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Abstract degli articoli
Saggi

ALBERTO M. GAMBINO

Giustizia sportiva e crisi della fattispecie

The present work resumes and complements the report held at the conference «The state of sports justice in Italy. Presentation of the volume of Mario Sanino “Sport Justice”», held on November 23, 2016 at the CONI in Rome. The opportunity i welcome to dwell on the issues of sporting justice, with particular reference to the issue of illegal sport, the limits to the exercise of the deliberative power of the federation as well as the transferability of the sporting title.

PASQUALE DE LISE

Lo stato della giustizia sportiva in Italia

The present work draws inspiration from the conference held the occasion of the presentation of the volume of Mario Saninothe. The opportunity was appreciated to dwell on the issues of sporting justice within the state system and on the evolution of the relevant regulatory framework. To this is added a look at the dimension of sport as a global phenomenon from a territorial and content point of view.

MASSIMILIANO GRANIERI

Una lettura alternativa circa l'argomento della specificità dell'attività sportiva alla luce delle norme di concorrenza in Europa

This article is concerned with the question of the applicability of antitrust rules to sport and the rationale behind the claim that because of the social role and peculiarities of sports there should be immunity from antitrust rules. Although there has been an attempt – also in case law – to support the idea of sporting activities as intrinsically not economic and thus not subject to antitrust scrutiny, eventually antitrust came to play a fundamental role to shape the behavior of those involved in sports. This article aims at reviewing the application of antitrust rules to sport and to show how the argument of specialty became an internal parameter of antitrust rules and their application to sport.

NICCOLÒ MARI NASO

Intermediari e calciomercato: l'impatto del diritto della concorrenza sui nuovi regolamenti Fifa alla luce della specificità dello sport

In the last decade the economic turnover generated by football players' transfers has skyrocketed. Football transfers market has obtained a huge economic relevance, attracting outsiders with the aim of obtaining part of the economic rents produced by this market. Players' agents (now intermediaries) have become year by year more involved in the representation of football firms during the transfers of players; simultaneously, their remuneration per single transfer has increased steadily. Meanwhile, new market practices have developed, as the so-called Third-Party Ownership, raising concerns about their regulation. Those developments of the market have constrained the F.I.F.A. to intervene with a set of new rules regarding players' agents and Third-Party Ownership, trying to guarantee the efficiency of the market and to promote the competitive balance between football clubs. Nevertheless, the new FIFA Regulations have been strongly criticized and it has been argued that they could infringe EU Competition Law rules. The aim of the work is to analyse such contentious regulations and the relevant market practices, in order to assess their compliance with EU Competition Law.

CARLO RASIA

Spunti sui poteri istruttori del giudice e dell'arbitro sportivo

This article examines the topic of the evidence-gathering powers of the judges and arbitrators in sports disputes after the CONI's new code of justice. After the introduction of the principles of the fair trial in sports disputes and the reference to the code of civil procedure, even in sports judicial system shall matter the adversary principle but not in an absolute version, typical of the civil state proceedings, despite there are some inquisitorial powers that the judge can ex officio dispose.

GIANLUCA SIMONI

Ambush marketing: fenomeno e sua rilevanza nel mondo sportivo

This work analyze the phenomenon of ambush marketing and its relevance in the context of the Olympic Games. We will also analyze some of the main jurisprudential solutions offered on the national and international scene. At the end of this analysis we provide some protection proposals against the phenomenon of ambushing.

ENRICO ANTONIO EMILIOZZI – MASSIMILIANO ZAMPI

Responsabilità derivante dall'utilizzo di metodi o sostanze dopanti

Compensation for damages from the use of doping substances or methods has a compensatory and punitive function. Complementary aspect is that related to controls on athletes, the right taking of biological samples and subsequent laboratory tests to demonstrate the condition of doping.

MATTEO FERMEGLIA

La tutela dell'ambiente e la lotta al cambiamento climatico nell'organizzazione dei grandi eventi sportivi

The International Olympic Committee (IOC) and the Fédération Internationale de Football Association (FIFA), as owners of the biggest sporting events worldwide (namely the Olympic Games and the FIFA World Cup), are increasingly being embedded as relevant subjects in the climate governance arena. For, more specifically, they determine which country (or city) will host and therefore organize mega-sporting events, and under which conditions. Relying on legal tools displayed in the bidding process and in binding hosting agreements, IOC and FIFA can in fact prompt or enhance environmental and climate action in the hosting countries (or cities), while encompassing a unique model of transnational governance. Hence, the purpose of this contribution is to explain what these legal tools are, how they have been developed over time, ultimately stressing potential pitfalls and actual drawbacks of their implementation.

LUCIA SAVADORI

Percezione del rischio valanghe ed errori cognitivi

Human decision-making is decisive in the process leading to the avalanche accident. The mental procedures with which we foresee an event, we perceive a danger, we estimate a probability, we decide the action to be done before and during a ski mountaineering trip, are analyzed under the light of the behavioral sciences. Within this approach, the heuristic reasoning and cognitive biases that can trap an individual, even an expert one, into an irrational behavior during a ski tour are described and the consequences analyzed.

