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Abstract degli articoli  
Saggi

VITTORIO OCCORSIO

*Fusioni, scissioni e conferimenti d'azienda di società calcistici-che secondo le Norme Interne di Federazione (NOIF)*

*The organization of the Italian Football Federation (“Federazione Italiana Giuoco Calcio – F.I.G.C.”), through internal set of rules (norme organizzative interne federali – N.O.I.F.), provides specific guidelines, in addition to those included in the Italian Civil Code, for mergers, demergers and transfer of company concerning sport clubs affiliated to the Federation. In article 20 of N.O.I.F., there are three heterogeneous particular cases that sets of safeguard for the continuity of the sport club and untransferable sport titles. In those operations, a relevant role is played by the Federation President approval which enables those rules through a specific resolution, applied on demand to be submitted within the final term of the 5th July. After filing the application, an investigation phase starts internal to the Federation, where some advices are acquired (from expert league, Committee on the supervision and control of clubs “CO.VI.SO.C.”, technique expert associations) and subjective and objective requirements are evaluated. By the introduction of the above mentioned operations (mergers, demergers and transfer of company) the so called succession of the sport title is introduced. Consequently, the Federation has settled limits to its circulation and has set up prohibition of its commercialization, out of foreseen cases. The title transfer agreement should be declared invalid due to the impossibility of the object. This occurred in the interest of the FIGC to safeguard regularity during sports competitions and to guarantee that the sport title is gained on the field only, and does not become subject to exchange to elude checks in accordance to law Nr. 91/1981. Under federal football club law demerger and rent a company are prohibited, and are allowed only events which guarantee the sporting enterprise continuation. The only exception, is given by bankruptcy of a sport club, as Article 52 NOIF provides an exception on the general rule of the transfer of company issued by art. 2555 Italian civil code. Non compliance with such rules entails the loss of association at the Federation, introducing, in addition, the dissolution of the company as a result of the impossibility to pursue the company object.*

ALESSANDRO CAPUANO

*Le multiproprietà delle società professionistiche. analisi della normativa e ipotesi di riforma del sistema*

*This article explane the theme about ownership in the professional football clubs, infact it has become a matter of topical interest club in football. There are many examples: Pozzo 's family have Udinese Calcio, Granada F.C. and Watford F.C.; Mr. Claudio Lotito*

*has S.S. Lazio and Salernitana Calcio; Sheikh Mansour have Manchester City F.C., Melbourne Heart F.C., Yokohama Marinos and New York F.C. Those who buy the most professional clubs manage to evade the Financial Fair Play. Therefore, the effects aren't only economics but also about the technical level of the players. So, this article analyzes only the Italian legislation (Art. 7 Federal Statute, Art. 16° NOIF and art. 2359 c.c.), because there aren't FIFA rules on this subject. In Italy the institute ownership of professional clubs was the matter of the resolution of the National Disciplinary Committee FIGC – Official release 31 / 26.10.2009 of the CDN that is analyzed in the article. Finally, it outlined a hypothesis of the standards reform.*

FRANCESCO SAVERIO VERGA

*Società di calcio, tassazione Irap e condizione di incertezza della norma tributaria*

*This article explains the theme about the sport membership, which is aimed to be an act for sport citizenship, represents a connecting point between sport's legal system (traditionally autonomous) and state's legal system. The law about sport's ius soli affects a status, which is designed to operate in another legal system: it allows foreign minors to become part of sport's legal system, thanks to the recognition of the right to apply for membership of a sport club or sport association as well as their contingents. The sport's legal system will decide whether to comply with the rules established by the lawmaker or to impose its rules through its strong persuasion.*

ANDREA AVERARDI

*Tra stato e società: le federazioni sportive nel perimetro mobile delle amministrazioni pubbliche*

*This article seeks to analyze the issue of the legal nature of the Italian sports federation, offering a critical overview of Italian and European definition of public administration. Indeed, following the Italian normative framework, sports federations are formal private bodies, even though they act also to protect public interests. The article aims especially to understand whether sports federations acting to protect a public interest should fully comply with national and European rules enacted for the administrative sector, including those ones imposing transparency and limits to public expenditure. In the conclusion, the author suggests to take a functional approach, instead of a formalistic one, in order to apply administrative rules to sports federations only when it is strictly necessary to protect a public interest, without affecting negatively their private autonomy.*

ALBERTO BUONFINO

*Profili risarcitori nel procedimento disciplinare sportivo e giurisdizione esclusiva del giudice amministrativo*

*The essay is focused on judicial remedies pertaining to (illegitimate) administrative decisions issued within sports legal framework. From a general standpoint, Italian*

*sports law reserves claims for compensation for the so called «exclusive» jurisdiction of the administrative judge, even though sports law in itself is characterized by many distinctive features that make it sometimes overlap the «general legal system» (such as its alleged autonomy). On the basis of recent and often complex judicial decisions by both the administrative judge and the Constitutional Court, the essay aims at following the «evolution» of the right to compensation for damages as a regulatory scheme torn between administrative and sports law.*

STEFANO BASTIANON

*Le federazioni e il mercato dell'organizzazione degli eventi sportivi: uno sguardo al passato per cercare di capire il presente (... ed immaginare il futuro)*

