A Slippery Slope: IOC, Jurisdiction and Women's Ski Jumping

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Poster (Audubon)

The omission of female ski jumpers from the 2010 Olympic Winter Games is, according to the Supreme Court of British Columbia, discriminatory (Sagen v. Vancouver Organizing Committee for the 2010 Olympic and Paralympic Winter Games (VANOC). However, even though the Games are on Canadian soil, Madame Justice Fenlon found that the Court had no jurisdiction to remedy the situation – the Canadian Charter of Rights and Freedoms (the 'Charter'), which the ski jumpers used to argue their case, did not extend to the International Olympic Committee (IOC). She wrote in her judgment:

I acknowledge that there is something distasteful about a Canadian governmental activity [which is] subject to the Charter being delivered in a way that puts into effect a discriminatory decision made by others [i.e., the IOC] ...

Apparently, while the planning and staging of the 2010 Olympic Winter Games is a governmental activity, and is subject to the Charter, the selection of participating sports is done under the authority of the IOC, which is not within the jurisdiction of the Charter.

This sets up an interesting jurisdictional dilemma: the IOC can use a domestic body (VANOC) to implement, in Canada, a program a Canadian court has determined to be discriminatory under Canadian law. The jurisdictional issue is one that could also face other Olympic Host Committees (including, for example, the London 2012 Host Committee (Coggon, et al. 2008)).

Had the Court found in favor of the athletes, the remedy the athletes had asked for was the inclusion of women's ski jumping in the Olympic program or an injunction precluding the men's ski jumping event. Inasmuch as the IOC is not subject to Canadian law (although VANOC is), this too would have presented the organizing committee with a number of issues (and may still do so depending upon the outcome of the appeal). If VANOC attempted to hold an event contrary to the decision of the IOC, it likely would not be considered an "Olympic" event as only the IOC can designate an event "Olympic". Further, staging such an event requires the participation of FIS (Fédération Internationale de Ski) - the ISF responsible for ski jumping. FIS has specifically stated it accepts the IOC position not to allow women's ski jumping. It would also require the cooperation of other National Olympic Committees (NOCs). NOCs are clearly under the authority of the IOC and would also adopt the IOC position.

This poster presentation will analyze the basis of the decision of the Court in the matter and discuss the practical application and alternatives that the decision presents. It will also refer to other jurisdictional disputes between domestic and international sport bodies.

References


Sagen v. Vancouver Organizing Committee for the 2010 Olympic and Paralympic Winter Games (VANOC), 2009 BCSC 942