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Abstract degli articoli
Saggi

MICHELE VELLANO

Il CIO e il governo transnazionale dello sport

This article deals with the the governance of world sport, highlighting the transnational nature of the Olympic Movement from its origins up to this day. The author focuses on the delicate role in the governance of world sport played by the International Olympic Committee (IOC), concentrating particularly on its relations with international sports federations on the one hand and national Olympic committees on the other. In its governance of world sport, the main challenge that the IOC faces today lies in ensuring full autonomy to actors both within and without the Olympic Movement with respect to third parties, nation States being foremost among these, while protecting the natural right of athletes to compete at sporting events for whose organization they themselves have been responsible.

ALESSANDRO STERPA

La partita tra Stato e Regioni nell'ordinamento sportivo

The paper offers some comments and thoughts about the «sports order» subject matter in the Italian legal order. Moving from the sport legislation and constitutional decisions analysis, the Author reflects on the necessity, in the Italian legal order, of two different legislative powers, the State one and the Regions one, also on account of the sport legal order peculiarity.

RICCARDO CHIEPPA

Scommesse sportive e rischio di manipolazione delle competizioni sportive

This article offers an overview, enriched by data and extensive bibliography, on a series of problems related to the risks of gambling addiction and sports betting and to the social consequences, both for those legal in Italy (enabled and regulated by the A.D.M Customs and Monopolies Agency), both for illegal and clandestine ones, also with respect to issues concerning taxation, controls, guarantees, the fight against organized crime and corruption; interweaving between sports betting, related advertising (including sponsorships), and sports; the need to defend the integrity of sport from external interference in financing and the right limits to economic interests in sport; to the contrast to the so called Combine sports (match fixing) or sporting frauds or manipulations of sports competitions, with references to the Convention made in Magglingen in 2014 and to the delays in ratification and implementation in Italy

MARIO SANINO

La situazione della giustizia sportiva a quattro anni dalla riforma

It's an extensive and detailed report of the innovation introduced by the 2014 CONI reform since now. After a clarification of the evolution of the «Diritto Sportivo», there is an evaluation of the case law coming from Administrative Judge and from the Collegio di Garanzia dello Sport, so from the statale and from the sportive jurisdiction. Most of the case illustrated are originating from the Collegio di Garanzia, whose verdicts have completed and enforced some provisions of the CONI Codice di Giustizia. Topical subjects are consequence of an illegitimate sanction, precautionary process, right of access, protection against Federation's silence or inertia.

ANDREA SACCO GINEVRI

Società calcistiche quotate e informativa al mercato

This paper analyzes the particular features of football clubs which are listed on the Italian stock market with respect to the treatment of «inside information» as provided by the Market Abuse Regulation (i.e. Regulation (EU) No 596/2014).

VINCENZO BASSI

Associazioni sportive dilettantistiche ed Enti del Terzo Settore

This work is related to the different taxes regime between amateur sport associations and entities of the third sector. After analyzing their own legal nature, the Author focuses on the different taxes regime between them.

BERNARDO DE STASIO – KATIA SCARPA

Il diritto all'esenzione IVA per l'attività didattica e formativa resa dagli enti sportivi dilettantistici

The subject of the survey, article's object, involved the VAT's exoneration for educational activities derived from Sport Institutes. This study aims to give a contribute for the recurring issue, regarding the request of a sum from the Non-Professional Sport Authority as for educational activity and the collocation under a fiscal regime.

Giurisprudenza commentata

Cass. civ., sez. III, 26 gennaio 2016, n. 1322, con nota di FILIPPO BISANTI, Uno studente calcia la sfera da pallavolo per rimetterla in campo e colpisce un insegnante. Chi risponde?

