

PANATHLON

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YOUTH OLYMPIC GAMES



Commission. We can therefore affirm that Panathlon grief for the death of Juan Antonio Samaranch Torello is the same as that felt for a person you've often considered close on many occasions and to whom you must be grateful- despite the fact that he aimed high up, at the powerful - for having appreciated also the humble, voluntary work, though often concealed, of organisations like ours. "We need all those who firmly believe in the principles of Sport and, from this point of view, Panathlon International is in the

front line" he declared.

This must make us feel proud, but we must also feel sufficiently responsible to continue deserving the role that Juan Antonio Samaranch - and his successor - recognised for us.

President Prandi once again offers the most sincere condolences of all Panathletes in the world to Samaranch's son - who bears the same name as his father and is a member of the Barcelona Club - and also to his daughter Maria Teresa.

THE LEGAL END MORAL AUTHORITY OF THE "LEX OLYMPICA"

by Alexandre Miguel Mestre*

The Olympic Games (OG) of Antiquity, the origins of which date back to 776 BC, were organised and played out in the Sanctuary of Olympia, in Greece, governed by a very strict set of rules. The Fundamental Laws of Olympia, stratified into a hierarchy of Olympic Laws, Olympic Regulations and Competition rules, formed the basis for a kind of Olympic Law - the Lex Olympica - which was then beginning to take shape.

Progressively, over tens of centuries and 300 sessions, the Olympic Games (OG) of Antiquity were without doubt not only an unparalleled sporting and educational event, but also a model of the primacy of Law, of the need to structure a competition or a settled society according to principles and rules, through organised bodies, in the name of Justice.

Rather surprisingly, in this entire rich heritage that Pierre de Coubertin successfully revived, there was no Lex Olympica. Indeed, the founder of the OG of the Modern Era was actually against a proliferation of rules, and on this point proclaimed as follows: the more regulations we adopt, the more we are fettered. Let us allow the Olympic organisations some flexibility.¹

On the controversial issue of amateurism, Pierre de Coubertin even called the attention to the fact that most countries had introduced complicated legislation, full of compromises and contradictions.²

This explains why the International Olympic Committee (IOC) was not created until 1908 and why for 14 years that body operated with very little by way of regulation and internal organisation and a scanty framework of rules for dealing with such important issues as organising and putting on the OG.

KÉBA MBAYE³, without doubt the jurist who has contributed most both to the study and practical application of Lex Olympica, stated that those who ran the Olympics have always wished to free themselves from the political influence of States but never managed to find

an effective legal framework that would allow them to clearly differentiate between the formulae employed by the IOC and the legal reality by which it was governed.

This clash was gradually mitigated in the decades that followed. The Olympic Movement (OM) is today built on broad and solid institutional structures, the principal pillars or elements of which are the IOC, the National Olympic Committees (NOC) and the International Sports Federations. There are also various satellite Organisations* of the OM and there is now a Paralympic Movement. This context has contributed to the development and consolidation of the Lex Olympica. A special contribution for the strict application and a wide dissemination of this sort of legal order has been made by the Court of Arbitration for Sport, in Lausanne as well as by the IOC bodies - the Session, the Executive Board and the President - and by the IOC Juridical Commission.

Among other texts enacted both by private and public entities, the OC is at the apex of the Lex Olympica, as the founding text and fundamental source of the law of the IOC.

The concept and scope of the OC is clear from its introduction, which states that its purpose is the codification of the Fundamental Principles of Olympism, Rules and Bye-Laws adopted by the International Olympic Committee (IOC). It governs the organisation, action and operation of the Olympic Movement and sets forth the conditions for the celebration of the Olympic Games. The functions of the OC are essentially threefold: (i) it is the fundamental basic document of the OM, with a legal status, which approximates that of a constitution; (ii) it defines the rights and obligations of the component parts of the OM, with a legal status which is similar to a contract; and (iii) it is the founding document of the IOC (i.e. its byelaws governing its internal organisation - composition; membership rules; governing bodies, etc.).

It must be emphasized that the OC is a universal text, not because of its legal nature but,

rather, because of an extra legal aspect - its moral authority, based on the social, economic and sporting significance of the OG. The OC is a binding text because it is voluntarily accepted, or recognised, by those to whom it is addressed, comprising a wide-ranging community: private individuals, organisations of various types and public entities (e.g. States are formally subject to the primacy of the Lex Olympica and to the *ius stipulandi* of the IOC, when bidding for the organization of the OG). In this mix that arises out of the umbilical relationship between the OG of Antiquity and those of the Modern Era, the new problems proliferate exponentially. This is inevitable: the growth and internationalisation of the Olympic phenomenon, and the accompanying media attention, increase the number of disputes of connected to legal and/or institutional matters. AH the above not only suggests interesting issues of legal construction⁵ but also demonstrates that even in legal grounds the OG are increasingly unique, powerful and universal!

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1) Cf. Monique BERLIOUX, "The International Olympic Committee", Report of the Tenth Session of the IOA at Olympia, Athens, IOA, 1970, p. 2.

2) Quoted by Salomé MARIVOET, *Ética do Desporto - Principios, Práticas e Conflitos - Análise Sociológica do caso Português durante o Estado Democrático do Século XX*. Doctoral Thesis, May 2007, copy provided by the author, p. 44.

3) Cf. "La nature juridique du CIO", Sport, Droit et Relations Internationales, Paris, Economica, 1988, p. 69.

4) Expression used by Colin MIÈGE and Jean-Christophe LAPOUBLE, *Sport & Organisations Internationales*, Paris, Economica, 2004, p. 201.

5) Cf. Alexandre Miguel MESTRE, *The Law of the Olympic Games*, The Hague, Cambridge University Press & TMC Asser Press, 2009.