

Reflection: The AIAC September Sports Month 2020

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Ask any person on the street, and one would often find that sports has, in one way or another, played a role in or had an impact on their life. Commercially, the global sports industry has been one of the fastest growing industries. Like other growing industries where disputes are expected, the legal framework surrounding the resolution of sporting disputes has also witnessed its own evolution over the past century, with arbitration and mediation taking centerfield as the preferred dispute resolution mechanisms. The understanding of these mechanisms, however, has remained within the small circle of those practicing sports law.

As part of efforts to increase awareness on sporting disputes and to highlight international sports law and sports arbitration to a wider dispute resolution community, the AIAC annually organises an entire month of sports-related initiatives dedicated to this niche area of the law, with its third edition coming to a close just last month. Below is a recap of the events that took place as part of the AIAC's September Sports Month 2020.

ADR Online: September Sports Month Webinar Series

Following the outbreak of the COVID-19 pandemic and its halting of international

travel, the AIAC replaced its annual Sports Law Conference with a special September Sports Month Webinar Series (the “Webinar Series”), held every Tuesday of the month, on its ADR Online platform.

The first of the 5-episode Webinar Series was held on 1st September 2020, titled “**Building Your Career As A Sports Arbitrator**”. The panel featured prominent sports arbitrators – Clifford Hendel (Hendel IDR), Takuya Yamazaki (Field-R Law Offices), and Paul J Hayes QC (39 Essex Chambers), who each shared their experience on how they began their careers in sports arbitration as well as their first accounts as a sports arbitrator, with Thomas Delaye-Fortin (Badminton World Federation) expertly moderating. Practical words of wisdom for budding sports arbitrators echoed by the Panel include having to build one’s own trustworthiness and brand within the industry by developing the relevant expertise, as well as displaying professionalism, passion and dedication in this field of law.

The second episode, titled “**Employment and Contractual Issues in Sports: Recent Developments Post COVID-19**” was held on 8th September 2020. The session was moderated by Henry Goldschmidt (Morgan Sports Law) and featured industry experts, namely Nick De Marco QC (Blackstone Chambers), David Menz (Martens Lawyers), and Aahna Mehrotra (TMT Law Practice). The panel highlighted some of the critical employment and contractual issues faced by the sports industry in the UK, Europe and India following the outbreak of the COVID-19 pandemic. This included unpaid wages, the invocation of force majeure clauses as well as the reorganisation of major sports competitions. The Panel concurred that although there are signs of recovery, the huge disruption to the sports industry is far from over. As with all sports regulatory bodies and federations alike, it is also important for sports lawyers to adapt, evolve, and be innovative in formulating solutions for their clients in these unprecedented times.

The momentum of the Webinar Series continued with its third episode titled “**The Challenges in Regulating Sports: From Gender Equality to Anti-Doping Requirements**” which took place on 18th September 2020. Moderated by Shivam Singh (Chamber 20A) and featuring Nandan Kamath (LawNK), Melanie Schärer (MS Sports Law), and Chris Lavey (Bird & Bird), the Panel spotlighted the various challenges that governing bodies face in ensuring equality and uniformity in sports regulations. From a critical analysis of the *Chand* and *Semenya* cases to the issues plaguing women’s football as well as questions of self-determination and the right

to livelihood, the Panel delved deep into the legitimacy and human rights implications involved, as well as what can be done to address them. Concurring that thoughtful and considered approaches needed to be taken to address the imbalances, the Panel also stressed the importance of having equal representation at the decision-making tables as well as ensuring ethical boundaries are not crossed at the expense of athletes and all stakeholders involved.

The fourth episode, titled “**International Sports Arbitration and Athletes’ Rights - Maintaining a Level Playing Field,**” was held on 22nd September 2020 and featured an experienced and diverse international panel of speakers, namely Malcolm Holmes QC (Eleven Wentworth), Benoît Pasquier (BP Sports Law), Lau Kok Keng (Rajah & Tann Asia), and Carol Roberts (Carol Roberts Law Corporation). Moderated by Guo Cai (Jin Mao Law Firm), the Panel discussed the prevailing issues in international sports arbitration ranging from the cultural, gender and language biases in hearings, the issue of diversity in the Court of Arbitration for Sport’s (“CAS”) closed list of arbitrators as well as the general lack of access to legal representation. Suggested improvements to the current framework include the need for establishing domestic sports arbitration tribunals and expanding the pool of sports law experts and arbitrators from less developed jurisdictions. The Panel also called upon young practitioners to continue pushing for improvements to the current framework as their career progresses.