The Italian High Supreme Court established that a student, while is playing a volleyball

match during physical education at school, cannot response for damages caused to another teacher, hit in the face by the ball, if the action has the purpose to put it back in the playing field. Keywords: Civil liability; Volleyball; School

Cass. Pen., sez. V, 28 marzo 2017, n. 33275, CHIARA IOVINO – GIULIA FUNGHI, L'area d'azione del rischio consentito nello svolgimento di un'attività sportiva

This article is structured as follows. The first part provides a framework regarding the exercise of sport and the defense of assumption of risk in case of sport injuries. It then argues that the boundary line, developed by the Courts, between personal injuries and an ordinary injury with no legal consequences, is the connection with a sport competition.

TAR Lazio, sez. I ter, 18 luglio 2017, n. 10171, con nota di ELISABETTA MORLINO, Autonomia dell'ordinamento sportivo e giudice amministrativo: verso una ridefinizione degli equilibri?

The Administrative Tribunal for Lazio has promoted an action in front of the Constitutional Court challenging a previous interpretation given by the Court on the issue of administrative tribunals' jurisdiction over disciplinary decisions taken by the Italian sport federations (art. 2, para. 1, lett. b) of Law n. 220/2003). The challenge reopens, or at least intends to do so, the question of defining the boundaries between the autonomy of the sport system and the scope of the jurisdiction held by administrative tribunals. Back in 2011, the Constitutional Court had reviewed a similar case, establishing that disciplinary decisions could be reviewed by administrative tribunals only when the claimant was seeking compensation for damages, rather than the simple annulment of the disciplinary measure. In this way, the Constitutional Court had struck a balance between defence rights held by claimants and the autonomy of the sport system, as both are enshrined in the Italian Constitution. The Administrative Tribunal for Lazio, on the contrary, argues in favor of the full jurisdiction of administrative tribunals over any kind of disciplinary measure, with powers to annul the decision as well as give compensation for damage, limiting in this way the autonomy of the sport system. The arguments underlying this approach seem not convincing, nor look to be effective in the specific context of the sport system. Rather, they appear to be built on a hierarchy among rights, which is not in line with the pluralistic approach to rights set by the Italian Constitution.

Procura federale – Federazione Italiana Motonautica – Intendimento di archiviazione del 26 maggio 2017, con nota di PATRIZIO RUBECHINI, Un limite esterno all'esercizio dell'azione disciplinare nei confronti dell'ex tesserato: luci e ombre in un caso di archiviazione nonostante la violazione dei principi di lealtà, correttezza e rettitudine morale e sportiva nell'ambito della Federazione Italiana Motonautica

This article intends to analyze a case that actually occurred in the context of the FIM – Italian Motorboating Federation, in which a former member who made himself the author of a behavior towards the federation that did not conform to the disciplinary rules (production of untruthful documents and release of untrue declarations, aimed at obtaining the clearance to the foreign membership) was not subjected to any procedure because of the limits of the federal protection system. The limits of this system are analyzed and identified in particular in the existence of the so called «Vincolo di giustizia sportiva» (Sport Justice duty). In conclusion, the author suggests a possible interpretation in the future, in which the moment of contact in terms of precontractual liability, regardless of membership, is evaluated for the purposes of assessing the behavior of a person interacting with the sports federation.

Rassegne

LAURA SANTORO

La Giurisprudenza del Collegio di Garanzia dello Sport nei suoi primi tre anni di attività

This work focuses on the most important decision pronounced by the Sport Guarantee Committee, Collegio di Garanzia dello Sport since 2014 until now. The aim is to analyze and describe the most important orientations that have emerged in the sport jurisprudence, trying to provide sufficient legal certainty. Some of the most important interpretative guidelines relate to the substantive law applicable to the matter and some others related to the procedural rules.

Storia dello sport a cura di Francesco Bonini

FRANCESCO BONINI

Lo sport al Quirinale dalla fondazione della Repubblica ai Giochi di Roma

The Italian sports system, converted from the fascist model after the war, finds a solid institutional anchor in the Presidency of the Republic. The president of CONI, Onesti, thanks also to the undersecretary to the Presidency Andreotti, builds a solid relationship between CONI and the President of the Republic, which continues with both Einaudi and Gronchi. The Presidency of the Republic offers a constant, significant and very evident contribution in the Olympic path, towards first Cortina 1956, and then Rome 1960.