MAURO VALT

Il monitoraggio del fenomeno valanghivo: dati statistici e aspetti tecnici. Gli incidenti da valanga in Italia

Avalanche accidents documentation is of fundamental importance to understand the dynamics, taking place on the snow, of risk activities in order to implement the best prevention strategies. Each year a hundred people die in the Alps caught by avalanches and about 20% of them on the Italian side of the Alps. In Italy, although mortality statistical data are available from 1967 to 2018, it is only since 1984 that data are collected systematically. AINEVA's database (1984-2018) stores about 1600 known avalanche accidents, including even some significant events on the Apennines, with 3375 people caught and more than 726 dead. Deaths number varies each season depending on snow cover's type and quality. Ski mountaineering is still the recreational activity with the highest number of accidents, followed by off-piste skiing. Since 1984, the Alps snow conditions have changed considerably as well as the hiker's behaviour. In recent years, accidents happen already at winter beginning, while in the 80s they occurred

mainly during spring time. The most dangerous slopes on the Italian Alps are the northern aspect with also the eastern quadrants, where the avalanches occur with less thick snow cover. During the 90s accidents of snowboarders increased, while during the 2000s such trend was replaced by hikers with snowshoes. Lately, snowmobile and eliski categories increased significantly as well as accidents involving foreigners. For the most recent period the data set also stores the duration of self-rescue operations and the timing of organized rescue. Experiments carried out over the last 5 years on avalanche transceivers practice fields show the decrease in search times of avalanche victims with the latest-generation devices.

UMBERTO IZZO

I confini dell'area sciabile fra legge e affidamento: fuoripista e responsabilità civile

The contribution explores the notion of “off-piste” relevant for civil law purposes for the assessment of the civil liability of the operator in case of accidents occurred to the skier near or beyond the boundaries of the skiable area. The analysis is carried out in the light of the jurisprudence and of the relevant state and regional legislation.

STEFANIA ROSSI – CARLO BUSATO

Sinistri in fuori pista e responsabilità penale

The article examines avalanche accidents involving snow sports enthusiasts in open terrain and investigates the criminal proceedings against ski tourists and free riders for violations of the Italian Penal Code. The paper represents a synthesis of the Italian judiciary overview.

Giurisprudenza commentata

Cass., 28 luglio 2017, n. 18903, con nota di GRETA CATERINA CARRIERO, La responsabilità dell'organizzatore di attività sportive con caratteristiche di pericolosità

The Court's decision deals with the liability regimes to be applied to the organisers of extreme sports. More specifically, the essay's author analyses cases in which either civil contractual liability or extra-contractual must be covered by the promoters of dangerous sport activities. Finally, the author concludes with several considerations regarding both liability regimes.

Cons. Stato, 10 maggio 2018, n. 3036, con nota di MARIO SANINO, Un ulteriore contributo in merito ai profili di giurisdizione in materia di Giustizia Sportiva

The present work deals with the issue concerning the division of jurisdiction between sporting and state judges. To this end, it is necessary to dwell on the existing regulatory

framework on the subject, integrated in the light of the state and European jurisprudential rulings.

Trib. Cassino, 8 novembre 2017, con nota di FILIPPO BISANTI, La responsabilità civile sportiva: esegesi, struttura e profili applicativi con particolare riferimento a una gara ciclistica amatoriale

The court of Cassino, in the noted sentence, clarifies the concept of sporting civil liability, specifying the notion of culpable liability, in a case that occurred in an amateur cycling race.

Corte Federale d'Appello Federazione Italiana Canoa Kayak, 31 ottobre 2017, n. 2, con nota di MICHELA MORGESE, Inammissibilità del ricorso esplorativo in materia elettorale

The present paper is inspired by the latest decision taken by the Federal Court of Appeal of Fick on the issue of appeals in electoral matters. The appeal was put forward as a result of the voting procedure inside the elective assembly, a vote that took place through the use of electronic voting. The plaintiff asks for the invalidity or nullity of the decision to be declared and the decision of the Court was taken taking into consideration the administrative jurisprudence on the subject of electoral appeals.

Storia dello sport
a cura di Francesco Bonini

MATTEO MONACO

Il dibattito sul totocalcio ed il suo uso politico

The first football pool (Totocalcio) in Italy, determined so much the financial autonomy of the CONI how much a future constant contribution for the Italian state. The question aroused a parliamentary debate that encountered two factions, among the favorable ones and the contrary ones to the law. The victory of the favorable ones, benefitted the CONI that it had a strament of autonomous and independent financing and the Government, that it was also able usufruire of the important help of the sport in diplomatic circle. Through the study of newspaper (Gazzetta dello sport, Corriere della Sera), of the records of the Council of Ministers, documents of Central archive of State and of Italian Olympic committee, the essay analyzes some important moments of this process.