

THE AUTONOMY OF SPORT AND THE CASE OF THE ITALIAN REFORM

by *Andrea Marchetti**

ABSTRACT: Autonomy of the sports system is a principle crystallized in almost all modern law systems and widely explored by doctrine and jurisprudence. The results achieved in its qualification on a theoretical level, however, suffer from significant criticalities when transposed into practice, where it is often necessary to operate a delicate balance between opposing interests.

In Italy, the recent regulatory reform implemented by the Italian government has unsettled the balances under the relationship between the state and the National Olympic Committee (CONI). Starting from the analysis of such case, the paper explores the features of the controversial concept of autonomy, its legal basis and its limits, without losing sight of its practical implications.

L'autonomia dell'ordinamento sportivo è un principio cristallizzato in quasi tutti gli apparati normativi moderni ed ampiamente esplorato da dottrina e giurisprudenza. I risultati raggiunti nella sua qualificazione sul piano teorico scontano tuttavia rilevanti criticità quando trasposte nella pratica, dove spesso è necessario operare un delicato bilanciamento tra interessi contrapposti.

In Italia, le recenti riforme normative operate dal governo Italiano hanno smosso gli equilibri che stavano alla base del rapporto tra stato e Comitato Olimpico Nazionale (CONI). Muovendo dall'analisi di tale fattispecie, il paper esplora i caratteri del controverso concetto di autonomia, delle sue basi giuridiche e dei suoi limiti, senza perdere di vista i suoi risvolti pratici

Keywords: *Autonomy – Sports System – Olympic Committees – State fundings – Sporting retaliation.*

Autonomia – Ordinamento Sportivo – Comitati Olimpici – Contributi statali – Rappresaglia sportiva.

* Lawyer of the Bar of Milano, associate at Studio Legale Morelli. Expert of national and international sports law, speaker and author of publications on the topic. Participant in the VII edition of the Executive Master in Global Sports Governance (MESGO).

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Introduction

Sport is often described as one of the purest human activities. Its benefits are countless and well known at all levels: health, emotions, inclusion, respect, relationships, resilience, just to mention a few.

Such features led, since the ancient age, to consider sport differently and to assign it a peculiar value, transcending any other human business or activity, even the most all-encompassing ones. From the 9th century BC, on the occasion of the Olympic games, the ancient Greeks used to declare an Olympic Truce, a conventional suspension of any ongoing war on the Greek’s soil to allow all athletes and spectators to safely attend the games.¹

While through the centuries the value of sport maintained its uniqueness, in the modern era the debate shifted around its organizational structure. There is nowadays consensus on the so called “autonomy of sport”: sport deserves a safe space where it is granted exclusive competence to organize itself out of any interference from external stakeholders, *in primis* public authorities.

Nevertheless, the variety of forms and situations upon which the sports and the public systems meet and are suitable, to a greater or lesser degree, to mutually influence is countless. This can make very difficult to provide a comprehensive definition of autonomy of sport, or to apply it to any specific case.

Based on a recent highly controversial case regarding the Italian legislative reform of the sport sector, which allegedly undermined the autonomy of the Italian National Olympic Committee (“CONI”), this paper aims to explore the concept of autonomy of sport and its practical applications.

1. Background

1.1 The organization of the Italian sports system until 2018: brief history of CONI

Throughout the whole 19th century, sport has been a neutral activity for the Italian public legislation. Despite the birth of an embryonic international organized sports

¹ Available *on line* at <https://olympics.com/ioc/olympic-truce> (last accessed on 10 April 2023).