) Men's T20 World Cup cannot take place, as scheduled in October, that could have a further negative financial impact on disbursements from the ICC.

The Professional Soccer League could lose more than US\$ 10 million if they are unable to hold any further domestic matches in 2020.

When the President of South Africa declared a disaster and ordered a national lockdown, the track and field athletics and road running seasons were just about to enter their showcase grand prix series and national championships. All these events had to be postponed. If these cannot be rescheduled, Athletics South Africa stands to lose more than US\$ 1 million. While these numbers reflect real or potential losses as a direct result of cancellations due to COVID-19, the longer-term effect on South African sport is more uncertain. The global economic impact of COVID-19 will undoubtedly mean that corporate sponsors and advertisers will have less free cash to spend on sports marketing and sponsorships in South Africa and elsewhere.

### *Spain*

All sporting competitions, at amateur or professional level, were suspended from 14 March 2020, with the Spanish Government publishing Royal Decree 463/2020, declaring a "state of alarm" (one step beyond a "state of emergency") for a period of 15 calendar days. This situation has been extended, so, sport in Spain is on hold and with no prospects of being resumed soon. In fact, the country is one of the most affected worldwide by COVID-19 and, despite the fact that the number of deaths is decreasing daily and the number of people who have recovered is the highest in the world, Spain faces a clear challenge: is sport, and football, in particular, going to resume soon? This is no longer a matter of sport or money, but of shyness, as footballers do not want to be pointed out as being "remarkable" or "unique" over other citizens. Football is the most popular sport and an economic motor in Spain, and accounts for 1.4% of the gross internal product. Two of the most visited museums in Spain are the FC Barcelona and Real Madrid ones, with a loss of around 1.2 million euros per month as they are closed, as are all other museums in the country. Finally, sponsors are already set to cut their payments or, at least, to reduce them, due to the lack of impact of their product as they are not displayed either on shirts, training camps or stadia. We cannot yet know what the economic consequences will be for football income. As for other sports, almost all, except basketball, depend on state financial involvement and the money comes mostly from football: TV rights and the "Quiniela" (the weekly pool) which uses the name of the clubs. So, the economic and sporting effects of COVID-19 are disastrous, and will certainly affect the next sporting season too!

### *The Netherlands*

Since the start of the COVID-19 crisis in The Netherlands, sports competitions have been terminated, sports clubs have closed, and all sports events have been cancelled until 1 September 2020. This not only creates a great number of organizational

and social problems, but also entails major financial consequences for sports organizations and top athletes. The NOC\*NSF, the overall coordinating Dutch sports organization that also functions as the Dutch National Olympic Committee and National Paralympic Committee, estimates that the total damage for the sports sector until 1 August 2020 is € 950 million. Because competition will not resume this season, the financial damage for Dutch professional football amounts to € 110 million.

In response to the estimated economic damage, NOC\*NSF and other sports organizations have called on the government to establish an emergency fund for sport. In addition, NOC\*NSF has set aside € 4 to 5 million for an emergency fund for sport. The national government and other sports organizations have been asked to participate in this fund. The government has awarded entrepreneurs in a number of specific sectors, including the sports sector, who have been affected by the COVID-19 measures, under certain conditions, a one-time, fixed reimbursement of 4,000 (tax free). This is called the Reimbursement for Entrepreneurs in Affected Sectors COVID-19 ("Tegemoetkoming Ondernemers Getroffen Sectoren COVID-19, TOGS"). This reimbursement is for those SMEs, with or without staff, that suffer loss because of: necessary closing of their enterprise; and restriction of meetings and/or curtailment of travel. For more information see: <https://business.gov.nl/the-coronavirus-and-your-company>. Sports clubs, who employ staff, and expect a turnover loss of at least 20% for at least three consecutive months can claim, under certain conditions, compensation towards wages for a period of 3 months from NOW: Tijdelijke Noodmaatregel Overbrugging voor Werkbehoud (Temporary Emergency Bridging Measure for Sustained Employment). Clubs can claim a maximum of 90% of wages, depending on how much turnover they lose. However, if a club claims NOW, they are not allowed to dismiss employees on economic grounds during the period for which they receive compensation. For more information see: <https://business.gov.nl/the-coronavirus-and-your-company>.

