

Finally, a Comprehensive Sports Law in Egypt

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The long anticipated law was unanimously approved by the House of Representatives. It is the first law to comprehensively regulate sports related matters in Egypt. It significantly reduces discretionary powers previously held by the Ministry of Youth and Sports (the “Ministry”) and repeals other conflicting legislation, notably certain sports specific articles of Law No. 77 for 1975 regarding Sports and Youth Institutions. Here the authors consider some key aspects of the new Sports Law.

Overview

The Sports Law comprises of 95 articles addressing a range of sports related issues. It is divided into 10 Chapters covering various topics including:

- Sports institutions;
- Sports activities;
- Sports at companies and factories;
- Sports at schools, educational institutes and universities;
- Sports dispute resolution; and
- Investment in sports.

The Sports Law introduces several new concepts and fills several existing gaps in the regulation of sports in Egypt. Firstly, it fills the prevailing legal vacuum regarding companies which operate sports facilities, including private clubs, by regulating such companies. Secondly, it establishes an arbitration centre specialising in sports related disputes. Thirdly, the Sports Law recognises the standing of international codes and statutes, such as; the World Anti-Doping Agency (WADA) and the Olympics. Finally, it refers relevant matters to the Egyptian Olympic Committee and the Egyptian Paralympics Committee.

The enactment of this law highlights the previous lack of sufficient regulation surrounding sports in Egypt, and begs the question why appropriate steps were not taken sooner. It may be that certain entities stood to benefit from the lack of regulation and accordingly sought to frustrate any sought reforms. For example, the Ministry was the authority authorised to supervise many public sports organizations, and has been largely left to its own devices, save for minor regulations. This situation afforded the Ministry significant discretion to promulgate, and enforce, its own decrees. The Ministry was, essentially, both a legislative and executive authority in matters relating to sports.

Sports Dispute Resolution

The previous law governing youth and sports organizations was issued and amended over forty years ago. It had become outdated in terms of the types of transactions taking place and the types of entities it covered. The previous law failed to provide a particular mechanism for the resolution of sports related disputes. The Sports Law fills this gap, providing in Article 66 for the establishment of an independent Egyptian Sports Arbitration Centre, residing in the Egyptian Olympic Committee (the “Centre”). The Centre enjoys jurisdiction over disputes where one party is an entity, a person, or an organisation governed by the Sports Law.

Article 66 further provides that the dispute resolution mechanisms applied at the Centre shall be mediation, conciliation, and arbitration. Whilst the Sports Law permits these recourses, it does not establish appeal procedures.

Article 67 of the Sports Law provides that agreements referring disputes to the Centre are to be concluded in arbitration agreements, submission agreements or stated in a sports related statute. It further states that disputes referred to the Centre may relate to, amongst others; (i) disputes arising out of the application of the Sports Law or the statutes of the Egyptian Olympics and Paralympics Committees, (ii) disputes arising out of television rights and broadcasting agreements, sponsorship agreements, intellectual property rights used during sports competitions, coaches’ contracts, athletes’ contracts, sports agents/intermediary agreements, and other sports related disputes.

We suggest that, considering the prevailing preference for sports arbitration above traditional recourse to courts, arbitration under the Sports Law will be favourably received. Further, the Sports Law does not make arbitration compulsory, so parties accordingly permitted to seek recourse through the courts, a position which is consistent with the Egyptian Constitution.

According to Article 68 of the Sports Law, the board of directors of the Centre shall be chaired by the chairperson of the Egyptian Olympic Committee and shall consist of; (i) a representative from individual sports, (ii) a representative from team sports, (iii) a representative from the Ministry of Sports, and (iv) three individuals of legal and technical backgrounds.

It is worth noting that the Centre should be particularly favourable for litigants with administrative law disputes, as disputes arising from this niche branch of law fall within the jurisdiction of the Centre. The Centre’s jurisdiction extends to all matters relating to public organizations, authorities, and establishments that deal with public goods. This can include sports federations, sporting clubs, and other authorities and committees charged with some kind of public good. Accordingly, such jurisdiction should provide a compromise in matters where administrative law may be biased towards public authorities (which may receive certain privileges based on the service they provides). This makes it far more difficult for private parties to enter agreements with the public authority as the law may not afford the parties equal weight. An arbitration clause in an agreement or executive regulation may avoid such challenges arising from dealings with administrative courts.

Article 69 of the Sports Law provides that the board of the Egyptian Olympic Committee shall issue a decision in compliance with the bylaws of the Centre and the specified rules for the type of procedure (arbitration, mediation, or conciliation).

