

Free speech issues in sports

May athletes kneel on the pitch to protest against racial discrimination? Are athletes allowed to present the letter “Z” on their leotard during the victory ceremony to express their support for Russian aggression and war against Ukraine? Can organizers and associations ban such expressions from the venues? Do they have the power to sanction athletes for statements contravening their rules and bans?

Answering these questions does not only involve a close look into the rule books of the IOC, FIFA and other sport associations. It also involves a delicate weighting of the basic right of “free speech” on the side of the athletes against – on the other hand – the so-called autonomy of the associations, which have – in the most jurisdictions – the right to autonomously self-govern their bodies and administration and to set the rules of the sport.

The result of this weighting is not predetermined. Free speech is one of the most important civil rights, which is crucial for the process of opinion making in democratically constituted states. It is a pillar of any constitutional state and democracy. Above all, this is true following the US-american understanding of “free speech”, which obviously allows expression with tiny limitations only – finding regulation in the process of opinion forming by a “speech and counter-speech”. But also under the most European legal regimes, which – for instance – consider hate-speech beyond the scope of the basic rights of free expression, doubt is casted whether associations may hinder athletes from expressing important personal convictions on all conceivable current topics. To come along on top, these topics are typically widely discussed in the public and have often the potential to polarize society.

But then, cannot the organized sports make some good points from keeping the actual sport performance (the sporting itself, in the venue, on the pitch) free from opinion and expression? Although the myth, that sports are not political, is obviously wrong, it is completely comprehensible that when we decide to go to the stadium, we want to focus on and enjoy a thrilling game – and rather not follow political debates, which may be brought into the stadium by the players. And, indeed, illicit contents must be kept away from sports venues. But what actually is illicit under which country’s law?

So, who draws the line? Where is the border line? The panel discussion will deliver the static legal framework as the keys to the answers of all those questions. The answers itself will remain dynamic though, as the underlying rules are always subject to assessment. Audience and panel will try exciting convergences in fundamental discussions.

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