The fifth and final episode of the Sports Month Webinar Series took place on 29th September 2020, titled “**Sports Mediation: An Underused Tool in Resolving Sporting Disputes**”. The panel consisted of seasoned sports lawyers and CAS Mediators, Jeffrey Benz (Jams & 4 New Square), Konstantina Morou (Konstantina Morou Law Office), Abdul Salim Ahmed Ibrahim (United Legal Alliance LLP), and John Shea (Lewis Silkin LLP), with AIAC’s Diana Rahman moderating. Following the sharing of perspectives and experiences, the Panel concluded that transactional lawyers were in the best position, and thus, bore a greater responsibility to promote mediation – by including mediation clauses in sports contracts at the federation and association levels as well as having mediation be part of internal dispute resolution processes.

September Sports Month Workshop Series

Aiming to provide an affordable and accessible platform for sports law education in Malaysia, the AIAC kept the ball rolling with its second edition of the Sports Month Workshop Series, with its first session on 4th September 2020, titled “**Introduction to Sports Dispute Resolution**”. Conducted in partnership with the Sports Law Association of Malaysia (SLAM) and supported by the Olympic Council of Malaysia, The Asian Football Confederation and the AIAC Young Practitioners’ Group, the workshop brought together industry experts, namely, Richard Wee (Richard Wee Chambers), Nik Erman Nik Roseli (Amir Khusyairi & Associates), Sri Sarguna Raj (Christopher & Lee Ong), and Liu Jiahe (The Asian Football Confederation). The Panel began by examining the governing structures and legal principles applied in sports law, followed by the dispute resolution procedures in sports, and the structure of the CAS. The session rounded off with a sharing by the Asian Football Confederation on its approach in resolving disputes at the continental confederation level.

Focusing on the rapidly growing esports market, the second session of the Workshop Series was held on 11th September 2020 and featured a young panel of esports lawyers, including Bryan Boo (Bryan & Co), Joseph Cheah (Paul Cheah Associates), and Marlysa Razak (Richard Wee Chambers). Titled “**Understanding Esports: Legal Rights and Implications**”, the Panel kicked off with an overview of esports, followed by an analysis of the legal issues arising from contracts, sponsorships, intellectual property, cross-border governance and dispute resolution. A key takeaway from this workshop was the importance of having a thorough understanding of the esports industry given its synergy with constantly evolving technology, as well as its differing nature from conventional sports.

On 18th September 2020, the AIAC concluded the final fixture of its Workshop Series for the year, titled “**Negotiating Sports Contracts and Agreements: What to Expect**”. This session brought together experienced individuals from the sports industry, namely Brian Song (Song & Partners), Susanah Ng (Susanah Ng & Associates), and Stanley Bernard (Malaysian Football League). Kicking off with an engaging and interactive introduction to sports contracts, the Panel then moved into the essentials of negotiating sports contracts, including key provisions and considerations. The participants also benefitted from a unique perspective with insight from Stanley Bernard, who himself was once a professional athlete.

AIAC-SLAM Sports Month Networking Session

The AIAC's September Sports Month 2020 ended on a high note with a Sports Month Networking Session which was hosted on 25th September 2020 at the AIAC's Bangunan Sulaiman. Fun activities including a sports pub quiz and a sports movies-themed charade was organised, amidst strict social distancing measures. The event was a timely catch-up amongst local sports law enthusiasts to discuss the development of sports dispute resolution in Malaysia.

Conclusion

If sports stadiums could embrace the new norm with cardboard fans, the AIAC is just as determined to innovate in the face of the pandemic. The 2020 September Sports Month is indeed a testament to AIAC's unwavering commitment to roll out initiatives and offer knowledge-sharing opportunities on sports dispute resolution, pandemic or no pandemic. It is hoped that this effort will pave the way for further discourse and dialogue towards the continued development of sports law.