



## XIII OLYMPIC CONGRESS

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### The autonomy of the Olympic Movement

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The Italian experience, also in the light of those episodes that have concerned professional football in recent times, confirms that the autonomy of sport with respect to state legislation is to be measured essentially on the basis of two factors: financial autonomy and the legislative systems of the single States.

- In Italy CONI's financial autonomy has for over 60 years been guaranteed by proceeds from sports results prognostication competitions (football pools: Totocalcio) based on sports events, that have not only ensured sufficient funds for the whole of Italian sport but have also produced considerable income for the State.

Being able not to depend directly from the State means that one can make one's choices in terms of sports policy autonomously, without being subjected to any kind of conditioning. This system has functioned for a long time and only in recent years, due to the crisis that has struck Totocalcio, has it become necessary to modify this mechanism with a budget allocated directly from the State's coffers.

Call it chance, but the highest level of autonomy ever reached by CONI was in 1980 with the participation at the Moscow Olympic Games, despite the contrary opinion of the Government that limited itself to blocking in Italy those athletes that were part of the armed forces.

- The autonomy of Italian sports law has obtained – a unique case in the world – explicit recognition through legislation (n. 220/2003), which indicates that *“the Republic recognises and favours the autonomy of national sport law, as an articulation of national sports legislation under the International Olympic*

*Committee” and that “the relationship between sports law and the legislation of the Republic are regulated on the basis of the principle of autonomy, save for cases of particular relevance for the legislation of the Republic for subjective juridical situations connected with sports law”.*

All matters of a technical and juridical nature would then be resolved within the scope of sports justice and only exceptionally – in those case where fundamental subjective rights are involved or for issues concerning patrimony – is it possible to take cases to the State courts, and in any case always after having gone through the full procedure foreseen by sports law.

Despite this legal framework, that would appear to be very favourable for the autonomy of sport, the recent vicissitudes that have hit Italian professional football instead show that the economic dimension that professional football has now taken on cannot avert eventual – in any case legitimate – recourse to the Courts.

For the very purpose of reducing this possibility to a minimum, in its Articles of Association, CONI has heavily put the accent on the need for the bodies responsible for sports justice to have all the necessary requisites in terms of autonomy, independence and tertiary status with respect to the directive bodies of the sports organisations (CONI and National Sports Federations). Thus, in CONI’s new judicial system for sport, designed to handles all degrees of controversy between subjects that come under sports law, the arbitral characteristics of the procedure have been heavily accentuated, with the aim of ensuring that controversies may find a solution within the scope of sports law.

From this it derives that the self-regulating power that CONI enjoys – with respect to State legislation – is a decisive element with which to define and highlight the autonomy of sports organisations, and this is of fundamental importance not only for the sports justice sector but also in all those subjects for which situations where confusion and a superimposition between sports law and State legislation may occur.

- It is on the other hand evident that a solution that fully guarantees the autonomy of sports law cannot be found if not within the scope of an international context - beginning with the EU - that, recognising the specific nature of the sports sector, may adequately guard it against possible hypotheses of contrast or superimposition with the legislation of individual states.

Work has been going ahead on propositions of this type within the scope of EU legislation for some time now, with results that have to date been insufficient also because the unified convergence of the Governments of the Union is

needed, together with an approach that can safeguard the whole of the world of sport, in other words all sports disciplines and not just those that are economically stronger. We shall thus have to redouble our efforts in order to find that general consensus that is the indispensable condition with which to reach this difficult, but not impossible, objective.

The IOC, the EOC, the National Sports Federations all agree upon a defence of the specific nature of sport and of the autonomy of sport, but many steps forward have yet to be taken so as to obtain a legislative framework that can give concrete answers to such needs. It is a long and difficult road, but it is imperative to continue along the way we have taken if we really do have to heart the credibility and the future of sport and the values upon which it is based.