#### *Emergency fund for sport*

The Dutch Government has also set up an emergency fund of € 110 million to support Dutch amateur sports associations. Of these € 110 million € 90 million is intended for cancelling the rent for accommodation of sports clubs over the period 1 March to 1 June 2020. For many sports clubs, rent is the largest cost item on their budgets. The remaining € 20 million is intended for sports clubs who have their own accommodation. Each sports association gets a one-off allowance of up to € 2,500. From May 2020, the NOC\*NSF supports talented young athletes up to the age of 21 or their parents, who are in financial difficulties due to the consequences of the COVID-19, with a one-off allowance for accommodation costs, with a maximum of € 1,000 per athlete. In April 2020, the KNVB, the governing body of football (soccer) in The Netherlands, the ING Bank, the main sponsor of football in The Netherlands, and the Dutch

national soccer team jointly presented a financial support package for football clubs, comprising a combination of donations, measures and grants, totalling € 11 million. The effect of COVID-19 on sport in The Netherlands is gigantic and more measures are expected.

#### *Germany*

The shutdown has led to a nationwide closure of sports facilities. Since 17 March 2020, there is – with the latest exception of elite sport (only under very strict conditions) – no opportunity to use sports facilities. Training in the old way is still not possible. Sports events are currently strictly forbidden. The shutdown could have major consequences for sport itself and its stakeholders.

The latest evaluations of the sports "pre-corona" economy conducted by the Federal Ministry for Economic Affairs and Energy of Germany show:

- sport contributes a good € 70 billion to the overall economic gross domestic product, which corresponds to a share of around 2.3 percent;
- in total, sports-related goods and services are produced with a value of almost € 120 billion;
- private households spend almost € 70 billion on sport-related consumption, of which more than 80% is spent on active sports and the rest on sports interest;
- in addition to the high level of voluntary commitment, around 1.3 million employees are also active in sport;
- the total expenditure for the construction and operation of sports facilities is around € 24.5 billion.
- around € 4.5 billion will be spent on sponsorship, media rights and advertising in the field of sport.

The shutdown affects the entire professional sport in Germany, including ice hockey, handball, basketball and volleyball, all of which have been seriously affected financially, as a result of COVID-19. For example, the German Ice Hockey League expects to lose 20 million and the German Basketball League € 25 million. However, the Bundesliga resumed football matches on 16 May behind closed doors but with live television coverage.

#### *France*

On 7 May 2020, France announced some easing, in certain phases and regions, of the strict lockdown measures currently in force in the country. However, according to a shock announcement made by the French Prime Minister, Edouard Philippe, on 28 April 2020, namely, that the 2019-2020 sporting season in France is over. All sporting events, including football, as well as those events to be held behind closed doors, are banned until September. However, even then it is not certain that sport will be back to "normal" in France. The French football governing body – *Fédération Française de Football (FFF)* – had hoped to resume the season on 17 June and end on 25 July 2020. It is not yet known whether the football season will now be abandoned without any promotions or relegations or whether the outcome of the season will be based on the current standings of the clubs in the leagues. Nasser Al-Khelaifi, the chairman of Paris Saint-



Germain, who are top of the French Ligue 1, stated:

*"We respect of course the French government decision – we plan competing in the Champions League with UEFA agreement – wherever and whenever it is held."*

And added:

*"If it is not possible to play in France we will play our matches abroad subject to the best conditions for our players and the safety of all our staff."*

However, horse racing has restarted in France, which is being regarded, for legal purposes, as *"an agricultural event"*!

## USA

According to Paul Greene and Matthew Kaiser, although all sports in the USA have come to a complete standstill since the onset of the coronavirus pandemic, women's sports, both at the collegiate and professional levels, will likely be more affected than men's sports leagues, since women's sports leagues are still in their infancy compared with men's leagues. The timing could not be worse for women's sports following the wave of support for them that followed the victory by the USA team in the FIFA Women's World Cup in 2019. At the collegiate level, the pandemic has forced the cancellation of all winter and spring sports, which included the crown jewel of collegiate women's basketball, the women's NCAA (National Collegiate Athletic Association) basketball tournament. Each division within the NCAA then published decisions that granted spring-sport athletes an additional season of eligibility but did not extend the same waiver for winter athletes, such as those who played basketball. Consequently, while winter-sport athletes, such as basketball players, are now forced to declare for the draft, spring-sport athletes, including those who compete in lacrosse, softball and track & field, will have to decide whether to return for another period of college or turn professional. The three main women's professional sports leagues in the USA – the Women's National Basketball Association (WNBA), the National Women's Soccer League (NWSL) and the National Women's Hockey League (NWHL) – have all been affected by the pandemic as well. Because each has its own unique challenges and resources, the three have fared quite differently during the downtime. Women's professional leagues in the USA face a tough road ahead for the remainder of 2020 and so it is to be hoped that they come back stronger than ever when the coronavirus pandemic eventually subsides!

