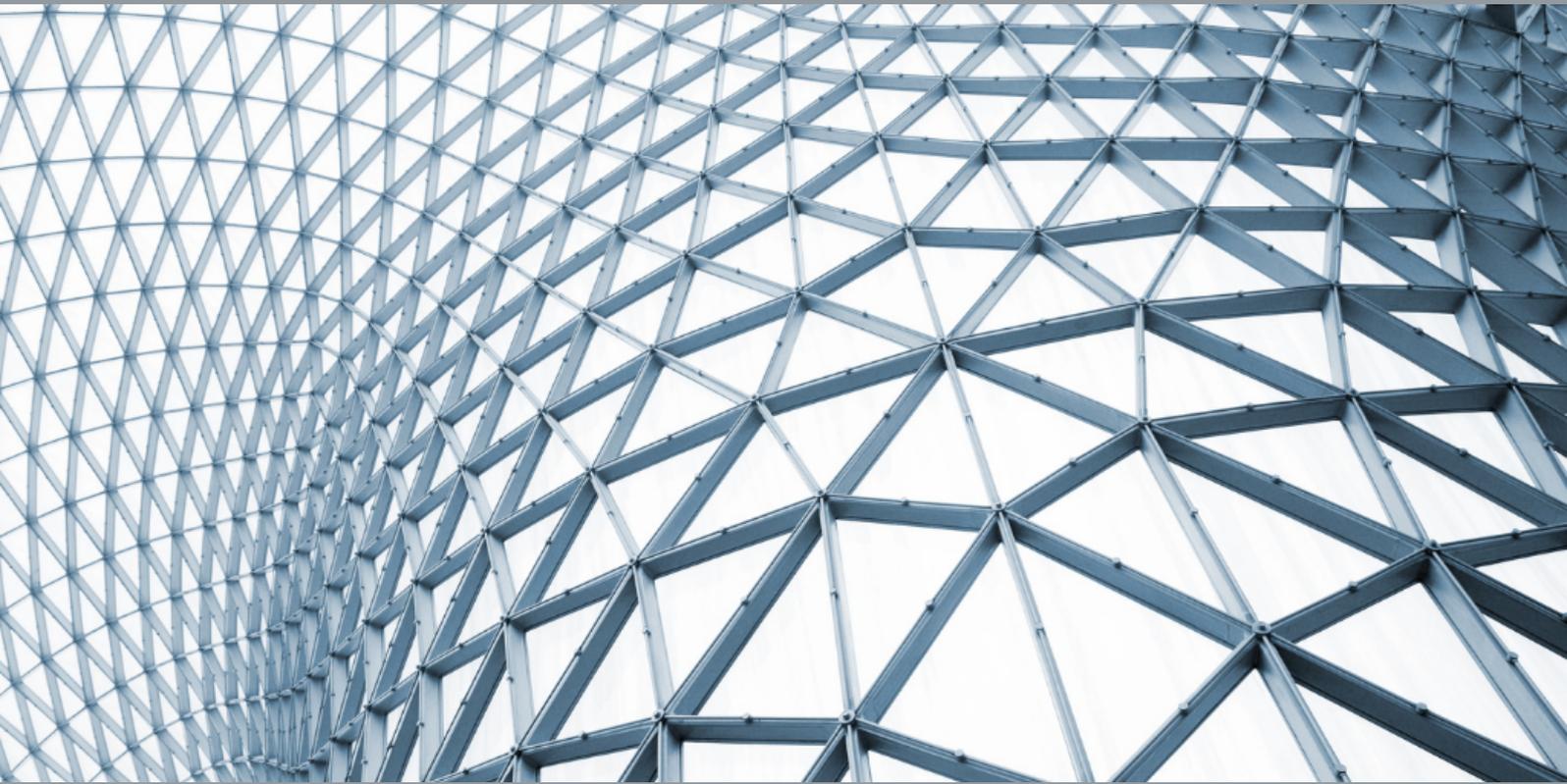


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# Legal issues arising from Rio 2016 Olympic Games

by **Muireann Granville, Marco Hickey**

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7th September 2016 | by Muireann Granville, Marco Hickey

In the aftermath of the Rio 2016 Olympic Games (the Rio Games), the focus is as much on the controversies and alleged corruption that came to light during the Rio Games as it is on the sporting achievements of the athletes.

Given that the Olympic Games constitute one of the largest international sporting events, it is no surprise that a variety of legal issues surfaced at this year's event.

