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OF YOUNG LAWYERS

Questionnaire concerning Business, Sports & Fraud

Sports Law Commission

International Business Law Commission

Commercial Fraud Commission

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QUESTION 1 - Are there specific legal forms for sports club (e.g. specific type of company structure, association, etc.) in your jurisdiction?

Sport clubs are formed through non-profit associations. To become authorized legal entities, sport clubs must:

- a. First, be approved by the Panamanian Institute of Sports (known in Spanish as “PANDEPORTES”). PANDEPORTES is the governing body of sports in Panama in charge of the orientation, encouragement, direction and coordination of sports in Panama.
- b. Once approved by PANDEPORTES, the non-profit association must be registered at the Panamanian Public Registry Office (“PRO”).

QUESTION 2 - How are sports clubs/players grouped? Are they administrative bodies, associations, federations etc.? Please provide a few examples.

According to Panamanian law, sport clubs are grouped in federations, recognized by PANDEPORTES and registered at the PRO.

Examples of federations in Panama are:

- a. Panamanian Basketball Federation (known in Spanish as “FEPABA”).
- b. Panamanian Baseball Federation (known in Spanish as “FEDEBEIS”).
- c. Panamanian Football Federation (known in Spanish as “FEPAFUT”).
- d. Panamanian Chess Federation (known in Spanish as “FAREP”).
- e. Panamanian Cyclist Federation (known in Spanish as “FEPACI”).
- f. Panamanian Tennis Federation (known in Spanish as “UTP”).
- g. Panamanian Triathlon Federation (known in Spanish as “UPT”).
- h. Panamanian Rugby Union (known in Spanish as “UPR”).
- i. Panamanian Motorcyclist Union (known in Spanish as “UPM”).

Additionally, Federations are grouped in Committees, whose autonomy is also recognized by PANDEPORTES and must also be registered at the PRO.

Panamá has recognized the following Committees:

- a. Olympic Committee of Panama
- b. Paralympic Committee.

QUESTION 3 - What is the relevant regulatory framework for sports associations/clubs/etc. in your jurisdiction? Is State legislation applicable or is self-regulation applicable? Please provide a few examples.

Federations and Committees are governed by both Panamanian legislation and self-regulation, as follows:

a. Panamanian legislation

1. Law 16 of 3 May 1995, regarding the reorganization of PANDEPORTES (“Law 16”). Law 16 applies to both Federations and Committees.
2. Executive Decree 599 of 20 November 2008, that regulates Law 16 (“Executive Decree 599”).

b. Self-regulation

Both Federations and Committees are ruled by their internal statutes, bylaws, resolutions and agreements issued by the Federation or the Committee (“Internal Statutes”). Such Internal Status must be duly approved by PANDEPORTES.

QUESTION 4 - Are there any sport-specific risks that you may think of? Are there specific legislation for such risks?

Panamanian law establishes two sport-specific risks:

- a. Sporting violence; and
- b. Sporting doping.

Executive Decree 599 has procedures to avoid and prevent sport-specific risks.

QUESTION 5 - How are risks to be evaluated with regard to corruption, fraud and other white-collar crimes? Are there internal control systems? Transparency criteria? Compulsory controls by auditors / administrative?

Risks regarding corruption, fraud and other white-collar crimes are evaluated according Panamanian criminal law.

Sport clubs must have internal disciplinary regimes approved by PANDEPORTES. Additionally, PANDEPORTES has a disciplinary process to sanction any sport club, Federation or Committee (“Sport Bodies”) that acts against its Internal Statutes.

QUESTION 6 - How is compliance applied to sports-organization? What differences are there compared to the “traditional” business world?

Panamanian legislation has no specific regulations regarding the compliance of Sport Bodies. Nevertheless, Panamanian legislation provides that PANDEPORTES is in charge of the disciplinary process of Sport Bodies.

However, Sport Bodies depend on their Internal Statutes, as well as the international principles and standards applicable for Sport Bodies worldwide.

QUESTION 7 - Could you give examples of internal compliance process/internal decision-making processes?

Sport Bodies are internally regulated by a Board of Directors. The Board of Directors is ruled by the Internal Statutes of each Sport Body.