## English Premier League

It is planned (hoped) to restart matches in the English Premier League, the world's most popular and most lucrative league, on 19 June 2020, provided that it is safe to do so, with appropriate "protocols" in place. Training resumed on 19 May in small groups of not more than five, without any contact, and for not longer than 75 minutes. 92 matches remain to be played during the current 2019-

2020 season. The matches will be played behind closed doors but will be broadcast. It is hoped to complete the remaining matches by the end of July. If it proves impossible to do so, it has been reported that refunds, amounting to around £ 0.75 million, will become due to broadcasters under the existing TV contracts.

## Belarus

Let us end this short review of the effect of COVID-19 on sport, especially football, the world's favourite sport, on a more positive note.

Although football is suspended throughout most of the world, due to the COVID-19, in Belarus, the "beautiful game" is still being played. The Belarus Premier League is attracting local and foreign fans and is the only football still being played in Europe, despite the pandemic. On 11 April 2020, the "derby" between FC Minsk and Dinamo Minsk was played in the capital, Minsk, attracting a crowd of some 3,000 persons. In this East European country and former Soviet Republic, with a population of some 9.5 million, there are less than a hundred cases of COVID-19 and, so far, no deaths. The President, Alexander Lukashenko, is quite relaxed about it all and has recommended that his fellow country men and women drink vodka to stave off and fight the disease! The continuance of football in Belarus has also spawned some broadcast deals, allowing fans in several countries, including India, Israel and Russia, to watch games, which otherwise would not be available to them and thus satisfy their need for football.

## Articles

Now we turn our attention to the articles that we publish in this issue of SLT.

On the sports law side, we publish the following articles:

- "Settling international sports disputes through the Court of Arbitration for Sport. Part two" by Ian Blackshaw;
- "Football: Extension of players' contracts in Turkey due to the COVID-19 pandemic" by Bezen & Partners, Istanbul, Turkey;
- "Sports broadcast rights in a social media age; a perspective from the Caribbean" by Dr Jason Haynes, Barbados;
- "Sports agents in Italy; the 2018-2019 legislative reform" by Edoardo Revello and Marco Vittorio Tieghi;
- "Sport in a time of COVID-19" by Prof. Dr. Steve Cornelius, University of Pretoria, South Africa;
- "Governmental interference versus governmental intervention in sport" by Ricardo Williams, sports lawyer in Port of Spain, Trinidad and Tobago; and
- "Gibraltar: Online sports betting" by Steven Caetano and Paul Morello of ISOLAS LLP Law Firm, Gibraltar.

On the sports tax side, we publish the following articles:

- "International tax aspects of esports. Part two" by Robert Esau;
- "The Netherlands: CFK bridging scheme and international taxation" by Dick Molenaar;

- “How much foreign-source income is exempted for a Netherlands sportsperson? Or: does a professional sportsperson have one or two days off per week?” by Dr. Rijkele Betten;
- “Alonso and Geovanni : image rights case comparison” by Kevin Offer; and
- “Taxability of payments made to a foreign celebrity as the brand ambassador for a product launch event held outside India” by Sudarshan Rangan.

Finally, and as always, we would welcome and value your contributions in the form of articles and topical case notes and commentaries for our journal and also for posting on the SLT dedicated website at [www.sportslawandtaxation.com](http://www.sportslawandtaxation.com).

So, now read on and enjoy the June 2020 edition of SLT.

Dr. Rijkele Betten (*Managing Editor*)

Prof. Dr. Ian S. Blackshaw (*Consulting Editor*)

*June 2020*