Although the Centre will be established as an independent entity, it will be seated in the Egyptian Olympic Committee, its board of directors will be chaired by the committee’s president, and its bylaws and rules will be drafted by the committee. This may raise concerns as to the impartiality and independence of the Centre, especially in instances where one of the parties involved in a dispute may be the Egyptian Olympic Committee itself.

Investing in Sport Services

Before the Sports Law, there was essentially no regulation or distinction between quasi-public entities, such as sporting clubs, and private entities that establish a sporting club, health club, gym or other type of sports services. Private companies that established clubs or similar facilities, legally found themselves limbo. There was uncertainty whether they were subject solely to the laws regulating companies conducting regular activities, or whether they fell within the legal framework governing 'sports entities.' Sports entities were previously strictly regulated by the Ministry. Private companies, on the other hand, remained largely governed by general Egyptian company, civil and commercial laws.

The legal uncertainty was most apparent in cases where private companies owned and operated a facility, such as a health club. Health clubs could reasonably be within the paradigm of sport, nonetheless do not strictly fall within the framework governing sports entities. This problem was exacerbated by the increase in diversity of sports enterprises, such as football academies as well as health and fitness clubs. Thankfully, Articles 71 to 78 of the Sports Law clarified some confusion by distinguishing between sports entities and companies that conduct sports services, establishing a guiding framework under which such companies may operate.

All companies that conduct sports services must be joint stock companies. Sports services are not defined in the Sports Law and may include managing, marketing, or operating private clubs and academies, health clubs, and fitness centres. Accordingly, small sports-related businesses (such as spas and gyms) may be obligated to abide by this legal structure.

These companies, under the Sports Law, are entitled to issue their shares through a public offering and list themselves on the Egyptian Stock Exchange Market, if such action does not affect its sports services. The Sports Law does not define the issues that are considered to affect the companies' sports services. An individual interpreter may have discretionary power to determine whether or not a company may issue its shares through a public offering or be listed.

Additionally, sports entities may form joint stock companies with investors and members, or set up branches established by joint stock companies. All such companies remain subject to approval by the competent authorities in terms of activities while remaining compliant to the provisions of the Sports Law. They are also subject to financial oversight, including submitting financial statements to the competent authorities, and minimum and maximum fees for the provision of their services by the Minister of Youth and Sports.

Upon issuing the rules governing the status reconciliation by the Minister of Youth and Sports, the aforementioned companies will have to reconcile their status within two years in order to ensure their compliance with the Sports Law.

Fan Conduct

The Sports Law establishes sanctions and fines for different actions, including actions of fans, unless the penal code or other law provides for tougher sanctions. Actions sanctioned by the Sports Law may include establishing or managing sports groups. This may be interpreted as a provision criminalising the ultras groups (i.e. dedicated supporters of football teams) who, in accordance with Article 90, will be subject to imprisonment and fines (with a minimum of EGP 50,000 and a maximum of EGP 200,000). Although ultras groups will be subject to stringent fines and imprisonment, regulation of and sanctions relating to executive management of sports legal entities (as stated in Article 93) remain vague.

Revisions and General Provisions

The Sports Law changed the framework governing other sports entities. The most important of these changes is the increased role of general assemblies in governing such entities. Previously the Ministry held this power. Prior to the enactment of this law, sports entities were governed by bylaws uniformly issued by the Ministry. The Sports Law enables such entities to draft and enforce their own bylaws, with the approval of their general assemblies. The Sports Law will also give general assemblies plenary power to remove or

change the board of directions without fear of Ministry intervention. The Egyptian Olympic Committee will be charged with providing sample bylaws for reference.

The Sports Law also includes provisions regulating previously unregulated areas of sports. For example, it stipulates that athletes representing Egypt in competitions at home or abroad may not be penalized for absence from work or school during the time of the competition.

The Sports Law brings the Egyptian Organization for Anti-doping, an organization previously untethered from local regulation, under legal framework. According to Article 34 of the Law, this organization will supervise the enforcement of the applicable international anti doping codes in Egypt.

The Sports Law accordingly covers far more areas than those covered by the laws preceding it while amending and expanding various areas already in existence.

Conclusion

The promulgation of the Law is an important step in the evolution of the sports sector in Egypt. Its enactment was necessary following a series of unfortunate events relating to sports that have occurred in recent years. The application and interpretation of the Sports Law, however, remains to be seen and requires careful supervision.

The Sports Law will hopefully be the breath of fresh air the sporting sector needs to grow with confidence. The surge in sports promotion in society and the boom of the global sports market (estimated by PWC globally to exceed US\$145 billion in 2015) creates a need a legal framework that enables growth, rather than hinders it.

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