QUESTION 8 - According to which provisions (e.g. criminal law, regulatory law, and administrative law, etc.) may a sports association be sanctioned in your jurisdiction?

According to Law 16 and Executive Decree 599, PANDEPORTES is empowered to:

- a. Develop and implement preventive measures;
- b. Regulate sanctions against violence in sport events; and
- c. Develop procedures to apply disciplinary sanctions to members of a Sport Body that acts contravening its Internal Statutes and legal dispositions.

QUESTION 9 - Who may be sanctioned within the association (e.g. the association itself, the board, an employee)? Please provide examples of applicable sanctions in the recent years.

Any member of the Sport Body can be sanctioned, depending on the offense committed. To determine who is the responsible and the applicable sanction it is necessary to review the Sport Body's Internal Statutes.

In 2015, during the Cup Final of the Panamanian Football League, several players, managers and kit managers received sanctions from PANDEPORTES due to unethical behaviours during the match.

Because of the sanctions, the Panamanian Football Federation, suspended the parties involved from attending a number of future Football matches and to pay fines. Each one of the parties involved received a suspension and fine for their behaviour during the match. For example, the kit manager of one of the sports clubs received a 15 game ban and a fine of \$600.00 for aggression and unsportsmanlike conducts during the match.

On the other hand, the manager of one of the sports club received an 8 game or match ban and a fine of \$300.00 for unsportsmanlike conducts during the match. Thus, the suspensions and fines were applied in accordance with the criteria of the Panamanian Football Federation.

QUESTION 10 - How do those sanctions interact with decisions from State courts? Is there a need for enforcement of the sanctions (i.e. is there a filter/exequatur process by State courts, as in arbitration)? Is there a possibility for State courts to consider a case also examined by a regulatory body, e.g. a federation (i.e. is there a risk of “double jeopardy”)?

Sport sanctions are not handled through State courts. According to Panamanian law, sanctioned Sport Bodies have the right to start the following procedures:

a. Procedure in case of Sanctions applicable to Federations and Committees

All Sanctions imposed by PANDEPORTES, accept:

- First Instance: Reconsideration before the Director General of PANDEPORTES; and
- Second Instance: Appeal before the National Council of Physical Activity, Sport and Recreation of PANDEPORTES.

Double jeopardy is not allowed in Panama.

QUESTION 11 - What are the legal consequences with regards to match-fixing in your jurisdiction? Please specify the relevant legal framework.

Match-fixing is not specifically regulated in Panama; however, match-fixing is prohibited and it would be considered as fraud. Panamanian criminal law establishes that the sanction for fraud is 1 to 4 years of prison and applicable fines.

QUESTION 12 - How is online gambling considered in your jurisdiction and how is it dealt with in case of fraud?

Online gambling is regulated through Resolution No. 39 of 24 August 2004 (“Resolution 39”); however, Resolution 39 only regulates online gambling that has been previously authorized by the Game Controlling Board of the Ministry of Economy and Finance of the Republic of Panama and where the parties involved and source of funds are properly identified. Any other type of online gambling is prohibited and would be considered as fraud. Panamanian criminal law establishes that the sanction for fraud is 1 to 4 years of prison and applicable fines.

QUESTION 13 - Are any measures foreseen in your jurisdiction for the protection of “whistle-blowers”?

There are no measures in Panama for the protection of “whistle-blowers” and we have no indications that there will be within the next months. Nevertheless, if the information provided by whistle-blowers is considered confidential and considered useful in a trial, whistle-blowers shall have the right to stay protected and anonymous. In the case of Sport Bodies there are no regulations regarding information considered as confidential.

QUESTION 14 - How is confidential information treated in your jurisdiction? Any risks for whistle-blowers?

Confidential information in Panama is protected and treated as secret; however, agreements must include the specific description of the information considered as confidential.

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- Legislative Assembly of Panama, *Unified Text of Law 16 of 3 of May 1995, by which PANDEPORTES is reorganized.*
- Ministry of Education, *Executive Decree 599 of 20 of November de 2008, by which is regulated the Law 16 of 3 of May 1995, by which PANDEPORTES is reorganized.*

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