Conflicts arising in the sporting world are determined by the Court of Arbitration for Sport (CAS) based in Lausanne, Switzerland. An ad hoc division of CAS (CAS AHD) sits on site at each Olympic Games. The CAS ADH was created to deal expeditiously with legal issues related to the Olympic Games. It delivers decisions within twenty-four hours from the submission of the claim, or within a timeframe compatible with the competition schedule. This is crucial in circumstances where disputes require prompt resolution ahead of an athlete's upcoming event. Final decisions rendered by the CAS AHD may be appealed.

A team of local pro bono lawyers was organised in Rio ahead of the Rio Games to provide legal assistance to those who did not have their own legal advisers in place and who may have had difficulty in obtaining representation at short notice. Despite the availability of 'on the ground' legal assistance, there is often a role to be played by lawyers in the home country of the athlete, or the administrative personnel, that are involved in a legal dispute. The most relevant legal issues arising out of the Rio Games from an Irish perspective are discussed below.

## **CAS rejection of marathon runner's appeal**

Before the Rio Games had even commenced, Irish marathon runner Sergiu Ciobanu had engaged in the CAS appeal process in respect of his omission from the Irish Olympic team. Ciobanu initially utilised the Athletics Ireland internal appeal process to challenge his exclusion from the team. He argued that this did not provide clarity regarding the rationale for the decision and so he lodged an appeal with the CAS. His appeal was rejected on 22 July 2016 on the grounds of jurisdiction. The CAS did also indicate that the case would have been dismissed; finding that Athletics Ireland had not failed to follow or apply the relevant selection policy properly construed. The publicity surrounding the appeal serves as a reminder of the importance for sports bodies to have a fair and equitable selection policy in place as well as a robust regulatory framework that inspires trust and confidence so that individuals may not feel such a need to challenge internal processes and decisions.

## **Irish boxer likely to face disciplinary action**

Dr. Ching-Kuo Wu, the President of the International Boxing Association (AIBA) has indicated that Irish boxer Michael Conlan will face disciplinary action following his reaction to his controversial defeat at the Rio Games. Conlon made a number of accusations of corruption against the AIBA following the result of a

quarter-final fight in which he believed the judges wrongfully ruled against him. In circumstances where Conlon states that he will likely turn professional, it remains to be seen what kind of enforcement options the AIBA will have against him.

## **Alleged doping**

Boxer Michael O'Reilly became the first Irish athlete to be sent home from an Olympic Games for failing a doping test. It was referred to as "an adverse analytical finding" by anti-doping officers. A mandatory provisional suspension was imposed against O'Reilly under the Irish Anti-Doping Rules 2015 (the Irish Anti-Doping Rules). The Irish Sports Council (ISC) is the entity responsible for adopting and implementing the Irish Anti-Doping Rules and appeals are heard by the Irish Sports Anti-Doping Disciplinary Panel in Dublin. The ISC confirmed initially that O'Reilly had lodged an appeal against the finding. Given the strict liability imposed in cases of doping, any such appeal was unlikely to be successful. However, O'Reilly subsequently withdrew his appeal and issued an apology for inadvertently taking a supplement which may have contained a banned substance. O'Reilly is likely to be called to attend before a disciplinary hearing in Dublin at some stage in the near future.

## **Alleged ticket touting**

Charges comprising, alleged ticket touting, formation of a cartel and illicit marketing have been made against Pat Hickey and directors of Pro10 Sports Management and THG Sports. Ireland and Brazil do not have an extradition treaty which complicates matters for the prosecutors in this case. The OCI has appointed a legal firm in Brazil to represent its interests there. A twelve-week non-statutory inquiry into the ticket scandal is also underway in Ireland led by retired judge Mr Justice Carroll Moran. It will inquire into the OCI processes and practice of reselling tickets as part of hospitality packages and will investigate procedures in relation to the 2014 Winter Olympic Games and the 2012 Summer Olympic Games in London as well as the Rio Games.

Non-statutory inquiries are not vested with the powers, privileges and rights of civil courts. Such inquiries may not make any findings that adversely affect the good name of someone who is not a member of the Dáil or Seanad, or an officeholder or someone who is directly accountable to the Oireachtas.

## **Conclusion**

This review of matters with an Irish interest that have arisen from the Rio Games, is a glimpse into the kinds of legal issues that can emerge in relation to sports. Given the complexity of the organisation and regulation of high performance sport, there is a need for legal clarity and legal advice, to ensure that the legal rights of athletes and sports bodies are protected and that they can rely on fair and just procedures. LK Shields provides practical and commercial advice on a range of legal issues to sports bodies, clubs, and those involved in the regulation and sponsorship of sport.

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