*During the 90s, sport was transformed in a product of entertainment with an incredible economic importance, thanks to sponsorship and advertising. Sports federations, because of their authority, performed an economic monopoly position: the question was about if they were allowed to prevent the rise of new kind of sports events and to keep out other subjects of that market. The European Commission (legal case about FIA) and the European Court of Justice (legal case about MOTOE), in addition to other national legal cases (in Ireland, Belgium and Sweden), actively contributed to detect the conflict between the free competition and the general principle of unic federation for each sport. Furthermore, they marked the limit of federations' activities, in order to avoid the warping of the free competition. On the one side, it was necessary to verify if a federation may be qualified as an enterprise, thanks to the difference between regulating and even making economic activity; on the other side, if the barring of the competitors from the market is proportionate to the federations aims, such as good sportsmanship and the regularity of sports competitions. Also AGCM played an important role: thanks to the legal cases about ACI and FISE, the Italian Authority decreed that the restriction on access to the market must be justified through the concepts of objective justification and efficiency defense too.*

FRANCESCO GOISIS

*La gara per l'assegnazione dei diritti di trasmissione di eventi sportivi, tra diritto pubblico e privato*

*This work gives a new public qualification to the procedure of collective selling of sports broadcasting rights. This is due to the kind of interests involved and the tight connection between interest to competition and the social function of sport, meant as a general-public interest. Public aspects are also showed by the features of the main players: private companies which have to care public implications and are subject to the Independent Authorities guidelines. Substantially, these companies should be equal as public legal subjects. The paper evaluates that to reach appropriate results for the entire business, a private legal guardianship is not enough and considers public law institution the only*

*one who should offer more protection to the claimant and a real observance of procedure provided for by public law.*

GIULIO NAPOLITANO

*La gara per l'assegnazione dei diritti di trasmissione di eventi sportivi, tra diritto pubblico e privato*

*This article considers if it is appropriate to apply public law rules to private law entities. The privatization of public enterprises and the liberalization of markets caused two effects: on one hand the establishment of regulatory systems direct to promote competition and to protect consumers, on the other hand a misapplication of public law rules. This issue has recently regarded the commercialization of television rights (legislative decree n. 8/2009). In this area there is a special framework addressed to private parties which cannot be assimilated with the administrative procedure concerning the award of public contracts. In the following essay I will try to answer to the question if «neopublicism» is a suitable response to the problems associated with this sectors.*

MARIATERESA MAGIOLINO

*Calcio e trasferimenti: un'analisi economica*

*Before "Bosman" ruling the migration of players was limited by high transaction costs (transfer fees) and «three-plus-two» rule whereby in European competition the number of foreign players were restricted. The European Court of Justice, in this judgement, considered those restrictions in contrast with the freedom of movement of workers and liberalized the transfer system. The power was handed to the player, who can leave a club on a free transfer as soon as his contract expired, demanding to the new clubs a huge salaries to compensate the absence of a transfer fee. Twenty years after Bosman-ruling, players can move more easily between clubs and the restrictions on the number of foreign players from EU nations a team could roster is ended. In this paper, through an economic analysis, I will examine the composition of the transfer and the allowance to understand whether the revenue revolutions have influenced the competitive balance of the championship.*

MARIA PIA PIGNALOSA

*Lo sfruttamento economico dell'immagine degli sportivi*

*The success of the personality merchandising contracts, promoting economic exploitation of the image of the celebrities, in particular professional athletes, highlights how, nowadays, the theme of the image rights does not deals only with the protection of individual rights, but is also inclusive of relevant property rights aspects. These aspects, in certain areas, are eligible to be even more prevalent than the first. Nevertheless, the case law continues to protect the economic exploitation of the image, relying on the*

*principles of privacy, dignity, honor, respectability. However, the application of the trade marks and industrial property tools, as well as the North American “right of publicity”, would be more consistent with the purpose of obtaining a profit by controlling the commercial diffusion of the image.*

#### Giurisprudenza commentata

*Tribunale di Trento, 4 agosto 2015, n. 788/15, con nota di FILIPPO BISANTI, La responsabilità civile del gestore di un'area sciabile*

*The Courthouse of Trento established the responsibility of the manager of the ski area, for accidents occurring to the users in the event of impact with installed signage on the outside of the track, is subject to the discipline of non-contractual liability (art. 2043 c.c.), and there's no need to remove the typical risks of the ski track.*

*Corte di Cassazione, sez. VI, 2 dicembre 2015, n. 24589, con nota di GIUSEPPE PERSICO, In tema di plusvalenze da calciomercato ed obiettiva incertezza della norma tributaria*

*Regarding the tax treatment with respect to the Regional Tax on Productive Activities of the gains originating from the transfer of football players from a sports club to another, the existence of conflicting court decisions over several years up until the publication of an opinion by the Administrative High Court (Consiglio di Stato) entails an objective uncertainty of the applicable law; conversely, it is irrelevant for the above purposes whether or not the interpretations issued by the Revenue Agency are consistent with the clarifications provided by the pertinent football club associations.*

#### Storia dello sport a cura di Francesco Bonini

ELEONORA BELLONI

*La nascita dell'industria sportiva in Italia. Una prima periodizzazione*

*The aim of the research is trying to describe the history of sports industry in Italy, from its origins to the end of the Second World War, considering its relationships both with Italian economic and sports history. The periodization points out three main phases or steps: the beginning of a sports industry, linked to industrial take-off in Italy (1896-1914); the changes determined by the Great War in sports industry (1914-1918); sports industry as an instrument of sports and economic politics of the fascism (1922-1943).*